
Sec. 6-10. Reserved.

Editor's note(s)—Ord. No. 2849, adopted Oct. 26, 2004, repealed former § 6-10 in its entirety, which pertained to use of roller skates, roller blades, skateboards, scooters, etc., on boardwalk or grassy area, bicycle path, oceanfront parks and plazas, public restrooms, and sidewalks adjacent thereto and derived from Ord. No. 942, adopted May 7, 1979; Ord. No. 1698, adopted May 11, 1987; Ord. No. 2052, adopted April 23, 1991; Ord. No. 2134, adopted June 2, 1992; Ord. No. 2448, adopted May 27, 1997; and Ord. No. 2618, adopted Feb. 13, 2001.

Sec. 6-11. Reserved.

Editor's note(s)—Ord. No. 2849, adopted Oct. 26, 2004, repealed former § 6-11 in its entirety, which pertained to driving motor vehicles on boardwalk or grassy area, bicycle path, oceanfront parks and plazas, and sidewalks adjacent thereto and derived from the 1965 Code, § 6-4; Ord. No. 1370, adopted April 25, 1983; and Ord. No. 1700, adopted May 11, 1987.

Chapter 7 BICYCLES AND OTHER WHEELED DEVICES¹

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

For the purposes of this Chapter, the terms "all-terrain vehicle," "bicycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "golf cart," "highway," "low speed vehicle," "moped," "motor-driven cycle," "motorized scooter," "motorized skateboard," "vehicle," "wheelchair," and "wheel chair conveyance" are defined as set forth in Code of Virginia §§ 46.2-100 and 46.2-1993, as amended. Additionally, the following words shall have the meanings ascribed to them in this section, unless clearly indicated to the contrary:

Electric powered utility cart: A wheeled, externally controlled, battery powered cart, used exclusively for the transportation of personal items or property and not for the conveyance of persons, and that is not classified as an all-terrain vehicle, as defined in Code of Virginia § 46.2-100.

¹Editor's note(s)—Ord. No. 2848, adopted Oct. 26, 2004, amended Ch. 7 of the Code in its entirety as herein set out. Prior to amendment, Ch. 7, §§ 7-1—7-5.1, 7-6—7-11, 7-21—7-25, 7-29—7-31, 7-46—7-49.1, 7-50, 7-50.1, 7-51—7-52.1, 7-53—7-63, pertained to bicycles and mopeds and derived from the 1965 Code, §§ 7-1—7-6, 7-8—7-19, 7-19.1, 7-20—7-27, 22-18, 22-251; Ord. No. 1004, adopted Nov. 5, 1979; Ord. No. 1055, §§ 7-28—7-31, adopted June 23, 1980; Ord. No. 1102, adopted Oct. 13, 1980; Ord. No. 1193, adopted July 6, 1981; Ord. No. 1253, adopted Feb. 1, 1982; Ord. No. 1584, adopted Feb. 3, 1986; Ord. No. 1714, adopted July 6, 1987; Ord. No. 1882, adopted June 19, 1989; Ord. No. 1896, adopted July 10, 1989; Ord. No. 1949, adopted Feb. 26, 1990; Ord. No. 2122, adopted April 28, 1992; Ord. No. 2339, adopted June 13, 1995; Ord. No. 2536, adopted May 25, 1999; Ord. No. 2545, adopted June 22, 1999; Ord. No. 2587, adopted June 13, 2000; Ord. No. 2648, adopted June 26, 2001; Ord. No. 2739, adopted March 4, 2003; Ord. No. 2772, adopted June 24, 2003; and Ord. No. 2828, 6-22-04.

Cross reference(s)—Motor vehicles and traffic, Ch. 21.

Resort area: The area, from and including, the sidewalk on the west side of Pacific Avenue to the Atlantic Ocean between Rudee Inlet and 42nd Street.

Resort season: The time period from May 1st through September 30th.

Riding: This term is used interchangeably throughout this Chapter with the term "operation".

Surrey: A four-wheeled pedal-powered vehicle capable of seating two (2) or more persons.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3535, 3-6-18)

Sec. 7-2. Violations of Chapter generally.

Except as otherwise specifically provided, any person who shall violate any provision of this Chapter shall be guilty of a traffic infraction punishable by a fine of not more than two hundred dollars (\$200.00).

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-3. Inspections.

A police officer at any time, upon reasonable cause to believe that a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, golf cart, low-speed vehicle, surrey or moped is unsafe and not equipped as required by this chapter or that the equipment is not in proper adjustment or repair, may require the person riding such wheeled device or vehicle to stop and submit the wheeled device or vehicle to an inspection and such test with reference thereto as may be appropriate.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

ARTICLE II. POSSESSION, SALE, RENTAL AND REGISTRATION OF WHEELED DEVICES

Sec. 7-4. Violations of Article.

Unless otherwise specifically provided, a violation of any provision of this Article II shall constitute a Class 3 misdemeanor.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-5. Removing, altering, etc. identification numbers.

It shall be unlawful for any person to remove, change, alter or mutilate the frame number of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, golf cart, low-speed vehicle, surrey or moped.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-6. Dealer not to sell bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, golf cart, low-speed vehicle, surrey or moped without an identification number.

No person engaged in the business of selling bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycle, motorized skateboard, motorized scooter golf carts, low-speed vehicles, surreys or mopeds at retail shall sell any such wheeled device or vehicle unless the wheeled device or vehicle has an identifying number permanently stamped or cast on its frame.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-6.1. Stickers required on mopeds, motorized skateboards and motorized scooters.

Any person who offers for rent or lease any moped, motorized skateboard or motorized scooter shall affix to any such moped, motorized skateboard or motorized scooter, or verify that there is affixed, a permanent decal or sticker which states that the operation of mopeds, motorized skateboards or motorized scooters on highways and public vehicular areas by persons under the age of sixteen (16) for mopeds, or under the age of fourteen (14) (unless under the immediate supervision of a person who is at least eighteen (18) years old) for motorized skateboards or motorized scooters, is prohibited by Virginia law.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-7. Record to be kept by dealers in secondhand bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters, golf carts, low-speed vehicles, surreys or mopeds.

Every person engaged in the business of buying, selling, exchanging or trading in used or secondhand bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters, golf carts, low-speed vehicles, surreys or mopeds shall keep a record of all such transactions, including the make and frame number, and the name and address of the person from whom purchased or acquired or to whom sold and delivered, as the case may be, or each such wheeled device or vehicle purchased, sold or exchanged. Such records shall be open for police inspection.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-8. Dealers not to purchase secondhand bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters golf carts, low-speed vehicles, surreys or mopeds from minors.

It shall be unlawful for any person engaged in the business of buying, selling, exchanging or trading in used or secondhand bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters, golf carts, low-speed vehicles, surreys or mopeds, to purchase any such secondhand wheeled device or vehicle from a person under eighteen (18) years of age.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-9. Rental agencies to comply with equipment requirements; advertising prohibitions.

No rental agency or other establishment shall rent or offer for rent any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, golf cart, low-speed vehicle, surrey or moped, unless such wheeled device or vehicle is equipped with all safety equipment required by this chapter. No such agency or establishment shall rent or offer to rent any such wheeled device or vehicle which displays any signage or other advertising matter for use on the boardwalk or bicycle path east of Atlantic Avenue except for one (1) sign not exceeding one (1) square foot in area and displaying only the name and location of the rental agency or establishment.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3399, 4-7-15)

Sec. 7-10. Signs required at rental agencies.

- (a) *Mopeds.* Each owner of a business intending to rent or lease mopeds to the public shall post a clearly legible sign in a prominent place on his premises where such sign will be seen and read by a reasonably observant customer. Such sign shall contain the following information:
- (1) Operators must be sixteen (16) years or older.
 - (2) Valid identification is required of all customers.
 - (3) Customers must be familiar with and obey traffic laws. Violations will be prosecuted by police.
 - (4) Riding is prohibited on the Boardwalk and the adjacent grassy area and bicycle path, oceanfront parks and plazas, the beach, all city sidewalks;
 - (5) Riding is prohibited on Atlantic Avenue from May 1st through September 30th.
- (b) *Low-speed vehicles.* Each owner of a business intending to rent or lease low-speed vehicles to the public shall post a clearly legible sign in a prominent place on his premises where such sign will be seen and read by a reasonably observant customer. Such sign shall contain the following information:
- (1) Operators must be sixteen (16) years or older to operate.
 - (2) Valid driver's license is required of all customers.
 - (3) Customers must be familiar with and obey traffic laws. Violations will be prosecuted by police.
 - (4) Operation is prohibited on the boardwalk and the adjacent grassy area and bicycle path, oceanfront parks and plazas, the beach, and all sidewalks.
- (c) *Electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards and motorized scooters.* Each owner of a business intending to rent or lease electric personal assistive mobility devices, electric power-assisted bicycles and motorized skateboards and motorized scooters to the public shall post a clearly legible sign in a prominent place on his premises where such sign will be seen and read by a reasonably observant customer. Such sign shall contain the following information:
- (1) Operator must be fourteen (14) years or older unless under the immediate supervision of a person who is at least eighteen (18) years old.
 - (2) Valid identification is required of all customers.
 - (3) Customers must be familiar with and obey traffic laws. Violations will be prosecuted by police.
 - (4) Riding is prohibited on the boardwalk and adjacent grassy area and bicycle path, oceanfront parks and plazas, the beach and all sidewalks in the resort area.

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- (5) Riding is prohibited on Atlantic Avenue from May 1st through September 30th.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-11. Restrictions on renting mopeds, low-speed vehicles, electric personal assistive mobility devices, electric power-assisted bicycles motorized skateboards or motorized scooters.

It shall be unlawful for an owner, manager, operator or employee of a business engaged in the rental of mopeds, low-speed vehicles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or motorized scooters to:

- (1) Lease or rent a moped or low-speed vehicle to any person under sixteen (16) years of age.
- (2) Lease or rent, or offer to lease or rent, a moped which produces speeds in excess of thirty-five (35) miles per hour on a level surface.
- (3) Lease or rent, or offer to lease or rent, a low-speed vehicle which produces speeds in excess of twenty-five (25) miles per hour on a level surface.
- (4) Lease, rent, offer to lease or rent an electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or motorized scooter to any person under fourteen (14) years old unless such person is under the immediate supervision of a person who is at least eighteen (18) years of age.
- (5) Require or accept as security or surety any operator's license, military identification card or other permit or pass issued by any state or federal agency.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Secs. 7-12—7-20. Reserved.

Secs. 7-21—7-31. Reserved.

Editor's note(s)—Ord. No. 3260, § 1, adopted October 23, 2012, repealed §§ 7-21, 7-22, 7-24, 7-25, 7-29—7-31, which pertained to authority to register, application, fee, issuance of card and decal, replacement of mutilated, lost or stolen decal, records to be kept, disposition of fees and derived from Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06.

Sec. 7-32. Disposition of unclaimed bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters, golf carts or mopeds in custody of police department.

The disposition of unclaimed bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motor-driven cycles, motorized skateboards, motorized scooters, golf carts, low-speed vehicles, surreys or mopeds in the custody of the police department shall be in accordance with the provisions of Article II of Chapter 27 of this Code.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Secs. 7-33—7-45. Reserved.

ARTICLE III. EQUIPMENT AND LOCAL OPERATING RULES²

Sec. 7-46. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-46 of the Code, which pertained to violations of article and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-47. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-47 of the Code, which pertained to lights and reflectors and derived from Ord. No. 2848, adopted Oct. 26, 2004; and Ord. No. 2881, adopted June 14, 2005.

Sec. 7-48. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-48 of the Code, which pertained to brakes and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-49. Safety equipment required, moped operators and passengers.

- (a) Every person operating a moped on a public street or highway of the city shall wear a face shield, safety glasses or goggles approved by the superintendent of state police, or shall have his moped or gas-powered wheeled device equipped with safety glass or a windshield at all times while operating such vehicle; and any operator and any passengers thereon, if any, shall wear protective helmets of a type approved by the superintendent of the state police.
- (b) 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 fifty dollars (\$50.00).

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-50. Helmets required for riders of bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards and motorized scooters fourteen years of age or younger.

- (a) Every person fourteen (14) years or younger shall be required to wear a protective helmet which meets the standards promulgated by the Consumer Product Safety Commission Standards whenever riding or being carried on a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or motorized scooter on any highway, street, sidewalk or bicycle path.
- (b) A violation of any provision of this section shall be punishable by fine of twenty-five dollars (\$25.00). However, with respect to any person riding or being carried on a bicycle, electric personal assistive mobility

²Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, changed the title of Art. III of this chapter from "Equipment and Operating Rules" to "Equipment and Local Operating Rules."

device, electric-powered-assisted bicycle, motorized skateboard or motorized scooter, such fine shall be suspended (i) for first-time violators or (ii) for any violator who, subsequent to the violation but prior to imposition of the fine, purchases a helmet of the type required by this section.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-51. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-51 of the Code, which pertained to mopeds and gas-powered wheeled devices not to be operated by persons under sixteen; speed limit; identification and sticker required; penalty and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-51.1. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-51.1 of the Code, which pertained to special provisions for electric personal assistive mobility devices, electric power-assisted bicycles, and electric-powered wheeled devices and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-51.2. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-51.2 of the Code, which pertained to special provisions for low-speed vehicles and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-51.3. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-51.3 of the Code, which pertained to special provisions for all-terrain vehicles and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-52. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former § 7-52 of the Code, which pertained to regulations pertaining to riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, electric-powered wheeled devices, gas-powered wheeled devices and mopeds on roadways and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Secs. 7-52.1, 7-52.2. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former §§ 7-52.1, 7-52.2 of the Code, which pertained to overtaking and passing vehicles and left turns by bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, electric-powered wheeled devices, gas-powered wheeled devices and mopeds and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Secs. 7-53—7-57. Reserved.

Editor's note(s)—Ord. No. 2952, adopted June 27, 2006, repealed former §§ 7-53—7-57 of the Code, which pertained to applicability of traffic regulations to riders; compliance with traffic signals and police directions; signals; use of seat required; carrying excess passengers; rider to keep one hand on handlebars and derived from Ord. No. 2848, adopted Oct. 26, 2004.

Sec. 7-58. Operation of other wheeled devices.

Unless specifically authorized by a franchise or permit granted by city council, Code of Virginia, tit. 46.2, or this chapter, it shall be unlawful for any person to operate any type of wheeled device or vehicle on any city street, in the Resort Area or at Town Center.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3083, 5-12-09)

Sec. 7-58.1. Motorized scooters.

- (a) In addition to all other regulations set forth by this article, it shall be unlawful for any person to operate a motorized scooter in the area bounded by the east side of Arctic Avenue on the west, the Atlantic Ocean on the east, Rudee Loop to the south, and the north side of 42nd Street to the north, unless the motorized scooters is rented from a fixed business location or owned by its operator or a licensee as set forth in section 7-58.2.
- (b) It shall be unlawful for any person to operate a motorized scooter upon any street with a speed limit in excess of twenty-five (25) miles per hour.

(Ord. No. 3598, 8-20-19; Ord. No. 3605, 11-12-19; Ord. No. 3630, 7-7-20)

Sec. 7-58.2. Franchise license requirement.

No person or entity may offer motorized scooters or skateboards, or electric power-assisted bicycles, for hire unless the person or entity has a city license, the issuance of which shall be in response to a nonexclusive franchise solicitation.

(Ord. No. 3605, 11-12-19)

Sec. 7-59. Regulations pertaining to riding on city sidewalks and bicycle paths other than the resort area.

- (a) It shall be unlawful for any person to ride a moped or motor-driven cycle on any sidewalk or designated bicycle route within the city;
- (b) Except as otherwise provided in this chapter, riding or operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter or electric powered utility cart is permitted on the sidewalks and designated bicycle paths of the city;
- (c) A person riding or operating a bicycle, electric personal assistive mobility device, motorized skateboard, motorized scooter, electric power-assisted bicycle or electric powered utility cart upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian, shall give an audible signal before overtaking and passing such pedestrian, and shall dismount and walk the bicycle, electric personal assistive mobility device, motorized skateboard, motorized scooter, electric power-assisted bicycle or electric powered utility cart when necessary to avoid physical contact with any person; and
- (d) A violation of this section shall be punishable by a civil penalty of not more than fifty dollars (\$50.00).

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3535, 3-6-18)

Sec. 7-59.1. Regulations pertaining to riding wheeled devices or vehicles in the resort area.

- (a) During the resort season, it shall be unlawful for any person to ride an electric personal assistive mobility device, electric power-assisted bicycle, moped, or motorized skateboard on Atlantic Avenue.
- (b) Notwithstanding the prior subsection, motorized scooters may be operated on the trolley lanes of Atlantic Avenue if riders adhere to the 10 mph speed limit.
- (c) It shall be unlawful at any time for any person to ride on any sidewalk in the resort area an all-terrain vehicle, a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, motorized skateboard, skateboard, scooter, or any pedal-powered vehicle that is muscle-powered or any muscle-powered device. However, the use of roller blades and roller skates is permitted. A violation of this sub-section shall be punished by a civil penalty of not more than fifty dollars (\$50.00).
- (d) It shall be unlawful at any time to operate an electric powered utility cart on Atlantic Avenue or upon the sidewalks along Atlantic Avenue, unless a permit is issued by the city manager, or designee, to do so. An electric powered utility cart may be operated on any sidewalk in the resort area other than Atlantic Avenue and may cross Atlantic Avenue for the purpose of accessing the boardwalk or beach.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3535, 3-6-18; Ord. No. 3596, 7-9-19; Ord. No. 3598, 8-20-19; Ord. No. 3630, 7-7-20)

Sec. 7-59.2. Regulations pertaining to riding on the beach or the boardwalk.

- (a) It shall be unlawful for any person to ride on the beach, upon sand dunes or on the boardwalk a motor vehicle, an all-terrain vehicle, a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, motor-driven cycle, motorized skateboard, motorized scooter, moped, scooter, skateboard or a pedal-powered vehicle that is muscle-powered or any other muscle-powered device, unless specifically authorized in a special event permit.
- (b) The use of roller blades and roller skates on the boardwalk is permitted.
- (c) Reserved.
- (d) The use of an electric powered utility cart on the beach and boardwalk is permitted.

(Ord. No. 2848, 10-26-04; Ord. No. 2943, 5-23-06; Ord. No. 2952, 6-27-06; Ord. No. 3535, 3-6-18)

Editor's note(s)—Ord. No. 2943, adopted May 23, 2006, stated that the provisions of subsection (c) shall expire on September 30, 2006. Said provisions pertained to the use of electric personal assistive mobility on the boardwalk permitted pursuant to a temporary permit authorized by the City Manager.

Sec. 7-59.3. Regulations pertaining to riding wheeled devices or vehicles on the grassy area or bicycle path adjacent to the boardwalk and oceanfront parks and plazas.

- (a) It shall be unlawful for any person to ride or operate on the bicycle path adjacent to the boardwalk an all-terrain vehicle, electric personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, moped, electric powered utility cart, roller blades, roller skates, scooters or skateboards or a pedal-powered vehicle that is muscle-powered or any other muscle-powered device other than a bicycle as defined in this chapter.
- (b) It shall be unlawful to ride an all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, moped, electric

powered utility cart, roller blades, roller skates, scooters or skateboards or a pedal-powered vehicle that is muscle-powered or any other muscle-powered device on the grassy area adjacent to the boardwalk and the oceanfront parks and plazas. Provided, however, that bicycles are allowed in the oceanfront plazas for the purpose of accessing the bicycle path adjacent to the boardwalk and electric powered utility carts are permitted in the oceanfront parks and plazas for purposes of accessing the boardwalk and beach.

- (c) Surreys shall be permitted on the bicycle path and the oceanfront plazas subject to the provisions of this chapter.
- (d) Except as allowed by section 7-9, bicycles operated on the bicycle path shall not contain or convey any signage or other advertising matter unless expressly permitted pursuant to a franchise granted by the city council.
- (e) For purposes of this section the term "oceanfront parks" refers to the grassy and non-grassy areas of the parks located at 7th, 13th, 17th, 24th, 25th, and 31st Streets. The term "oceanfront plazas" or "plazas" refers to the paved areas connecting Atlantic Avenue to the bicycle path.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06; Ord. No. 3399, 4-7-15; Ord. No. 3535, 3-6-18)

Sec. 7-59.4. Regulations pertaining to riding wheeled devices in Town Center.

- (a) It shall be unlawful for any person to ride or operate on any sidewalk or plaza in the Town Center an all-terrain vehicle, bicycle, electrical personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, moped, electric powered utility cart, roller blades, roller skates, scooters or skateboards, or a pedal-powered vehicle that is muscle-powered or any other muscle-powered device.
- (b) For purposes of this section, the term "Town Center" means the area bounded by and including the sidewalk on the south side of Virginia Beach Boulevard, the Norfolk Southern Corporation property line, the sidewalk on the east side of Independence Boulevard, and the sidewalk on the west side of Constitution Drive.
- (c) A violation of this section shall be punished by a civil penalty of not more than fifty dollars (\$50.00).

(Ord. No. 2861, 1-25-05; Ord. No. 2952, 6-27-06; Ord. No. 3535, 3-6-18)

Editor's note(s)—Ord. No. 2861, adopted Jan. 25, 2005 added new provisions to the Code as § 7-59.4 and renumbered former § 7-59.4 as § 7-59.5.

Sec. 7-59.5. General provisions applicable to Sections 7-59.1 through 7-59.5.

- (a) For purposes of Sections 7-59.1 through 7-59.4, the term "scooter" is a muscle-powered device having two (2) or more wheels, a platform on which the rider stands, and a steering mechanism such as handlebars.
- (b) The provisions of Section 7-59.1 through 7-59.4 shall not be applicable to the use of baby carriages, strollers or related modes of transportation of infants, or the use of wheelchairs and wheelchair conveyance used for the transportation of disabled persons or electrical personal assistive mobility devices, electric power-assisted bicycles or motorized scooters equipped with a seat used for the transportation of disabled persons when such device has a state-issued placard for the disabled prominently displayed thereon.
- (c) The prohibitions set forth in Sections 7-59.1 through 7-59.4 shall not be applicable to city employees or city contractors on official business, or to employees of any franchise or permittee authorized to provide services at Town Center, or on the beach, boardwalk and adjacent bicycle path, oceanfront parks and plaza, while on duty, or when authorization is granted by the City Manager or his designee for special events.

(Ord. No. 2848, 10-26-04; Ord. No. 2861, 1-25-05; Ord. No. 2952, 6-27-06; Ord. No. 3260, § 2, 10-23-12)

Note(s)—See the editor's note to § 7-59.4.

Sec. 7-59.6. Regulations pertaining to riding wheeled devices in city owned parking garages.

- (a) Except as provided in section 7-59.5, it shall be unlawful for any person to ride or operate in any parking garage owned by the city or a political subdivision, an all-terrain vehicle, bicycle, electrical personal assistive mobility device, electric power-assisted bicycle, motor-driven cycle, motorized skateboard, motorized scooter, moped, roller blades, roller skates, scooters or skateboards, or a pedal-powered vehicle that is muscle-powered or any other muscle-powered device.
- (b) A violation of this section shall be punished by a civil penalty of not more than fifty dollars (\$50.00).
- (c) The use of an electric powered utility cart in any parking garage owned by the city or a political subdivision is permitted.

(Ord. No. 3202, 9-13-11; Ord. No. 3535, 3-6-18)

Sec. 7-60. Reckless riding; speed.

- (a) No person shall ride a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, low-speed vehicle or moped recklessly or at a speed faster than is reasonably proper, or in a manner so as to endanger the life, limb or property of the rider or of any other person.
- (b) It shall be unlawful for any person to use or operate roller blades, roller skates or any similar devices on wheels or runners whether such use is permitted or not, recklessly or at a speed faster than is reasonably proper, or in a manner so as to interfere with pedestrians or to endanger the life, limb or property of the rider or any other person.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-61. Racing.

- (a) Bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or motorized scooter, low-speed vehicle or moped racing on the highways is prohibited except as authorized in this section.
- (b) Bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, low-speed vehicle or moped racing on a highway shall not be unlawful when a racing event has been approved by the City Manager on any highway under the jurisdiction of the City. Approval of bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, low-speed vehicle or moped highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.
- (c) By agreement with the approving authority, participants in an approved bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, low-speed vehicle and moped highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-62. Clinging to vehicles.

No person riding upon any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter, low-speed vehicle, moped, roller skates, skateboards, toys, other devices on wheels or runners shall attach the same or himself to any moving vehicle upon a roadway.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-63. Parking of bicycles and other wheeled devices.

- (a) Except as otherwise prohibited or restricted by an official traffic-control device, a person may park a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, motorized skateboard, motorized scooter, or moped on a sidewalk in such manner so as to not impede the normal and reasonable movement of pedestrian or other traffic.
- (b) Except as otherwise prohibited by this Code, a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, motorized skateboard, motorized scooter, low-speed vehicle or moped may be parked on the roadway at any angle to the curb or edge of the roadway or abreast of another such wheeled device or vehicle, but in such manner so as not to (i) impede the normal and reasonable movement of vehicular or pedestrian traffic, or (ii) obstruct the movement of a legally parked motor vehicle.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

Sec. 7-64. Use of earphones while operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter or moped.

- (a) It shall be unlawful for any person to operate a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard, motorized scooter or moped on the highways in the city while using earphones on or in both ears.
- (b) For the purposes of this section, "earphones" shall mean any device worn on or in both ears that converts electrical energy to sound waves or which impairs or hinders the person's ability to hear, but shall not include any prosthetic device that aids the hard of hearing.

(Ord. No. 2848, 10-26-04; Ord. No. 2952, 6-27-06)

ARTICLE IV. REGULATION OF GOLF CARTS

Sec. 7-65. Golf cart operation, generally.

No person shall operate a golf cart on or over any highway, bike path or sidewalk in the city except as provided in this article.

(Ord. No. 2848, 10-26-04)

Sec. 7-66. Designation of city highways for golf cart operation; posting of signs.

- (a) Pursuant to Code of Virginia, § 46.2-916.2, city council may authorize by ordinance, the operation of golf carts on designated public highways within the city after (i) considering the speed, volume, and character of motor vehicle traffic using such highways, and (ii) determining that golf cart operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's statewide pedestrian policy. No city highway shall be designated for use by golf carts if such golf cart operations will impede the safe and efficient flow of motor vehicle traffic, or if the highway's posted speed limit is greater than twenty-five (25) miles per hour.
 - (b) All requests made to have specific highways designated for golf cart use shall be directed to the Traffic Engineering Office of Public Works.
 - (c) Any city highway designated for golf cart operations shall be posted with signs indicating this designation. The organization, individual or entity requesting a highway designation allowing golf cart operations shall reimburse the city its actual cost for the installation and continued maintenance of such signs.
 - (d) The following city streets located in the specified neighborhoods are approved for golf cart operation in accordance with the provisions of this article:
 - (1) Heron Ridge Estates—Couples Court, Heron Ridge Lane, Heron Ridge Drive, Lynx Drive, Lynx Court and Ryan Court.
 - (2) Chubb Lake West of Pleasure House Road—Beaufort Avenue, West Chubb Lake Avenue, Chubb Lake Avenue, Lauderdale Avenue (4800-5100 Blocks), Athens Boulevard, Creek Cove Court, Sunny Circle, Bradpointe Lane, Leatherneck Road, Lookout Road (4800-4900 Blocks), Bradford Point, Bayview Avenue, Guy Avenue, Lee Avenue (4800 Block), Zivo Court and Lake Drive (4800 Block), Ocean View Avenue (5000 Block);
 - (3) Lago-Mar—Atwoodtown Road, Costa Grande Drive, Camino Real South, Camino Court, Rota Circle, Santa Marta Court, Santa Clara Court, Cinta Court, Granada Court, San Jose Court, San Miguel Court, Sevilla Court, Acapulco Court, Casa Court, Estrella Court, Rio Grande Drive, Rio Grande Court, Pinon Court, Corrente Lane, Escorial Court, La Mirage Court, Los Conaes Way, Trevino Court, Rio Bravo Bend, Santiago Point, Toledo Place, Infanta Circle, Costa Grande Drive, Malaga Lane, Malaga Court, Alcon Court, Soria Circle, Tres Lane, Vaso Court, Toro Court, Amigo Court, Tono Court, Los Colonis Drive, Las Brisas Drive, Baja Court, Sonora Court, Morado Court, La Tierra Court, La Tierra Circle, Las Corrales Court, Brasileno Drive, Brasileno Court, Valiente Court, Esquiama Court, Verano Court, Verano Circle, Belleza Court, Torero Court, Entrada Drive, Rancho Road, Cordova Court, San Marco Road, San Marco Circle and San Marco Court;
 - (4) Ashville Park—Ashville Park Boulevard (from Lubao Lane to 1868 Ashville Park Blvd.), Emelita Drive, Lubao Lane, Blythe Drive, Wilshire Drive, Benecia Drive, Camarillo Lane, Kittridge Drive, Aldea Circle, Keokirk Lane;
 - (5) Chesapeake Bay—East of Northampton Boulevard: Ocean View Avenue, Lauderdale Avenue, Pleasure Avenue, Guam Street, Lee Avenue, Coronet Avenue, Lake Drive, Fentress Avenue, Seaview Avenue, Mortons Road, and Lee Court;
 - (6) Highgate Greens—Upper Greens Place, Lower Greens Place, Sanderson Lane, Toler Lane, Raeford Court, Bodnar Lane, Rhodes Court, Dehart Court, McNelly Lane, Langhorne Court, and Ferguson Court.
- (Ord. No. 2848, 10-26-04; Ord. No. 2920, 1-31-06; Ord. No. 3424, 8-4-15; Ord. No. 3566, 9-4-18; Ord. No. 3684, 1-4-22; Ord. No. 3705, 8-9-22)

Sec. 7-67. Limitations.

Golf cart operations on designated city highways shall be in accordance with the following limitations:

- (1) No person shall operate a golf cart on a city highway unless that highway is designated for golf cart operations and is posted with the required sign.
- (2) No golf cart shall be driven across any highway at an intersection where the highway being crossed has a posted speed limit of more than twenty-five (25) miles per hour.
- (3) No person shall operate any golf cart on any designated city highway unless he has in his possession a valid driver's license.
- (4) No golf cart shall be operated on any designated city highway without displaying a slow-moving vehicle emblem in conformity with Virginia Code section 46.2-1081.
- (5) No person shall operate any golf cart on any designated city highway between sunset and sunrise, unless equipped with lights as required by section 21-141 of this Code.

(Ord. No. 2848, 10-26-04)

Sec. 7-68. Exceptions.

The limitations set forth in section 7-67(1) and (2) above shall not apply to golf carts being operated as follows:

- (1) To cross a highway from one (1) portion of a golf course to another portion thereof or to another adjacent golf course; or to travel between a person's home and golf course if (i) the trip would not be longer than one-half mile in either direction, and (ii) the speed limit on the road is no more than thirty-five (35) miles per hour;
- (2) To the extent necessary for city employees and city contractors to fulfill a governmental purpose, or as otherwise authorized by the city manager or his designee, provided the golf cart is not operated on a city highway with a posted speed limit over thirty-five (35) miles per hour;
- (3) As necessary by employees of public or private two-year or four-year institutions of higher education if operating on highways within the property limits of such institutions, provided the golf cart is being operated on highways with speed limits of thirty-five (35) miles per hour or less.

(Ord. No. 2848, 10-26-04)

Secs. 7-69, 7-70. Reserved.

ARTICLE V. SURREYS

Sec. 7-71. Use of surreys at resort area.

- (a) A surrey that has a permit issued by the city manager or his designee may be operated on the resort area bike path or the connecting oceanfront plazas. Such operation shall be subject to the following restrictions.
- (b) It shall be unlawful for any person to operate a surrey or any similar device on the resort area boardwalk or its adjacent grassy areas, in resort area parks, or on resort area sidewalks and streets from Rudee Inlet to 42nd Street and from the sandy beach to Parks Avenue.

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- (c) It shall be unlawful for any person to operate a surrey in a manner that blocks traffic on the bicycle path, interferes with pedestrians, or endangers the life, limb or property of the operator or any other person.
 - (d) It shall be unlawful for any person under fourteen (14) years of age to operate a surrey unless under the immediate supervision of a person who is at least eighteen (18) years of age.
 - (e) It shall be unlawful for any person to provide or offer to provide a surrey for operation in the resort area that does not have a permit issued by the city manager.
 - (f) It shall be unlawful for any person to store or park any surrey on city property without the written authorization of the city manager or his designee.
 - (g) The resort management office shall provide all surrey rental businesses the date and times that permitted boardwalk events will necessitate closing of the bike path. It shall be unlawful to provide rental surreys to customers during those designated time periods.

(Ord. No. 2869, 5-10-05)

Sec. 18-102. Repair service businesses.

- (a) The license tax rate for every person engaged in any repair service business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.
- (b) Repair-service businesses referred to in this section shall include those businesses set out below and any miscellaneous repair service business not elsewhere classified:
 - (1) Bicycle repair shop.
 - (2) Boiler repair shop.
 - (3) Coppersmith.
 - (4) Electrical appliance repair shop.
 - (5) Engine repair shop.
 - (6) Fountain pen repairing.
 - (7) Fountain repairing.
 - (8) Furniture repairing or cleaning.
 - (9) Harness and leather repairing.
 - (10) Household and office appliance or equipment repairing or cleaning.
 - (11) Lawn mower repairing.
 - (12) Reserved.
 - (13) Luggage repairing.
 - (14) Machine shop.
 - (15) Mattress renovating and repairing.
 - (16) Motor repairing and rewinding.
 - (17) Musical instrument repairing.
 - (18) Radio or television repair shop.
 - (19) Refrigerator repair shop.

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- (20) Rug cleaning.
 - (21) Scale repairing.
 - (22) Sewing machine repair shop.
 - (23) Tailor (repair work).
 - (24) Tank repair shop.
 - (25) Upholstering establishment.
 - (26) Watch and jewelry repairing.

(Code 1965, § 20-59; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 21-353. Parking restrictions.

- (a) In any area designated as a residential permit parking area, it shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on the street.
- (b) In any area designated as a residential permit parking area, it shall be unlawful for any person to park any motor vehicle on the street between the hours of 8:00 p.m. and 6:00 a.m. unless the vehicle owner has a valid residential parking permit; provided, however, that the provisions of this Section shall not apply to emergency or governmental vehicles, to delivery or service vehicles while engaged in such delivery or service, or to vehicles displaying a valid guest pass plainly visible from the exterior of the vehicle.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-383. Parking restrictions.

- (a) It shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on any street in the Cavalier Shores Neighborhood.
- (b) It shall be unlawful for any person to park a motor vehicle on any street in the Cavalier Shores Neighborhood, where notice of these restrictions have been conspicuously posted in accordance with this Division, for longer than a four-hour period in any day unless there is affixed to the driver's side exterior surface of the windshield of such motor vehicle a valid residential parking permit or a temporary guest pass as authorized by subsection 21-354(b) hanging from the rearview mirror.

(Ord. No. 3582, 3-5-19; Ord. No. 3687, 4-6-21; Ord. No. 3689, 3-15-22)

Chapter 25 PAWNBROKERS; JUNK AND SECONDHAND DEALERS³

³Cross reference(s)—Records to be kept by dealers in secondhand bicycles and mopeds, § 7-6; dealers not to purchase secondhand bicycles and mopeds from minors, § 7-7; license tax of dealers in precious metals and

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Chapter 25 - PAWNBROKERS; JUNK AND SECONDHAND DEALERS
ARTICLE I. IN GENERAL

gems, § 18-76.1; license tax for junk and secondhand dealers, § 18-86; license tax for pawnbrokers, § 18-92; purchase of junk or secondhand articles from minors, § 23-36.

State law reference(s)—Junk and secondhand dealers, Code of Virginia, §§ 54-825—54-836; pawnbrokers, §§ 54-840—54-859.

ARTICLE I. IN GENERAL

Sec. 25-1. Definitions.

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed to them by this section:

Junk dealer. The term "junk dealer" means any person who purchases, sells, barter or exchanges any kind of secondhand articles, junk, rags, rag cullings, bones, bottles, puer, scrap, metals, metal drosses, steel, iron, old lead or lead pipe, old bathroom fixtures, old rubber, old rubber articles or other like commodities, except paper and except furniture, clothes, shoes and stoves intended to be resold for use as such.

Pawnbroker. The word "pawnbroker" means any person who shall, in any manner, lend or advance money or other things for profit on the pledge and possession of personal property or other valuable things, other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

Secondhand dealer. The term "secondhand dealer" means any person who buys, sells, barter or exchanges used or secondhand articles, such as firearms, jewelry, office machines, household appliances, radios, television sets, electronic equipment, sporting equipment, photographic equipment, heating or plumbing fixtures or supplies, electrical fixtures or wiring, gas fixtures or appliances, water faucets, pipes, locks, bathtubs or any other secondhand merchandise intended to be resold for use as such. This definition does not include those persons who exclusively buy, sell, barter or exchange used or secondhand clothing, furniture and non-electronic children's articles.

(Code 1965, § 24-1; Ord. No. 3257, 8-14-12)

State law reference(s)—Similar definitions of "junk dealer" and "pawnbroker," Code of Virginia, §§ 54-825, 54-840.

Sec. 25-2. Violations of article generally.

- (a) Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 4 misdemeanor.
- (b) In addition to any penalty that may be imposed for a violation of this article, upon conviction of any pawnbroker, junk dealer or secondhand dealer of a violation of this article, the judge of a court of competent jurisdiction may, at his discretion, revoke the license of the offender.

(Code 1965, § 24-13)

Sec. 25-3. Exceptions from article.

Nothing contained in this article shall apply to any licensed retail merchant accepting secondhand merchandise as partial payment or as trade-in on new merchandise of the same or similar type or to (1) any nonprofit, charitable, religious or educational organization; (2) any corporation that operates a retail store on behalf of a nonprofit, charitable, religious, or educational organization; or (3) any properly licensed antique dealer; provided, however, that this exception does not apply to those who deal primarily in new and used firearms.

(Code 1965, § 24-12; Ord. No. 3439, 4-5-16)

Sec. 25-4. Identification of persons from whom property received.

It shall be unlawful and a Class 1 misdemeanor for any pawnbroker, secondhand dealer or junk dealer to purchase, barter or exchange or in any manner obtain from any person any articles described in section 25-1 without first requiring such person to exhibit sufficient evidence of his identity.

(Code 1965, § 24-2)

Sec. 25-5. Certain transactions prohibited between 10:00 p.m. and sunrise.

- (a) No pawnbroker, secondhand dealer or junk dealer shall purchase, barter or exchange any of the articles referred to in section 25-1 between the hours of 10:00 p.m. and sunrise of the following morning.
- (b) A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1965, § 24-11; Ord. No. 2423, 9-24-96)

State law reference(s)—Purchases by junk dealers to be made only between sunrise and sunset, Code of Virginia, § 54-828.

Sec. 25-6. Daily reports to chief of police.

- (a) All pawnbrokers, secondhand dealers and junk dealers shall furnish daily, by noon, to the chief of police or his designee, a true and correct report, of all items pawned, purchased, sold, bartered or exchanged or otherwise coming into his possession, during the preceding business day, except such as is purchased at public auction. Each item included in the report shall be described as accurately as possible and shall include any brand name, model number, serial number, initial or name or any other identifying marks found on the item. The report shall include the full name of the person pawning, pledging, or selling the goods, article, or thing; residence address; telephone number; the identification card type, number, and issuing agency recorded from a government-issued identification card bearing a photograph of the pledger or seller presented during the transaction; a photograph or digital image of the form of identification used by the pledger or seller; and a description of the pledger or seller, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks, of such person. The report shall be submitted in an electronic format as provided by the chief of police or his designee.
- (b) If the purchase, sale or acquisition occurs during a weekend or holiday, then the submittal of the electronic report required in subsection (a) above shall be made no later than noon the next regular business day.
- (c) For each loan or transaction, a pawnbroker, junk dealer or secondhand dealer may charge a service fee for making daily electronic reports as required above. Such fee shall not exceed five (5) percent of the amount of the loan or transaction, or three dollars (\$3.00), whichever is less.
- (d) A violation of this section shall constitute a class 4 misdemeanor.

(Code 1965, § 24-8; Ord. No. 2851, 11-9-04; Ord. No. 3101, 8-25-09; Ord. No. 3404, 4-21-15, eff. 6-1-15)

State law reference(s)—Pawnbrokers' reports, Code of Virginia, § 54-853.

Sec. 25-7. Duty to allow removal of stolen property.

Every pawnbroker, secondhand dealer or junk dealer shall, upon reasonable demand and with just cause, after obtaining a proper receipt, allow the removal of any merchandise suspected of being, or identified as, stolen property, by any police officer.

(Code 1965, § 24-9)

Sec. 25-8. Pawnbroker's records.

- (a) Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares, or merchandise is purchased for resale. The account shall be recorded at the time of the loan or transaction and shall include:
- (1) A description, serial number, and a statement of ownership of the goods, article or thing pawned or pledged or received on account of money loaned thereon or purchased for resale;
 - (2) The time, date, and place of the transaction;
 - (3) The amount of money loaned thereon at the time of pledging the same or paid as the purchase price;
 - (4) The rate of interest to be paid on such loan;
 - (5) The fees charged by the pawnbroker, itemizing each fee charged;
 - (6) The full name, residence address, telephone number, and driver's license number or other form of identification of the person pawning or pledging or selling the goods, article or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks of such person;
 - (7) Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person pawning, pledging, or selling the goods, article, or thing, such as a driver's license or state identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;
 - (8) A digital image of the form of identification used by the person involved in the transaction;
 - (9) As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and
 - (10) All other facts and circumstances respecting such loan or purchase.
- (b) The chief of police shall promulgate regulations specifying the nature of the particular description for the purposes of subsection (6) above and he shall promulgate regulations specifying the nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such credentials shall be examined by the pawnbroker, and an appropriate record retained thereof.
- (c) The records, either written or electronic, required to be kept by this section shall, at all reasonable times, be open to inspection by judges of the criminal courts and all law-enforcement officers. If maintained electronically, a pawnbroker shall retain the electronic records for at least one (1) year after the date of the transaction.
- (d) For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five (5) percent of the amount loaned on such item or paid by the pawnbroker for such item or three dollars (\$3.00), whichever is less.
- (e) No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

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- (f) Any person, firm or corporation violating any provision of this section shall be guilty of a Class 4 misdemeanor.

(Code 1965, §§ 24-5, 24-6; Ord. No. 1991, 7-9-90; Ord. No. 2851, 11-9-04; Ord. No. 3404, 4-21-15, eff. 6-1-15)

State law reference(s)—Similar provisions, Code of Virginia, §§ 54-851, 54-852.

Sec. 25-9. Note or memorandum of pawn to include schedule of interest and charges.

Before delivering the note or memorandum required by section 54-846 of the Code of Virginia to a person pawning or pledging any goods, articles or things, a pawnbroker shall enter, on the back of such note or memorandum, a schedule of the rate of interest and charges allowed to such pawnbroker by law.

(Code 1965, § 24-10)

Sec. 25-10. Junk dealer's records.

Every junk dealer and every merchant and foundryman who deals in junk, bronze metals, bronze plaques, bronze statuary, old metals and similar articles shall keep, at his place of business, and every canvasser shall carry and keep with him, a book in which shall be fairly written in English, at the time of each transaction in the course of his business, an accurate account of such transaction, except as to the purchase of rags, bones, old iron and paper, setting forth a description of the goods, articles or other thing purchased, the time of receiving the same, the name and residence of the person selling or delivering the same, the terms and conditions of purchase or receipt thereof and all other facts and circumstances respecting such purchase or receipt. Such book shall, at all times, be subject to the inspection of the judges of the criminal courts and all law-enforcement officers.

(Code 1965, § 24-3)

State law reference(s)—Similar provisions, Code of Virginia, § 54-832.

Sec. 25-11. Search of premises; seizure of missing or stolen property.

Every junk dealer and canvasser, every merchant and foundryman referred to in section 25-9 and every pawnbroker and employee of a pawnbroker shall admit to his premises, at any time, any judge of a criminal court or any law-enforcement officer to examine any books or other records on the premises or in his possession, as well as the articles purchased, pledged, pawned or received, and to search for and take into possession any article known by such judge or officer to be missing or known or believed by him to be stolen, without the formality of a search warrant or any other process, and such search or seizure is hereby authorized.

(Code 1965, §§ 24-4, 24-7)

State law reference(s)—Similar provisions, Code of Virginia, §§ 54-834, 54-854.

Sec. 25-12. Limitation as to number of pawnshops.

- (a) No more than fifteen (15) pawnshops shall be licensed to operate in the city at any one time.
- (b) Notwithstanding the provisions of subsection (a), any pawnshop licensed to operate in the city as of the date of adoption of this section may remain so licensed as long as such pawnshop shall remain continuously in operation.

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- (c) The commissioner of revenue shall not issue any license to operate a pawnshop, except to renew any license in good standing, unless the number of pawnshops licensed has been reduced below the maximum prescribed herein.
 - (d) When the number of pawnshops in the city has reached the maximum prescribed herein, the commissioner of revenue shall file a statement with the circuit court that the maximum number of pawnshops authorized to be operated in the city has been reached.
 - (e) For purposes of this section, the term "pawnshop" shall be deemed to include pawnbrokers' sales stores.
- (Ord. No. 2191, 11-10-92)

Secs. 25-13—25-22. Reserved.

**ARTICLE II. AUTOMOBILE
GRAVEYARDS, JUNKYARDS
AND DUMPS⁴**

DIVISION 1. GENERALLY

Sec. 25-23. Definitions.

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed to them by this section:

Automobile graveyard. The term "automobile graveyard" means any lot or parcel which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

Dump. The term "dump" means any lot or parcel of land, water or part thereof used for the disposal, by abandonment, dumping, burial, burning or any other means, of garbage, sewage, trash, refuse, junk, discarded machinery or waste materials of any kind.

Junkyard. The term "junkyard" means any lot or parcel of land, structure or part thereof used for the collection, storage and sale of wastepaper, rags or scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

(Code 1965, § 24-14)

State law reference(s)—Similar definitions of "automobile graveyard" and "junkyard," Code of Virginia, § 33.1-348.

⁴Cross reference(s)—License tax for wrecking or salvaging automobiles, § 18-116; provisions of traffic code relative to abandoned, inoperative, etc., vehicles, §§ 21-376, 21-377; solid waste, Ch. 31; city refuse disposal areas, § 31-61 et seq.

State law reference(s)—Authority of city to regulate operation and maintenance of automobile graveyards and junkyards, Code of Virginia, § 15.1-28.

Sec. 25-24. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 1 misdemeanor.

Sec. 25-25. Fencing.

Each automobile graveyard, junkyard and dump located in the city shall be completely enclosed by a board or masonry fence, eight (8) feet or more in height, which shall be kept neatly painted and in good repair for the purpose of excluding the premises from the public view. Such fence shall not be constructed closer than fifty (50) feet to the nearest right-of-way and shall not be used for the purpose of advertising anything other than the place of business and such advertising shall be limited to four (4) feet by eight (8) feet.

(Code 1965, § 24-15)

State law reference(s)—Screening of junkyards and automobile graveyards adjacent to highways, Code of Virginia, § 33.1-348.

Sec. 25-26. Contents of premises not to extend above height of fence.

The contents of an automobile graveyard, junkyard or dump shall not be placed or deposited to a height greater than the height of the fence required by section 25-25.

(Code 1965, § 24-15)

Sec. 25-27. Abutting streets and sidewalks to be kept clear of junked vehicles and waste matter.

Sidewalks and streets abutting an automobile graveyard, junkyard or dump shall be kept clear of all vehicles incapable of being operated under their own power and trash or other waste matter.

(Code 1965, § 24-16)

Cross reference(s)—General duty of property owners and occupants to keep abutting streets and sidewalks free of litter, § 33-13.

Sec. 25-28. Record of purchases to be kept by proprietor of automobile graveyard.

The proprietor of an automobile graveyard shall maintain an accurate record, open for inspection to all city officials and law-enforcement officers, showing the make, state license number, state certificate of title, motor number, body number, style and seating capacity of vehicles purchased, together with such other information concerning such property as may be necessary to establish the ownership of all such vehicles.

(Code 1965, § 24-17)

Secs. 25-29—25-35. Reserved.

DIVISION 2. PERMIT⁵

Sec. 25-36. Required.

It shall be unlawful for any person to establish, locate, operate or maintain any automobile graveyard, junkyard or dump within the city, unless he has a current permit so to do issued pursuant to the provisions of this division.

(Code 1965, § 24-18)

Sec. 25-37. Application.

Application for a permit required by this division shall be made to the secretary of the planning commission. Such application shall contain a plat or drawing showing the location of the proposed automobile graveyard, junkyard or dump with relation to highway rights-of-way, street names and ownership of land involved, size of lot or parcel, location of homes in the area and such other pertinent data as may be required by the secretary of the planning commission.

(Code 1965, §§ 24-19, 24-20)

Sec. 25-38. Fee.

Every application for a permit under this division shall be accompanied by a fee in the sum of twenty-five dollars (\$25.00), payable to the city treasurer, to be used to defray the costs of investigation and of processing the application in question. Such fee shall not be refundable.

(Code 1965, § 24-21)

Sec. 25-39. Procedure for issuance or denial.

Upon receipt of an application for a permit under this division, the secretary of the planning commission shall transmit the same to the planning commission for study and report. The planning commission shall then transmit such application, together with its recommendations thereon, to the city council, which shall either authorize the issuance of the permit or deny the application.

(Code 1965, § 24-19)

Sec. 25-40. Expiration and renewal.

A permit required by this division shall be issued for the calendar year in which application is made and shall expire on December thirty-first of the year in which issued. Such permit shall be renewed within thirty (30) days following the expiration date. If not renewed, the use for which the permit was issued shall be discontinued within

⁵State law reference(s)—General authority of city as to permits, Code of Virginia, § 15.1-906.

sixty (60) days after such permit has expired. The procedure provided by this division for obtaining permits shall apply to any person making application for the re-establishment of an automobile graveyard, junkyard or dump after such use has been so discontinued.

(Code 1965, §§ 24-22, 24-23)

Sec. 25-41. Revocation.

If any automobile graveyard, junkyard or dump operated pursuant to a permit issued under this division is found to be causing a hardship through location and is found to be impairing the health, safety or morals of the public, the permit in question shall be revoked by the city council and the automobile graveyard, junkyard or dump in question shall be removed, at the expense of the owner, as directed by the director of public works.

(Code 1965, § 24-24)

Secs. 25-42—25-50. Reserved.

Sec. 26-3.1. Peddling or selling on public property in the resort area during the prime resort season.

- (a) Notwithstanding any provision of this Code to the contrary, it shall be unlawful for any person to engage in the activity of selling or offering for sale, or renting or offering for rent, any goods, wares, merchandise, foodstuffs, refreshments or other kinds of property or services whatsoever in the "resort area" during the "prime resort season" while such person or any table, stand, cart, trailer, or similar structural component of such person's activity is located on public property.
- (b) The restriction set forth in subsection (a) above shall not be applicable to:
 - (1) Special events conducted pursuant to a permit granted under section 4-1 of this Code;
 - (2) Events conducted pursuant to the city's contract for general entertainment and major events;
 - (3) Duly-licensed or permitted concessions granted by the city pursuant to a competitive procurement process;
 - (4) Franchises granted in accordance with section 15.2-2100 et seq. of the Code of Virginia; or
 - (5) The sale, or offer for sale, of publications of general circulation.
- (c) For purposes of this section, the following terms shall have the meanings respectively ascribed to them:
 - (1) *Public property* shall include, without limitation, the boardwalk, the grassy area adjacent thereto, streets, alleys, sidewalks, bicycle paths, parks, the sand beach, city-owned or operated facilities, and all other public property.
 - (2) *Publication of general circulation* shall mean a publication which is published at regular intervals primarily for the dissemination of news, intelligence and opinions on recent events or newsworthy items of a general nature and which is available to the general public.
 - (3) *Resort area* shall mean the area bordered on the north by the northernmost curb line of 38th Street, on the east by the mean low water line of the Atlantic Ocean, on the south by Rudee Inlet, and on the west by the imaginary line running north to south, fifteen (15) feet to the west of the westernmost curb line of Pacific Avenue.

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- (4) *Prime resort season* shall mean the period from, and including, the fifteenth day of April, to and including, the thirtieth day of September of each year.

(Ord. No. 2385, 5-14-96; Ord. No 2484, 4-28-98)

ARTICLE II. UNCLAIMED PROPERTY IN CUSTODY OF POLICE DEPARTMENT⁶

Sec. 27-21. Disposal of unclaimed property in possession of police.

- (a) Any unclaimed personal property which has been in the possession of the department of police and remains unclaimed for a period of more than sixty (60) days may be sold at public auction or retained for use by the Police Department in accordance with the provisions of this article. As used herein, "unclaimed personal property" shall be 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 Uniform Disposition of Unclaimed Property Act of the Code of Virginia.
- (b) Notwithstanding the provisions of subsection (a) above, bicycles and lost/found property may be disposed of in accordance with sections 27-24 and 27-25.
- (c) Any unclaimed personal property, as described in subsection (a) above, that has insubstantial commercial value may be destroyed or otherwise disposed of after it remains unclaimed for a period of more than ninety (90) days. For the purpose of this subsection "insubstantial commercial value" includes items that are unsuitable for resale, or items deemed to have a value less than the cost of giving notice and holding a sale.

(Ord. No. 1331, 9-27-82; Ord. No. 1498, 11-19-84; Ord. No. 3222, 3-13-12)

Sec. 27-22. Requirements prior to sale or retention by police department.

- (a) Prior to the sale or retention by Police Department of any unclaimed item the chief of police or his duly authorized agent 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 locality once a week for two (2) successive weeks, notice that there will be a public sale of unclaimed personal property. Such property shall be described generally in the notice, together with the date, time and place of the sale. The chief of police, or his duly authorized agent, shall pay from the proceeds of the sale the cost of advertisement, removal, storage and investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership.
- (b) Any unclaimed item retained for use by the Police Department shall become the property of the City and shall be retained only if, in the opinion of the chief of police or his designee, there is a legitimate use for the

⁶Editor's note(s)—Ord. No. 1331, adopted Sept. 27, 1982, amended art. II to read as set out in §§ 27-21—27-23. Former art. II consisted of §§ 27-21—27-25, concerning the same subject, as derived from Code 1965, §§ 2-53—2-56.

Cross reference(s)—Unclaimed bicycles or mopeds in custody of police department to be disposed of in accord with this article, § 7-8.

State law reference(s)—Authority for article, Code of Virginia, § 15.1-133.01.

property by the department and retention of the item is a more economical alternative than purchase of a similar or equivalent item.

(Ord. No. 1331, 9-27-82; Ord. No. 3222, 3-13-12)

Sec. 27-23. Disposition of funds from sale.

If no claim has been made by the owner for the proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the city. Any such owner shall be entitled to apply to the city within three (3) years from the date of the sale and, if timely application is made therefor, the city shall pay the remaining proceeds of the sale to the owner without interest or other charges. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds after three (3) years from the date of the sale.

(Ord. No. 1331, 9-27-82)

Sec. 27-24. Disposal of bicycles and other wheeled devices or vehicles.

Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, golf cart, surrey or moped which has been in the possession of the department of police, unclaimed, for more than thirty (30) days may be sold at public auction or donated to a charitable organization. If such wheeled device or vehicle is sold at public auction, the provisions of sections 27-22 and 27-23 shall apply. If such wheeled device or vehicle is donated to a charitable organization, the notice provisions of section 27-22 shall apply.

(Ord. No. 1498, 11-19-84; Ord. No. 2850, 10-26-04)

Cross reference(s)—Bicycles and other wheeled devices, Ch. 7.

Sec. 27-25. Disposal of lost/found property.

Any person who initially found and turned over to the department of police, property which otherwise remains unclaimed for a period of sixty (60) days (thirty (30) days for bicycles and other wheeled devices and vehicles as set forth in section 27-24), may make claim for such property, prior to its sale, to the chief of police or his duly authorized agent. The chief of police or his duly authorized agent may elect to return such property to the finder making such claim or proceed under the provisions of sections 27-21 or 27-24. Strict records of each such disposal shall be kept.

(Ord. No. 1498, 11-19-84; Ord. No. 2850, 10-26-04; Ord. No. 3222, 3-13-12)

Secs. 27-26—27-38. Reserved.

Chapter 33 STREETS AND SIDEWALKS⁷

⁷Cross reference(s)—Payments to persons displayed by city road projects, § 2-235 et seq.; responsibilities of department of public works with respect to streets, § 2-268 et seq.; duties of director of planning with respect to street names, § 2-384; signs and other advertising devices in public right-of-way, § 3-3; projecting signs, § 3-41 et seq.; abandoning domestic animal on street right-of-way, § 5-12; depositing dead animals or

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Chapter 33 - STREETS AND SIDEWALKS
ARTICLE I. IN GENERAL

leaving disabled animal on street or sidewalk, § 5-15; taking of food or drink on street adjacent to beach, § 6-6; riding bicycles and mopeds on streets, § 7-50 et seq.; riding bicycles and mopeds on sidewalks, § 7-57; parking bicycles and mopeds on sidewalks or roadways, § 7-61; building regulations, Ch. 8; farmer's market, Ch. 11; fires on street, § 12-6; street vendors of food products, § 13-36 et seq.; motor vehicles and traffic, Ch. 21; obscene films not to be visible to juveniles from public way, § 22-29; disorderly conduct in streets, § 23-14; begging on streets, § 23-15; obstructing free passage of others, § 23-16; riots and unlawful assemblies, §§ 23-17—23-20; damaging property in or on streets, lanes or public squares, § 23-39; altering surface of road or other public property, § 23-40; soil removal and other land-disturbing activities, Ch. 30; littering streets, § 31-10; vehicles for hire, Ch. 36; zoning ordinance, App. A; design standards for streets and alleys in subdivisions, App. B, § 4.1; required street improvements in subdivisions, App. B, § 5.2 et seq.; site plan ordinance, App. C.

State law reference(s)—General authority of city relative to streets and sidewalks, Code of Virginia, §§ 15.1-14, 15.1-363—15.1-426, 15.1-888 et seq.

ARTICLE I. IN GENERAL

Sec. 33-1. Certain ordinances relating to streets and alleys not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance opening, locating, closing, altering or naming 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.

Sec. 33-2. Violations of article generally.

Except as otherwise specifically provided, a violation of any provision of this article shall constitute a Class 3 misdemeanor.

Sec. 33-3. Obstructions generally.

Except as otherwise specifically provided, it shall be unlawful for any person to place on any sidewalk, street or alley in the city any fence, gate, porch, step, post, barrel, bench, bar, table, box, merchandise, goods, wares or other fixtures or articles whatsoever, whether they be for sale, exhibition or any other purpose.

(Code 1965, § 32-12)

Sec. 33-4. Temporary fence or barricade for protection of newly seeded or sodded grass plots in sidewalk area.

- (a) A permit for the erection of a temporary fence or barricade, for a period not exceeding ninety (90) days, in the sidewalk area in front of any premises, for the protection of newly sodded or seeded grass plots, may, upon application to the director of public works, be issued to the owner of such premises. Such fence or barricade shall conform to the specifications therefor on file in the office of the director of public works, but in no event shall such fence or barricade be less than twenty-four (24) inches or more than thirty (30) inches in height above the level of the grade of the sidewalk. Such fence or barricade shall be constructed of well-dressed lumber not less than one inch nor more than two (2) inches square, shall consist of only one rail and the necessary posts supporting the same and shall not extend beyond the building line further than within six (6) inches of the walkway or paved sidewalk in front of the premises.
- (b) The granting of a permit under this section and the acceptance and use thereof by the owner of the premises shall not be deemed or taken to be a release from liability of the owner or person installing or maintaining such fence or barricade for damages to persons or property occasioned by its installation or maintenance, but such owner or person, by accepting the permit and constructing and maintaining the fence or barricade, assumes all liability for damage that may be occasioned thereby and agrees to save the city harmless from all loss, costs, damage and expenses that may accrue to it or to any person by reason of the construction and maintenance of the fence or barricade.

(Code 1965, § 32-13)

Sec. 33-5. Removal of poles, etc., interfering with erection or construction of public improvements.

The owner of any pipes, poles, wires or other fixtures or appliances located or erected under or upon any of the streets of the city shall remove the same, within a reasonable time, to such place as may be approved by the director of public works, when notified that such pipes, poles, wires or other fixtures and appliances are in the way of, interfere with or retard the erection and construction of any public improvement in the city. Should the owner of such pipes, poles, wires or other fixtures or appliances fail or refuse to remove the same within a reasonable time after having been so notified, the city shall proceed to have the same removed and shall collect the cost of such removal from the owner thereof.

(Code 1965, § 32-11)

Sec. 33-6. Sales conducted on or adjacent to the public right-of-way.

For purposes of this section only, "sale or exchange" shall be defined as the advertising, displaying, offering or exchanging for value of the below-mentioned items.

The sale or exchange of any item, including but not limited to any and all goods, wares, flowers, prepared or unprepared food or any other product by any person from any temporary structure, including but not limited to any table or stand, or from any motor vehicle, trailer, cart, dray, wagon, pushcart or any hand or pedal-propelled vehicle shall be subject to the following regulations:

- (a) *Sales conducted in the public right-of-way.*
 - (1) No such sale or exchange shall be made in any street or public right-of-way along any street for which the posted speed limit is greater than twenty-five (25) miles per hour, nor shall such sale or exchange be made in any street or public right-of-way within twenty-five (25) feet of any intersection.
 - (2) No person conducting such sale or exchange in any street or public right-of-way may remain within any one-block area for more than fifteen (15) minutes before moving to another block. Additionally, such sale or exchange may not be repeated in the same block within any eight-hour period. A block shall be understood to mean a section of a street between its intersection with two (2) adjoining streets, or a section of street five hundred (500) feet in length, whichever is shorter.
 - (3) The provisions of subsection (a) hereof shall not apply to such sales or exchanges conducted on the premises of the Virginia Beach Farmer's Market or of any other commercial enterprise operated under franchise agreement or permit authorized by the city manager.
- (b) *Sales conducted on private property adjacent to the public right-of-way.* Persons conducting a sale or exchange of the type described in this section on private property, and persons allowing their private property to be used for such sales or exchanges, shall be subject to the following regulations:
 - (1) No sale or exchange shall take place or be conducted, and no structure used for such sale or exchange shall be located, within fifty (50) feet of the closest edge of the nearest sidewalk pavement, or street pavement if there is no sidewalk, of any public right-of-way.
 - (2) The person conducting the sale or exchange shall have obtained written permission to conduct such activity from the owner of the property involved, and shall have also obtained from such owner exclusive control over any area of the property, within the allowed area, sufficient to

ensure that there is adequate space for the safe circulation of traffic; such area shall not be less than eight hundred (800) square feet. The person conducting the sale or exchange shall not allow any other activity to be conducted within this minimal eight hundred (800) square foot area.

- (3) Such sales or exchanges shall not be conducted on or from vacant lots.
 - (4) Before any person may conduct such sale or exchange, such person must have provided to and have had approved by the department of planning a plat or site plan identifying the location of the property on which the activity is to be conducted and showing the location of the structure from which the sale or exchange activity will occur, the area under the control of such person, and provisions for well-defined vehicular entrances and exists. Such plat or site plan shall be accompanied by a nonrefundable fee of twenty-five dollars (\$25.00) for processing. After review and approval of such plat or site plan by the department of planning, application shall be made to the city manager or his designee for a permit to engage in the activities covered by this section, in accordance with this section and the approved plat or site plan. Such application shall state the name, address and telephone number of the person or persons conducting the activity, the days and hours of operation, and shall include evidence of the property owner's permission to so use the property, as required above, as well as a copy of the approved plat or site plan. A copy of the permit issued by the city manager or his designee as well as a copy of the approved plat or site plan and the written permission of the property owner shall be kept at the site of the activity. Such permit must be obtained before a business license for such activity may be issued, and shall be renewed annually prior to the renewal of any business license.
 - (5) The requirements of subsection (b) hereof shall not apply to outdoor sales and exchanges which occur as an incidental part of the retail sales activity of a merchant regularly conducting business from a permanent building where such sales are conducted on the premises of the building and in close proximity to said building; nor shall they apply to the otherwise lawful sale of market produce and processed agricultural food products such as jams and jellies; nor to garage sales in residential areas.
 - (6) Nothing herein shall exempt any person conducting a sale or exchange of the type described herein from the requirements of the comprehensive zoning ordinance or any other applicable provision of the law.
 - (7) A person who obtains a permit pursuant to subsection (4), above, shall be allowed one sign which shall be permanently attached to a motor vehicle and which shall not exceed ten (10) square feet in size.
- (c) *Compliance.* Every person who obtains a permit under the requirements of this section shall keep the permit, approved plat or site plan and written permission of the property owner in a convenient place and, whenever requested to do so, shall exhibit the same to any police officer, agent of the commissioner of revenue or inspector for the department of planning. Violation of any of the requirements of this section shall constitute a class 1 misdemeanor. The city manager or his designee shall revoke the permit issued to any person pursuant to subsection (b)(4) upon his conviction of violating any of the provisions of this section.

(Ord. No. 1205, 7-13-81; Ord. No. 1482, 8-27-84; Ord. No. 1576, 1-21-86; Ord. No. 2136, 6-2-92; Ord. No. 2149, 6-23-92; Ord. No. 2244, 8-10-93)

Editor's note(s)—Ord. No. 1205, adopted July 13, 1981, repealed § 33-6 as it pertained to street vendors and re-enacted the section as set out above. Formerly, § 33-6 derived from Code 1965, §§ 32-7, 32-9; Ord. No. 1153, adopted March 23, 1981, and Ord. No. 1154, also adopted March 23, 1981.

Cross reference(s)—Street vendors of food products, § 13-36 et seq.

Sec. 33-7. Sidewalk photographers.

- (a) Unless authorized by the city by franchise, permit, license or otherwise, it shall be unlawful for any person, on any street or sidewalk in the city, to take any picture, photograph or snapshot, by any process whatsoever, of any person and offer to furnish to such person, or to any person selected by him, a copy of the picture, photograph or snapshot so taken, for a consideration in any form. The passing out of written, printed, typewritten or mimeographed matter, or the giving of information orally, concerning the means by which a copy of the picture, photograph or snapshot taken may be obtained, shall constitute an offer to furnish a copy of the picture, photograph or snapshot taken for a consideration.
- (b) The provisions of this section shall not be deemed to prohibit the taking of a picture solely for the purpose of reproducing it in a book, newspaper, magazine or periodical.

(Code 1965, § 32-8; Ord. No. 1854, 5-1-89)

Sec. 33-8. Packing and unpacking on sidewalks.

No person receiving or shipping goods, wares and merchandise in boxes, crates or other packing shall pack, unpack or store the same upon any sidewalk or street, unless such package, crate or box is too large to enter the door of the building through which the contents of such package, crate or box are to be carried, in which case such package, crate or box may be unpacked or packed upon the sidewalk, without unreasonable delay, and all packing material, trash and boxes shall be immediately removed by the owner thereof.

(Code 1965, § 32-10)

Sec. 33-9. Congregations obstructing streets or sidewalks.

It shall be unlawful for any persons to congregate in such a manner so as to block, hinder, impede or obstruct the free and uninterrupted passage of vehicular or pedestrian traffic on the streets or sidewalks in the city. Any person who violates the provisions of this section shall be guilty of a class 4 misdemeanor.

(Code 1965, 23-36.2)

Cross reference(s)—General prohibition against interfering with traffic, § 21-34; general prohibition against obstructing free passage of others, § 23-16.

Sec. 33-9.1. Permits for parades and processions.

No procession or parade, excepting the forces of the United States Army or Navy, the military forces of the state, the forces of the police and fire departments of the city and funeral processions, shall occupy, march or proceed along any street or highway in the City, except in accordance with a permit issued by the city manager and such other regulations as are set forth in Chapter 21 which may apply.

(Ord. No. 2903, 12-13-05)

Sec. 33-10. Sitting, reclining or lying down on streets or sidewalks.

It shall be unlawful for any person to sit, recline or lie down on any street, sidewalk, alley, curb or entrance to any store or other place of business. Any person who violates the provisions of this section shall be guilty of a class 4 misdemeanor.

(Code 1965, § 23-36.3)

Sec. 33-11. Trains obstructing street crossings.

- (a) It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct, for a longer period than five (5) minutes, the free passage on any street or road, by standing cars or trains across the same, except a passenger train while receiving or discharging passengers, but a passway shall be kept open to allow normal flow of traffic; provided that, when a train has been uncoupled, so as to make a passway, the time necessarily required, not exceeding three (3) minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such street or road.
- (b) Any railroad company, receiver or trustee violating any of the provisions of this section shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00); provided that, the fine may be one hundred dollars (\$100.00) for each minute beyond the permitted time, but the total fine shall not exceed five hundred dollars (\$500.00).
- (c) This section shall not apply when a train is stopped due to breakdown, mechanical failure or emergency.

(Code 1965, § 22-29)

State law reference(s)—Similar provisions, Code of Virginia, § 56-412.1.

Sec. 33-12. Depositing hazardous or injurious material on street and removal of same.

- (a) No person shall throw or deposit upon any street or highway, any bottle, glass, nail, tack, can or any other substance likely to injure any person or animal or damage any vehicle upon such street or highway, nor shall any person throw or deposit, or cause to be deposited, upon any street or highway, any soil, sand, mud, gravel or other substance, so as to create a hazard to the traveling public.
- (b) Any person who drops, or permits to be dropped or thrown, upon any street or highway, any destructive or injurious material shall immediately remove the same or cause it to be removed.
- (c) Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the street or highway from such vehicle.
- (d) A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1965, § 22-32)

Cross reference(s)—General prohibition against littering streets, § 31-10.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-324.

Sec. 33-13. Duty of property owners and occupants to keep abutting streets and sidewalks free of litter.

All owners or occupants of real property shall maintain the sidewalks and curbs and the right-of-way up to the edge of the pavement of any public street abutting such property and one-half of abutting alleys in a clean and litter-free condition. All owners or occupants of real property adjacent to a sound wall or similar noise attenuation structure shall maintain the area between the property line and the sound wall or similar noise attenuation structure in a clean and litter-free condition.

(Ord. No. 1016, §§ 17-12(E), 17-13(A), 1-14-80; Ord. No. 3385, 12-9-14)

Cross reference(s)—Streets and sidewalks abutting junkyards and automobile graveyards to be kept clear of junked vehicles and waste matter, § 25-27.

Sec. 33-14. Duty of property owners and occupants to remove snow and ice from sidewalks.

The owner or occupant of any lot or parcel of land in the city shall remove snow and ice from the sidewalks in front of such lot or parcel within six (6) hours after such time as such removal can first be reasonably effected.

(Ord. No. 1016, § 17-12(E), 1-14-80)

State law reference(s)—Authority for above section, Code of Virginia, § 15.1-867.

Sec. 33-15. Driving on street barricaded while work in progress.

No person shall ride or drive over any street barricaded or guarded because paving, grading, macadamizing or other public improvement is in progress.

(Code 1965, § 32-15)

Sec. 33-16. Removing street barriers placed for protection of work in progress.

No person shall remove barriers or other guards placed across the streets of the city while paving, grading, macadamizing or other public improvement is in progress.

(Code 1965, § 32-14)

Sec. 33-17. Reserved.

Editor's note(s)—Ord. No. 3082, adopted May 12, 2009, repealed § 33-17, which pertained to portions of streets as quiet zones and derived from § 32-6 of the 1965 Code.

Sec. 33-18. Vending machines on public property.

- (a) Notwithstanding the provisions of this chapter or any other chapter of the Code, the placement of vending machines on any sidewalk or other public property located within designated RT-1, RT-2, RT-3 and RT-4 Resort Tourist Districts shall be prohibited.
- (b) For purposes of this section, a vending machine shall be defined as any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the provision or delivery, by sale or otherwise, of consumable and/or nonconsumable products.
- (c) The provisions of this section shall not be applicable to newspaper vending machines, coin-operated telephones, or machines dispensing public transportation tickets or tokens.
- (d) The placement and appearance of machines dispensing public transportation tickets or tokens shall be approved by the city manager or his designee prior to placement of the machines.
- (e) Any person who violates the provisions of this section shall be guilty of a Class 4 misdemeanor.

(Ord. No. 1844, 4-3-89; Ord. No. 1860, 5-1-89; Ord. No. 2744, 5-6-03)

Cross reference(s)—Vending machines on private property, § 23-60.

Sec. 33-18.1. Newsracks on public property.

(a) For purposes of this section, the following words and phrases shall be construed as follows:

City manager shall mean the city manager or such other employee of the city as may be designated by the city manager to perform the duties prescribed in this section.

Distributor shall mean the person, firm, corporation or other entity responsible for placing or maintaining a newsrack in a public right-of-way.

Newsrack or newspaper vending machine shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display or sale of newspapers or other publications.

(b) The City of Virginia Beach hereby finds and declares:

- (1) That the uncontrolled placement of newsracks and newspaper vending machines at signaled pedestrian crosswalks and next to utility poles containing pedestrian crossing buttons interferes with the rights of disabled, blind or visually impaired persons under the 1990 Americans With Disabilities Act (42 U.S.C.A. § 1201 et seq.) and the Virginia Rights of Persons With Disabilities Act (Va. Code Ann. §§ 51.5-40 through 51.5-46) to the full and free use of the public streets and highways; and
- (2) That the benefits of regulating the placement of newsracks and newspaper vending machines at signaled pedestrian crosswalks and next to utility poles containing pedestrian crossing buttons outweigh the potential impact which may result from such regulation.

(c) Any newsrack or newspaper vending machine which, in whole or in part, is located upon or over any public sidewalk, street or other portion of a public right-of-way shall be located in accordance with the following provisions:

- (1) No newsrack or newspaper vending machine shall be chained, bolted or otherwise attached to any utility pole containing a pedestrian crossing button or crosswalk bar, or to any other fixture located within five (5) feet of any signaled pedestrian crosswalk.
- (2) No newsrack or newspaper vending machine or grouping of newsracks or newspaper vending machines shall be placed, installed, used or maintained:
 - (i) Within five (5) feet of the curb-cut ramp of any signaled pedestrian crosswalk; or
 - (ii) Within three (3) feet of any utility pole containing a pedestrian crossing button.

(d) Any newsrack or newspaper vending machine which, in whole or in part, is located upon or over any public right-of-way shall display, in a conspicuous location, the name of the distributor and an address where the distributor can be contacted.

(e) Any newsrack or newspaper vending machine which has been installed, used or maintained in violation of the provisions of this section shall be removed by the city manager and stored in temporary custody subject to the notice requirements of subsection (f) of this section. Additionally, the distributor of any newsrack or newspaper vending machine removed and stored pursuant to this subsection may be charged a reasonable fee for such removal and storage.

(f) Upon a determination by the city manager that a newsrack or newspaper vending machine has been installed, used or maintained in violation of the provisions of this section, a notice to correct the violation shall be issued to the distributor. Such notice shall be deemed to constitute sufficient notice of a violation if it is properly addressed and mailed to the distributor by certified mail, return receipt requested, at the address set forth on the newsrack or newspaper vending machine. The notice shall specifically describe the violation and set forth the action(s) necessary to correct the violation. The notice shall also specify that

failure to correct the violation within seven (7) days following the date of mailing of the notice will result in the removal of the newsrack or newspaper vending machine by the city manager and its storage in temporary custody. The notice shall advise the distributor as to the location of the newsrack or newspaper vending machine and the procedure for claiming same.

- (g) Notwithstanding the provisions of subsection (f), if any newsrack or newspaper vending machine (i) has been installed, used or maintained in violation of the provisions of this section and (ii) does not display the name and address of the distributor, notice of violation shall be sufficient by posting such notice on the newsrack or newspaper vending machine. Failure to correct the violation within seven (7) days following the date of posting will result in removal and storage of the newsrack or newspaper vending machine as set forth in subsection (e) of this section.
- (h) Any distributor, person, or other entity who claims to be aggrieved by a finding, determination, notice or action taken under the provisions of this section may appeal to the city manager. An appeal shall be perfected within three (3) days after receipt of a notice of violation or other action by filing with the office of the city manager a letter of appeal stating the basis for such appeal. The city manager shall schedule a hearing of such appeal on a date not later than ten (10) days after the filing of the appeal; provided, however, that such hearing may, at the discretion of the city manager, be rescheduled for good cause shown. The city manager shall take no action during the pendency of an appeal. Failure to correct a violation of this section within seven (7) days following (i) the expiration of the time for noting an appeal or (ii) the denial of an appeal, shall result in the removal and storage of the newsrack or newspaper vending machine.
- (i) Any newsrack or newspaper vending machine removed pursuant to this section must be claimed by the distributor within thirty (30) days of such removal. If the distributor fails to claim the newsrack or newspaper vending machine or refuses to pay storage costs, the city manager may dispose of same. Any proceeds or monies, if any, from the disposal of a newsrack or newspaper vending machine shall be forwarded to the city treasurer for deposit into the general fund of the city.
- (j) If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this section.

(Ord. No. 2559, 8-24-99)

Sec. 33-19. Hauling of sand, gravel, topsoil, fill, or other excavated material off an excavation site.

- (a) It shall be unlawful for any person to haul more than three hundred thirty-seven (337) in situ cubic yards of sand, gravel, topsoil, fill, or other excavated material from an excavation site by vehicle upon any street in the City of Virginia Beach without a hauling permit from the department of planning in accordance with the provisions of this section.
- (b) Application for a permit required by this section shall be filed with the department of planning on forms supplied by the city. The application fee shall be fifty dollars (\$50.00). The application shall be signed by the property owner, hauler and operator and shall include the following information:
 - (1) The names and addresses of all haulers;
 - (2) If the hauler is a corporation, the name and address of its corporate offices and registered agent;
 - (3) The name and address of the excavator and/or operator;
 - (4) The names and addresses of owners of all property from which the fill material is to be hauled;

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- (5) The proposed date on which the hauling operation will commence and the proposed date on which the operation will be completed;
 - (6) The total number of cubic yards of material to be hauled;
 - (7) The number, type, carrying capacity, and weight of vehicles to be used in the hauling operation on a daily basis;
 - (8) The location of all haul roads leading to public streets and highways within the hauling area;
 - (9) A statement listing the public streets to be used as haul routes to access an arterial or major street or highway;
 - (10) A statement of the methods to be used to maintain or repair any public street or highway to be used for hauling purposes;
 - (11) A site plan or survey of the excavation site, with a location map, showing the locations of the area to be excavated, the on-site haul road, the point at which the haul road intersects the public right-of-way, the nearest street intersections in all directions leaving the excavation site and all existing and proposed entrances on both sides of the public street within five hundred (500) feet of the proposed entrance;
 - (12) A detailed description of the on-site haul road and the entrance to the public right-of-way, including width, radii, composition of surface material and length of improved surface;
 - (13) Erosion and sediment control measures to be employed at the haul road entrance and all access points;
 - (14) The method by which dirt and dust will be controlled on the public streets and in the air;
 - (15) A traffic maintenance/control plan, including, but not limited to, sign type, size, color, lettering size and locations;
 - (16) Location and description of public structures and improvements immediately adjacent to and under the haul road entrance; and
 - (17) A description or plan of all proposed improvements to mitigate the traffic impacts associated with the hauling activity including, but not limited to, turn lanes, signalization, striping and other traffic control measures.

In the event any changes in the above-required information are needed, the applicant shall submit such changes to the planning department for review and approval prior to the commencement thereof.

- (c) The director of the department of planning or his designee shall determine the acceptability of the hauling methods and routes proposed by the applicant, and shall grant the hauling permit unless:
 - (1) Under accepted engineering standards, it is determined that the public streets and highways to be used in the proposed hauling route cannot sustain the weight or frequency of the hauling vehicles without substantial damage thereto; or
 - (2) The proposed hauling operation would render the streets and highways affected by the hauling unsafe for public travel; or
 - (3) The noise or dust generated by the hauling operation is of such character, intensity and duration as to be detrimental to the life or health of persons of reasonable sensitivity, or to disturb or annoy the quiet, comfort or repose of reasonable persons who reside in close proximity to the hauling operation.

Any person aggrieved of the decision of the planning director or his designee may appeal such decision to the city manager or his designee within thirty (30) days of the date of such decision. Any person aggrieved of the

decision of the city manager or his designee may appeal such decision to the circuit court within thirty (30) days of the date of such decision.

- (d) In the event the planning director or his designee issues a hauling permit under this section, he may attach such conditions and safeguards as are deemed necessary to protect the public safety and to ensure against the creation of a public nuisance or substantial damage to the streets due to the hauling and may require the posting of a bond with surety, cash, escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the city attorney, to assure compliance.
- (e) No permit issued under this section shall be transferred to another person without approval by the planning department. Such approval shall be granted in the same manner as for original applications for permits.
- (f) A hauling permit issued under this section shall expire one (1) year from the date of issuance. The holder of the permit may thereafter apply annually to the department of planning for a renewal of the permit upon the payment of a fifty dollar (\$50.00) renewal fee and verification of all information required under subsection (b).
- (g) A violation of any of the provisions of this section or failure to comply with the terms and conditions of a hauling permit shall constitute a Class 1 misdemeanor. In addition to the penalties imposed hereunder, the city may institute legal action to enjoin a continuing violation of any of the provisions of this section or of any of the terms and conditions of a hauling permit issued pursuant to this section.
- (h) In addition to, and not in lieu of, the remedies set forth in subsection (g) hereof, the director of planning or his designee may revoke a hauling permit issued pursuant to this section as a result of the violation of any of the terms or conditions of the permit.
- (i) This section shall not apply to excavation operations conducted pursuant to an excavation permit and a conditional use permit for a borrow pit or to stormwater management facilities constructed pursuant to approved subdivision construction plans or site plans.

(Ord. No. 2395, 6-11-96)

Secs. 33-20—33-28. Reserved.

ARTICLE II. WORK ON, OVER, UNDER OR AFFECTING STREETS⁸

DIVISION 1. GENERALLY

Sec. 33-29. Definitions.

For the purposes of this article, the following words shall have the meanings respectively ascribed to them by this section:

Permittee. The word "permittee" shall mean any person to whom a permit is issued pursuant to this article.

Street. The word "street" includes alleys, avenues, boulevards, parks, public rights-of-way and all other public places or easements.

⁸Cross reference(s)—Planning commission approval required to alter surface of road or other public property, § 23-40.

Structure. The word "structure" means any building, pole and appurtenance thereto, fixture, post, wire, guy and tower and cable, vault, culvert, drainage system as defined in the stormwater management ordinance (appendix D), manhole and other underground installations.

(Code 1965, § 32-1; Ord. No. 2377, 3-26-96)

Sec. 33-30. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 1 misdemeanor.

Sec. 33-31. Certain provisions of article subject to provisions of articles II and III of chapter 3.

The provisions of this article which relate or apply to signs shall be construed as subject to the provisions of articles II and III of chapter 3 of this Code.

(Code 1965, § 32-18)

Sec. 33-32. Warning signs, lights or barricades.

Whenever any person performs any work which might tend to affect the use of any street, whether or not a permit therefor is required by this article, appropriate warning signs, lights, barricades or other measures shall be erected, placed or taken in such manner as to give effective notice of such work and to protect the public.

(Code 1965, § 32-43; Ord. No. 1078, 8-18-80)

Sec. 33-32.1. Traffic maintenance/control plan.

Whenever any work within any street will affect traffic or public travel, a traffic maintenance/control plan shall be submitted to and approved by the traffic engineer. This plan shall contain all necessary items, traffic control devices and signing, as well as construction sequence, to adequately maintain traffic through and/or around the work area.

(Ord. No. 1078, 8-18-80)

Sec. 33-33. Inspections.

- (a) The city manager or his designee shall conduct such inspections as may be necessary that work being done and completed pursuant to a permit issued under this article conforms to such permit. When the permittee reports that such work is completed, the city manager or his designee shall inspect the work and advise the permittee of the approval or disapproval of such work.
- (b) If the city manager or his designee determines that a permittee is not going forward with the work in a continuing manner and it appears that more than the normal number of inspections will therefore be necessary, the city manager or his designee shall give the permittee notice, in writing, of this fact. Should additional inspections thereafter result, the city manager or his designee may charge the expense thereof against the guarantee fee provided for in division 3 of this article or, where a bond has been given in lieu of guarantee fee pursuant to section 33-73, appropriate proceedings may be carried out to recover the cost of such inspections.

(Code 1965, §§ 32-31, 32-32; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-34. Notice and correction of defects.

- (a) If work done or being done pursuant to a permit issued under the provisions of this article has not been done or is not being done in accordance with the permit, or a street is not left in satisfactory condition, notice shall be given the permittee in question and such permittee shall correct same, when deemed necessary, as follows:
- (1) When there is a direct violation of highway specifications.
 - (2) When work does not comply with conditions of the permit, in which case, the permittee shall be given ten (10) days, upon receipt of a certified letter, to correct the same.
- (b) Upon receipt of a notice given pursuant to this section, should the permittee in question refuse or fail to correct the condition referred to in such notice within a reasonable time, the city manager or his designee shall cancel the permit in question and cause the necessary work to be done, deducting the cost thereof from the guarantee fee required by division 3 of this article; provided that, where a bond has been given in lieu of a guarantee fee pursuant to section 33-73, appropriate proceedings shall be carried out to recover such cost. Where a bond or guarantee fee is not required by this article, the cost of correcting any defective work shall be recovered through legal means. When the city has to intervene and correct or make safe any situation that threatens public liability, a twenty-five (25) percent administrative fee will be added to the cost of repairing same by means stated in this article.

(Code 1965, §§ 32-33, 32-34; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-35. Location of mail and newspaper boxes in street.

Mail and newspaper boxes may be placed in the streets without obtaining, under the provisions of this article, a permit therefor; provided, all such boxes shall be so located as not to interfere with or endanger public travel or maintenance on such streets. Every such box shall be placed within the limits of the property frontage of the address for which it is to be used. Any such box so located or so sized as to interfere with or endanger public travel or create a visibility obstruction for public travel or maintenance on such streets shall be moved to an approved location upon reasonable notice from the city manager or his designee. Failure to remove such box after such notice has been given shall constitute a violation of this section.

(Code 1965, § 32-39; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-36. Illumination of business place from across street.

Illumination or floodlighting of a business place from light structures across a street from the business place shall be unlawful and no permit shall be issued under the provisions of this article for this purpose.

(Code 1965, § 32-40)

Sec. 33-37. Design standards for curbing, combination curb and gutter, etc.

All curbing, combination curb and gutter, endwalls and flared end sections constructed in the city shall be in accordance with design standards on file in the office of the city engineer and made reference to in the site plan regulation dated November 28, 1973. Such design standards are hereby approved by city council.

(Code 1965, § 32-4; Ord. No. 1078, 8-18-80)

Sec. 33-38. Construction of valley curbs or gutters.

Valley curbs or gutters shall not be constructed in the city unless authorized by the city engineer prior to May 1, 1964.

(Code 1965, § 32-5)

Sec. 33-39. Reserved.

Editor's note(s)—Ord. No. 2073, adopted June 25, 1991, deleted former § 33-39, relative to cutting down or lowering curbs, which derived from Code 1965, § 32-3.

Sec. 33-40. Installation or maintenance of defective sewers, drains or utilities under street.

No person shall install or maintain, or cause to be installed or maintained, any defective private sewer, drain or underground utility, where the same passes under a public street, highway, easement or right-of-way. The city manager or his designee may cause such defective sewer, drain or underground utility to be closed and the cost thereof shall be recoverable, by suit or action, from such person.

(Code 1965, § 32-17; Ord. No. 2073, 6-25-91)

Cross reference(s)—Sewers, Ch. 28.

Sec. 33-41. Repair of street or sidewalk damaged by sewers, drains or utilities.

Whenever the surface of any street or sidewalk area, whether paved or not, is damaged by reason of any private sewer, drain or underground utility, it shall be the duty of the person owning the same to have such surface properly repaired and, upon neglect thereof for five (5) days, the city manager or his designee shall cause the repairs to be made, at the expense of the owner in question. Such expense shall be collected by the director of public works.

(Code 1965, § 32-16; Ord. No. 2073, 6-25-91)

Sec. 33-42. Payment of cost of relocating or removing utility facilities when street vacated or abandoned.

Unless otherwise specifically provided, whenever any street, alley or other public way is vacated or abandoned by the city at the request of any private individual, association, corporation or public authority, the cost of the relocation or removal of public utility facilities located in such street, alley or other public way shall be paid by the private individual, association, corporation or public authority requesting such vacation or abandonment.

(Code 1965, § 32-17.1)

Sec. 33-43. Restoration of street surface when permit not required for disturbance thereof.

Whenever any person disrupts or disturbs the paved or improved surface of any street used primarily for public travel and a permit therefor is not required by this article, such person shall notify the city manager or his designee when the paved or improved surface shall be restored. The city may restore the paved or improved

section and shall render to such person a statement of its costs. Such person shall reimburse the city for its costs in such restoration.

(Code 1965, § 32-42; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Secs. 33-44—33-50. Reserved.

DIVISION 2. PERMIT GENERALLY

Sec. 33-51. General requirement.

Except as otherwise provided in this article, it shall be unlawful for any person to perform any work in connection with the erection, construction, removal, relocation or maintenance of any structure, drainage system, surface, overhead or underground installation or to cut, trim or spray trees or to place signs, if such work, cutting, trimming, spraying or placing is on, under or over a street or affects a street, until such person has obtained a permit therefor in accordance with the provisions of this division.

(Code 1965, § 32-18; Ord. No. 2377, 3-26-96)

Sec. 33-52. Only one permit required for work of continuing nature.

For work of a continuing nature along one or more routes, only one application shall be made and only one permit shall be required under this division.

(Code 1965, § 32-30; Ord. No. 1078, 8-18-80)

Sec. 33-53. Application.

- (a) Application for a permit required by this division shall be filed on forms supplied by the city. Such application shall show all required information and be signed by the applicant or his authorized agent. Such application shall include a description of the work to be done, a sketch or site plan showing such work, if required by the city manager or his designee, a statement as to whether subcontractors will perform any work pursuant to the permit and, if so, the name, business address, and telephone number of each subcontractor, and the name and telephone number of an employee, agent or representative of the applicant who is responsible for supervising the subcontractors.
- (b) Sketches or site plans filed with an application under this section shall show the following:
 - (1) The nature of the work to be done.
 - (2) Property lines, where appropriate, and street right-of-way lines with location of the work with reference to a fixed point on the street.
 - (3) Where surface or underground work is involved, a cross-section indicating conditions and proposed changes.
 - (4) Where grading operations are involved, the pavement, shoulder, ditch and slope.
 - (5) Any tree which is to be removed.
 - (6) A traffic maintenance/control plan.

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- (7) An engineer's cost estimate of the total construction costs of any improvements located within public rights-of-way and easements.
 - (c) In addition to the information required in subsection (b) above, a sketch or site plan filed with application under this section for a permit involving underground installations shall also show the following:
 - (1) The exact location and dimensions of conduits, pipes, vaults, manholes, crossings and other installations.
 - (2) Type (concrete, iron, etc.).
 - (3) Depth of covering material.
 - (4) Outlets, showing type and size.
 - (5) Design and location of identification indicators.

(Code 1965, §§ 32-19—32-21; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91; Ord. No. 2377, 3-26-96; Ord. No. 2999, 9-4-07)

Sec. 33-54. Issuance and terms generally.

Upon the filing of an application for a permit under this division, the city manager or his designee shall ascertain that all work to be done pursuant to the permit applied for complies in all respects with prevailing planning, practices, appropriate construction standards and with the provisions of this Code and other ordinances of the city and the resolutions, policies and regulations of the city before the permit shall be issued. The city manager or his designee shall issue the permit when such compliance is apparent or can be assured by the terms of the permit and when all applicable requirements for obtaining the permit has been met. The city manager or his designee may prescribe a limit for the duration of such permit and may extend the same.

(Code 1965, §§ 32-23, 32-29; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-55. Liability insurance or bond prerequisite to issuance for disturbing improved surface of street.

- (a) No person shall lower the curb on any street, or lay any private driveway or ramp crossing any sidewalk, or otherwise cut, undermine, disrupt or disturb in any means the paved or improved surface (including shoulders, sidewalks, curbs and gutters) of any street without first obtaining a permit therefor in accordance with the provisions of this division.
- (b) Before any permit shall be issued to any person pursuant to the provisions of this division, such person shall provide proof of general liability insurance or a bond 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 the activity to be authorized by such permit, in the amount of five hundred thousand dollars (\$500,000.00) Such insurance shall be combined single limit per occurrence.
- (c) All paving and repaving, where necessary, shall be done at the expense of the person receiving such permit, and it shall be the duty of the owner of the property served by any driveway or ramp to keep the sidewalk, driveway or ramp in good repair at all times at such owner's expense.

(Code 1965, § 32-28; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-56. Reserved.

Sec. 33-57. Issuance for logging roads, tram roads and other temporary entrances.

The city manager or his designee may issue a permit under this division authorizing a logging road, tram road or other temporary private entrance, if in addition to all other applicable requirements of this division, there is posted a bond, satisfactory to the city manager or his designee, conditioned that off-site drainage shall not be disrupted and that the permittee shall maintain erosion and sediment control, drainage, including off-site drainage, during his operations and that his failure to do so will result in the cancellation of his permit. No such bond shall be released until the entrance and all drainage, including off-site drainage, has been inspected and found to be in at least the same condition as existed at the time of the issuance of the permit.

(Code 1965, § 32-37; Ord. No. 2073, 6-25-91; Ord. No. 2377, 3-26-96)

Sec. 33-58. Reserved.

Sec. 33-59. Issuance for cutting, trimming or spraying trees or shrubs.

The city manager or his designee may issue a permit under this division for the cutting, trimming or spraying of trees or shrubs on a street only when such work is fully justified in the public interest. Such work shall be done only in a manner prescribed in the permit so issued as directed by the city arborist or the superintendent of landscape services. Any bush, shrub, tree, vegetation, fence, wall, berm, landscape screening or the like, which obscures, hinders or creates visibility obstruction for vehicles entering a street from another street or from a driveway shall be trimmed, relocated, adjusted or removed, whichever action is deemed appropriate or necessary for traffic safety by the traffic engineer's office. For failure to remove, trim, relocate or adjust such item within fourteen (14) days after written notice from the traffic engineer, the city will cause such work to be accomplished at the expense of the owner in question.

(Code 1965, § 32-41; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-60. Issuance of emergency permit.

The city manager or his designee may issue an emergency permit to allow work which requires immediate attention to proceed before the application for a permit under this division is completely processed.

(Code 1965, § 32-45; Ord. No. 2073, 6-25-91)

Sec. 33-61. Issuance and term of blanket permit.

Persons whose regular course of business requires work on, under or over streets or affecting streets or the use of streets may be granted a blanket permit for such work. All such blanket permits shall be accompanied by a traffic maintenance/control plan approved by the traffic engineer. Such blanket permits shall be for not more than one year's duration.

(Code 1965, § 32-30; Ord. No. 1078, 8-18-80)

Sec. 33-62. Issuance to, and responsibility of, contractor for work on government project.

Where work on any government project is to be performed by a contractor, the permit required under the provisions of this division shall be issued in the name of the contractor. The contractor in such a case shall be

responsible for inspection and guarantee fees under the provisions of this article and shall give evidence of liability insurance or bond as required in section 33-55.

(Code 1965, § 32-36)

Sec. 33-63. Contents.

- (a) Permits issued under this division shall specify the manner and the conditions under which the permitted work shall be done. Unless otherwise specified in the permit, every permit issued shall be deemed to include the following provisions:
- (1) Public travel shall be protected by adequate lights, barricades and appropriate warning signals and signs at all times. For maintenance of traffic, the permit shall be accompanied by a traffic maintenance/control plan indicating proposed measures for adequate traffic maintenance and such plan shall be approved by the traffic engineer.
 - (2) Public travel shall be blocked only in the manner specified in the permit and as depicted on the traffic maintenance/control plan approved by the traffic engineer.
 - (3) Pavement shall be used for piling or storing of excavated material or for deposit of material and the placing of equipment only as specified in the permit.
 - (4) The maximum amount of ditch, trench or other excavation to be opened at one time shall not exceed five hundred (500) feet, including the backfilled portion of any trench which is not in condition for public travel, unless the city manager or his designee finds reason for exception.
 - (5) All backfilling of excavations shall be done to a ninety-five (95) percent density compaction. Compaction by using water shall not be permitted.
 - (6) On pavement cuts, the pavement shall be restored to its former dimensions, cross-section and profile, with material conforming to city specifications.
 - (7) No tree roots shall be cut to the extent of rendering the tree unsafe and, if possible, tunneling through or under roots instead of cutting anchor roots shall be followed.
 - (8) Shoulders, ditches and drainage mediums shall be left in the same condition as found or as specified in the permit.
 - (9) The permittee agrees to repair any sinks in the backfill or pavement occurring within one year after the work done under the permit is completed.
 - (10) If entrances to adjacent property are affected, the permittee shall, if practical, provide temporary facilities for safe ingress and egress to such property.
 - (11) The permittee agrees to restore the street to a satisfactory condition consistent with adjoining sections of the street.
 - (12) The permittee agrees, by the acceptance of the permit in question, 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 activity authorized by the permit, whether suit is brought against the city either independently or jointly with the permittee.
 - (13) The permittee agrees, by the acceptance of the permit in question, upon notice in writing, to remove or relocate any structure or installation placed in, on, under or over any street, if such structure or installation interferes with the use of the street.
 - (14) The permittee shall promptly report to the city manager or his designee when the work authorized by the permit is completed.

(15) The permittee shall provide written notice to any and all adjacent private property owners prior to performing work in public rights-of-way that are adjacent to private properties. Such notice shall include the following: 1) the full name of the permittee; 2) the permit number; 3) when the work will be performed; 4) the name and telephone number of the employee, agent, or representative of the permittee who is responsible for supervising the work; and 5) the telephone number for the city's permitting office. The written notice shall be provided to the private property owner by a door hanger on the property owner's front door, which shall be placed on the door at least twenty-four (24) hours prior to permittee commencing work, but no more than seven (7) days before such work is commenced. In the case of an emergency in which the permittee is required to immediately commence repair work, the permittee shall provide the written notice described herein, but the notice may be provided contemporaneously with the commencement of the repair work.

(b) When any work or installation for which a permit is required by this division will or may disturb or obstruct any natural or artificial drainage medium, including ditches, storm sewers, ravines and the like, the permit shall specify the manner in which surface water shall be controlled during the progress of the work and thereafter, if the disturbance or obstruction is a permanent nature.

(Code 1965, §§ 32-26, 32-27; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91; Ord. No. 2999, 9-4-07)

Sec. 33-64. Authority of city when work done without permit.

Whenever any person uses a street for any purpose for which a permit is required under the provisions of this division, without such permit, the city may remove such work and restore the street to its original condition. Where the city exercises such right, it shall have the right to recover from such person its cost and expense.

(Code 1965, § 32-35)

Secs. 33-65—33-70. Reserved.

DIVISION 3. PERMIT, INSPECTION AND GUARANTEE FEES

Sec. 33-71. Schedule.

(a) Permit, inspection and guarantee fees for work for which a permit is required by this article shall be required or not required in accordance with the following schedule:

	Type of Project	Permit Fee	Inspection Fee	Minimum Guarantee Fee
(1)	One (1) permit for work of a continuing nature	\$100.00	Based on 1.5% the total cost of construction as provided in the engineer's cost estimate, excluding water, sewer and street light costs, with a \$50.00 minimum.	Deposit in accordance with estimated cost
(2)	Logging road, tram road and other	\$100.00	\$50.00	Deposit in accordance with estimated cost

	temporary entrances			
(3)	Cutting, trimming or spraying trees or shrubs	\$100.00	\$50.00	\$25.00
(4)	Blanket permit	\$500.00	\$0.00	
(5)	Single- or two-family driveway aprons	\$35.00	\$0.00	\$0.00
(6)	Single permit	\$100.00	\$0.00	\$0.00
(7)	All other work	\$100.00	Based on 1.5% of the total cost of construction as provided in the engineer's cost estimate, excluding street light costs, with a \$50.00 minimum; provided, however, that water and sewer fees shall be based on 10% of the construction cost up to \$7,500.00 plus 1.5% of the construction cost in excess of \$7,500.00, with a \$50.00 minimum.	Deposit in accordance with estimated cost.

(b) At the time easement or dedication plats are submitted a review fee in the amount of eighty-four dollars (\$84.00) shall be required.

(Code 1965, § 32-49; Ord. No. 1869, 5-15-89; Ord. No. 2073, 6-25-91; Ord. No. 2377, 3-26-96; Ord. No. 2633, 5-15-01; Ord. No. 2808, 5-11-04; Ord. No. 2876, 5-10-05; Ord. No. 3021, 5-13-08)

Sec. 33-72. Technology fee.

In addition to any fees otherwise required by this chapter, there shall be a fee in the amount of ten dollars (\$10.00) for permits issued pursuant to section 33-51. Such fee shall be for the following purposes:

- (a) To improve community access to general information about cases, applications, permits and inspections by providing online, user-friendly search and viewing tools;
- (b) To facilitate communications with property owners, consultants and contractors through use of on-line checklist and activity tracking that automatically emails notifications and updates regarding permit status and other information not previously available on-line;

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- (c) To increase transparency and accountability in business operations by providing users the ability to track all transactions online;
 - (d) To enhance performance and revenue reporting by providing the ability to produce ad hoc reports on demand; and
 - (e) To improve and expand electronic document storage, management and retrieval by including scanned images as part of the on-line permit record.

(Ord. No. 3231, 5-8-12, eff. 7-1-12; Ord. No. 3696, 5-10-22)

Sec. 33-73. Payment before issuance of permit; bond in lieu of guarantee fee.

Fees required by section 33-71 shall be paid before the city manager designee shall issue a permit under the provisions of this article; provided, however, that a bond may be accepted by the city manager or his designee in lieu of a guarantee fee required by such section.

(Code 1965, §§ 32-44, 32-45; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

Sec. 33-74. Sufficiency of guarantee fees.

Guarantee fees under this division shall be sufficient to cover the estimated cost of completing the work and/or restoring the street to a satisfactory condition should the holder of a permit issued under the provisions of this article fail to do so.

(Code 1965, § 32-46; Ord. No. 2377, 3-26-96)

Sec. 33-75. Return of guarantee fee.

Whenever work done pursuant to a permit provided for in this article is completed and approved by the city manager or his designee or the city has made the necessary corrections, the city manager or his designee shall return the guarantee fee, after deducting therefrom any inspection fee and such other deductions as are provided for in this article, to the permittee.

(Code 1965, § 32-48; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91; Ord. No. 2377, 3-26-96)

Secs. 33-76—33-85. Reserved.

ARTICLE III. INSTALLATION OR REPAIR OF UNDERGROUND UTILITIES PRIOR TO STREET IMPROVEMENTS

Sec. 33-86. Notice of intention to improve street.

Whenever the city shall determine to pave or surface any street in the city, the director of public works shall notify, in writing, at the time plans are completed and prior to advertisement for bids and award of the contract, if the work is not performed by the city forces, at least one hundred twenty (120) days in advance of actual construction, all utility companies, corporations, firms, associations, receivers and other fiduciaries, governmental agencies and political subdivisions of the state operating in the city of the intention of the city to pave, surface or otherwise improve such street.

(Code 1965, § 32-50)

Sec. 33-87. Installation of new pipes, wires, etc.

The recipients of the notice provided for in section 33-86 shall, within one hundred twenty (120) days, at their own expense and cost, lay, install, construct and complete new underground pipes, mains, wires, conduits, equipment and utilities where none are then installed, including house services for each lot abutting a residential street, in advance of the street improvements contemplated by the city; provided, however, that this section is not intended to require utility companies and corporations to place existing overhead wires or cables underground nor is it intended to hold a utility company in default where, pursuant to the terms of this article, house services have been installed but the size of the services are found to be inadequate within the one-year period referred to in section 33-89.

(Code 1965, § 32-51)

Sec. 33-88. Repair of existing pipes, wires, etc.

Repair of existing pipes, wires, where the mains, repair of existing pipes, conduits, wires, equipment and utilities necessary to render adequate and proper service to the abutting property are already in the street at the time of receipt of the notice provided for in section 33-86, the recipients of such notice shall examine the same carefully and repair or replace the same wherever needed, at their own expense and cost, in a proper and satisfactory order and condition and install the house service for each lot abutting on such street. Such repairs and replacement and the installation of house service shall be made and completed within one hundred twenty (120) days after receipt of such notice.

(Code 1965, § 32-52)

Sec. 33-89. Subsequent street openings by persons failing to comply with sections 33-87 and 33-88.

If any person whose duty it is to comply with sections 33-87 and 33-88 shall fail to comply with the requirements of such sections within the time specified, and subsequently, within one year from the date of the notice provided for in this article, shall, without reasonable excuse satisfactory to the director of public works, or shall, in event of an emergency, install new underground pipes, mains, wires, conduits, equipment and utilities, including house services, and in so doing cut into the street surface or in manner disturb the street pavement or hard surface, he shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Each street opening shall constitute a separate offense. In addition, such person shall restore the pavement or hard surface required under this Code and other ordinances of the city at his own cost and expense.

(Code 1965, § 32-53)

Secs. 33-90—33-100. Reserved.

ARTICLE IV. STREET NUMBERS FOR BUILDINGS⁹

Sec. 33-101. System; blocks and base lines.

All houses and business buildings in the city shall be numbered pursuant to the grid system, as administered by the planning commission. The entire city shall be divided into blocks, with the Norfolk and Southern Railroad right-of-way being the base line from which all blocks on the north and south are to be computed and the Atlantic Ocean being the base line from which all blocks west are to be computed.

(Code 1965, § 32-54)

Sec. 33-102. Display of number generally.

- (a) It shall be the duty of the owner of each house or business building in the city to properly display, in or at the front thereof, in a position easily observed from the street, the proper number of his house or building, for the ascertainment of which he shall apply to the planning commission.
- (b) In addition to, but not in lieu of, the requirements of subsection (a) above, it shall be permissible to display the number of a house or building on the curb in front thereof. Any display of such number on the curb shall conform to the following standards:
 - (1) The numerals shall be in block form painted with black paint.
 - (2) The numerals shall be four (4) inches high and three-fourths ($\frac{3}{4}$) inches wide.
 - (3) There shall be no more than two (2) inches between numerals.
- (c) Any person who violates any provision of this section shall be guilty of a Class 4 misdemeanor, and each day that such violation continues after conviction thereof shall be deemed to constitute a separate offense.

(Code 1965, § 32-55)

Sec. 33-103. Display of improper number.

- (a) It shall be unlawful for the occupant or the owner of any building in the city to which a street number has been assigned or would be assigned upon request, to attach or paint or permit to be or remain attached to or painted on such building any figure tending or purporting to indicate the street number of such building, unless the number so indicated is the street number assigned, or which would be assigned upon request, to such building.
- (b) Any person who violates any provision of this section shall be guilty of a Class 4 misdemeanor and each day that such violation continues after conviction thereof shall be deemed to constitute a separate offense.

(Code 1965, § 32-56)

⁹Cross reference(s)—Buildings and building regulations, Ch. 8.

Secs. 33-104—33-110. Reserved.

**ARTICLE V. VACATION OF PUBLIC STREETS, ALLEYS, EASEMENTS AND OTHER
PUBLIC WAYS¹⁰**

Sec. 33-111. Fee for processing application and viewers' services.

A fee of four hundred ten dollars (\$410.00) shall be paid to the city for the processing of an application and for the viewers' services regarding said application for the vacation of any street or alley. Such fee shall include all costs of notifications and advertising. The planning director or his authorized representative shall not accept any application unless such fee be paid at the time the application is filed.

(Ord. No. 1142, 1-26-81; Ord. No. 1607, 6-23-86; Ord. No. 1747, 7-13-87; Ord. No. 3546, 5-15-18, eff. 7-1-18)

State law reference(s)—Similar provisions, Code of Virginia, §§ 15.1-364, 15.1-364.1.

Sec. 33-111.1. Posting of signs.

In addition to the notice of public hearings as required by general law, upon the application of any person to vacate any street or alley, the applicant shall erect, on or immediately adjacent to such property, a suitable sign, clearly visible and legible from the public streets. Such signs shall be erected not less than fifteen (15) days before, and given notice of, the public hearing before the planning commission, and shall display information as to the nature of the application and date and time of the scheduled planning commission hearings. Signs may be purchased in the planning department office, or must be duplicated in size, format, lettering, coloring, and wording. Such signs may not be removed by the applicant until after the hearing before city council at which tentative approval of the street closure is issued, and shall be removed by the applicant within five (5) days after said city council hearing. Notwithstanding the above, when such signs have been inadequately posted, city council may deny or defer the application.

(Ord. No. 1637, 9-29-86; Ord. No. 1676, 4-13-87)

Sec. 33-111.2. Appointment of viewers for one year terms.

Three (3) viewers shall be appointed each year to serve terms of one year beginning July 1 to view each and every street or alley proposed to be altered or vacated during the term. The applicant for closure of streets or alleys shall not be required to advertise, and city council shall not be required to hold a separate hearing, for appointment of viewers for each specific street or alley proposed to be altered or vacated. The notice requirements of section 15.2-2204 of the Code of Virginia and section 33-111.1 of the Code of Virginia Beach shall be complied with for each hearing regarding discontinuance of the street or alley proposed to be altered or vacated. The cost of public notices required by section 15.2-2204 of the Code of Virginia shall be charged to the applicant. Also, the applicant and city council shall comply with all other provisions of section 15.2-2006 of the Code of Virginia for the alteration and vacation of streets and alleys.

¹⁰Editor's note(s)—Ord. No. 1142, enacted Jan. 26, 1981, added art. V to ch. 32 of the 1965 code; at the editor's discretion, these materials have been designated as art. V, §§ 33-111, 33-112 hereof.

(Ord. No. 2494, 6-23-98; Ord. No. 3282, 5-14-13, eff. 7-1-13)

Sec. 33-112. Sale of public street, alley, easement and other public ways.

The city council, as a condition to a vacation or abandonment, may require the fractional portion of its streets, alleys, easements or other public ways to be purchased by any abutting property owner or owners; and 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 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 (1) year, or other time period made a condition of the vacation or abandonment, of the city council action to vacate or abandon, the vacation or abandonment shall be null and void as to any such property owner.

(Ord. No. 1142, 1-26-81; Ord. No. 1819, 11-21-88; Ord. No. 2165, 8-4-92)

State law reference(s)—Similar provisions, Code of Virginia, § 15.1-366.

**ARTICLE VI. ENCROACHMENTS INTO PUBLIC STREETS AND OTHER PUBLIC WAYS,
PLACES OR PROPERTY**

Sec. 33-113. Provisions applicable to all encroachments.

- (a) Encroachments into, over, under or upon any public street, road, alley or other public right-of-way or public property, shall be unlawful unless expressly authorized pursuant to the provisions of the city code or by franchise, license, lease or other legal instrument approved by the city council. The city council may deny or grant permission to encroach subject to such terms and conditions as it may, in its discretion, deem proper. Notwithstanding any other provision of law, no encroachment that is determined to be detrimental to the public health, safety, welfare or interest shall be approved.
- (b) Any authorization for an encroachment granted pursuant to this article is hereby deemed to be a license only, and may be revoked, conditioned or otherwise limited, with or without notice, at the pleasure of the city council.
- (c) Authorization for encroachments other than those allowed pursuant to subsection (b) of section 33-114.3 shall be in writing, approved as to legal sufficiency by the city attorney and recorded in the Clerk's Office of the Circuit Court.
- (d) Unless otherwise provided by the city council, it shall be a condition of every encroachment authorized pursuant to any of the provisions of this article that:
 - (1) The owner or occupant shall remove the encroachment, at no expense to the city, within thirty (30) days after notification by the city or such other time as may be directed by the city manager or his designee;
 - (2) The owner shall indemnify, hold harmless and defend the city, its agents, officers and employees, from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, in any action arising out of the location or existence of such encroachment;
 - (3) The owner shall obtain and maintain liability insurance with the city as named insured, in the minimum amounts of five hundred thousand dollars (\$500,000.00) per person injured and property damage per incident combined or, for subdivision identification signs, two hundred and fifty thousand dollars (\$250,000.00) per person injured and property damage per incident;

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- (4) The encroachment shall not be unsightly or constitute a hazard;
 - (5) Prior to construction within or affecting any existing public street, road, alley, or other public right-of-way or public property, the owner or his agent shall obtain a permit from the permits and inspections division of the department of planning in accordance with the provisions of Article II of this chapter;
 - (6) No open cut of a public roadway shall be made unless specifically allowed by the permit;
 - (7) No construction within or affecting any existing public street, road, alley, or other right-of-way shall be allowed without an approved traffic control plan; and
 - (8) The owner shall submit for review and approval, a survey of the area being encroached upon or "as-built" plans of the encroachment if required by either the city engineer's office or the engineering division of the public utilities department. Such survey or plans shall be certified by a professional engineer, surveyor or such other qualified professional licensed to practice in the Commonwealth of Virginia as the city manager or his designee may require; provided, however, that this requirement may be waived if, in the judgment of the city manager or his designee, the nature of the work to be performed renders it unnecessary.
- (e) Authorization to any person to construct and maintain an encroachment shall not relieve such person from complying with all other applicable laws, regulations and requirements.

(Ord. No. 3428, 10-6-15)

Editor's note(s)—Ord. No. 3428, adopted October 6, 2015, amended § 33-113 in its entirety to read as herein set out. Former § 33-113, pertained to application; processing fee. See Code Comparative Table for complete derivation.

Sec. 33-113.01. Violations; enforcement.

- (a) In the event the city manager or his designee determines that there exists any unauthorized encroachment, or that any encroachment is in violation of any applicable provision of this article or condition of approval therefor, he shall give notice thereof to the owner or occupant of such encroachment, stating the nature of the violation and ordering the removal of the encroachment or correction of the violation within a reasonable period of time specified in the notice. Such notice shall be in writing and served upon the owner or occupant of the encroachment or his agent, and may be served personally, sent by certified or registered mail to the last known address of the owner or occupant or his agent as shown on the current real estate tax assessment books or current real estate tax assessment records, posted in a conspicuous place in or upon such encroachment, or served by any other means authorized by law.
- (b) Such notice shall also state that the owner or occupant shall respond to the notice within thirty (30) days of the date of the notice, in writing, by electing to: (i) remove the encroachment or otherwise correct the violation within the time period specified in the notice; or (ii) apply for approval of the encroachment within sixty (60) days of the date of the notice. If the owner or occupant fails to respond to such notice within the aforesaid thirty (30) days, the city manager or his designee shall proceed in accordance with provisions of subsection (c). In the event the owner or occupant elects to seek approval of the encroachment, the city manager shall not take enforcement action unless the applicant fails to file an application within the required time.
- (c) Failure to comply with the terms of such notice within the time specified therein shall be remediable in the following manner. The election by the city of any one or more of the remedies set forth in this subsection shall not preclude the city from seeking any other such remedy:
 - (1) By a civil penalty in an amount not to exceed one hundred dollars (\$100.00) for each day that the unauthorized encroachment continues;

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- (2) By legal action to enjoin the continuing violation of this section or by action in ejectment or other appropriate legal proceeding to recover possession of the street, road, alley or other public right-of-way or public property;
 - (3) By removal of such encroachment by or on behalf of the city, in which event the cost thereof shall be charged to the owner or occupant of the encroachment and collected as real estate taxes are collected;
 - (4) By charging, the owner or occupant of the encroachment, pending the removal of any such encroachment, compensation for the use of such portion of the street, road, alley or other public right-of-way or public property at the equivalent of the tax upon the land so occupied if it were property of the owner or occupant; or
 - (5) By abatement as a nuisance.
- (d) Notwithstanding any other provision of this section, the city manager or his designee may, without notice, remove or cause the removal of any unauthorized encroachment, without liability to the owner or occupant of such encroachment, if he determines that such encroachment:
- (1) Interferes with the intended use of a public street, road, alley or other public right-of-way or public property;
 - (2) Constitutes or causes a physical or visual obstruction to vehicles, pedestrians, bicyclists or other persons;
 - (3) May interfere with the response to an emergency on the property on which the encroachment is located; or
 - (4) Otherwise constitutes an imminent hazard to the public health, safety or welfare.

(Ord. No. 3428, 10-6-15)

Sec. 33-113.02. Applications for encroachments.

Except as otherwise provided in this article, applications for encroachments into public streets, roads, alleys or other public rights-of-way or other public property shall be made to the city manager or his designee. A fee of two hundred fifty dollars (\$250.00) shall be paid to the city for the processing of an application for an encroachment. No such application shall be accepted unless the fee therefor is paid at the time the application is filed. The city manager or his designee is hereby authorized and directed to adopt a procedure for the processing of such applications and, where city council approval is required, the reporting to the city council of any detrimental effect which a requested encroachment may have on the public health, safety, welfare or interest.

(Ord. No. 3428, 10-6-15)

Sec. 33-113.1. Encroachments by private underground utilities and subdivision signs.

- (a) The city council hereby authorizes the city manager or his designee to approve any encroachments into public streets, roads, alleys or other public rights-of-way or other public property by private underground utilities and subdivision signs, as defined herein, upon the following conditions, in addition to those required by section 33-113:
 - (1) If the encroachment consists of private water mains or private gravity sanitary sewer laterals or force mains, the owner shall comply with the provisions of section 28-2 or 37-5 at such time as public sanitary sewer or public water service becomes available to the site being serviced by the encroachment; and

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- (2) Subdivision signs shall not be greater in area than thirty-two (32) square feet per face, have more than two (2) faces, or exceed six (6) feet in height above the natural grade at the curb. Landscaping approved by the department of parks and recreation shall be provided. No subdivision sign shall be located so as to constitute a traffic or other hazard, and such signs shall not contain any commercial advertising and shall conform to all applicable sign regulations of the City Zoning Ordinance.
- (b) Definitions. As used in this section, the following words shall have the meanings respectively ascribed to them herein, except in those instances when the context clearly indicates a different meaning:
- (1) "*Private underground utilities*" shall mean any private gravity or pressurized pipe for the conveyance of raw sewerage, water or storm drainage, other than stormwater conveyance facilities described in subdivision (iii) of section 33-114.5, private irrigation systems and underground conduit for wires and cables.
- (2) "*Subdivision sign*" shall mean any permanent sign located at the entrance to a residential subdivision, and shall include the electrical components necessary to light the sign and associated landscaping and irrigation around the sign.
- (c) No application for an encroachment that does not comply with all of the criteria set forth in this section shall be approved by the city manager or his designee; provided, however, that upon denial of the application, the applicant may seek authorization of the encroachment by making application in accordance with the provisions of section 33-113.02.
- (Ord. No. 3428, 10-6-15; Ord. No. 3445, 4-19-16)

Editor's note(s)—Ord. No. 3428, adopted October 6, 2015, amended § 33-113.1 in its entirety to read as herein set out. Former § 33-113.1, pertained to criteria for administrative approval of certain encroachment applications. See Code Comparative Table for complete derivation.

Sec. 33-113.2. Administrative approval of temporary encroachments into Neighborhood Dredging Special Service Districts.

- (a) City council hereby authorizes the city manager or his designee, upon proper application to the department of public works, to approve any temporary encroachment into city-owned waterways and city-owned property adjacent to waterways for boatlifts, bulkheads, rip-rap, piers, boat-ramps, decks, shoreline stabilization projects, pilings, wharves, and associated walkways and landscaping in any of the council-approved neighborhood dredging special service districts when the following conditions are met:
- (1) The owner has procured any permits required by the city or other applicable regulatory body; and
- (2) The owner has secured approval from any board or body appointed by the city to oversee the general health and welfare of the Chesapeake Bay, wetlands, and any rivers, beaches or waterways; and
- (3) The city attorney or his designee has reviewed and approved the encroachment request for compliance with relevant local ordinances and resolutions, the city code, state law, federal law and regulations, and that adjacent property owners have been notified.
- (b) The application and processing fee for such temporary encroachment shall be as provided by section 33-113.02.
- (c) The applicant shall provide the required 15-foot vegetated riparian buffer area or shall provide payment to the city for offsetting buffer improvements.
- (d) Any application that includes a boathouse is excluded from the authorization for an administrative process set forth by this section.

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- (e) The application for such encroachment shall include proof of notice to the adjacent property owner. If an adjacent property owner objects to such application because of navigational concerns, the application shall be excluded from the authorization for an administrative approval set forth by this section.

(Ord. No. 3421, 6-16-15; Ord. No. 3428, 10-6-15)

Secs. 33-114—33-114.2. Reserved.

Editor's note(s)—Ord. No. 3428, adopted October 6, 2015, repealed §§ 33-114—33-114.2, which pertained to criteria for administrative approval of wall-mounted signs; removal, etc., of certain unauthorized encroachments; administrative approval of encroachments by awnings. See Code Comparative Table for complete derivation.

Sec. 33-114.3. Administrative approval of encroachments within certain zoning districts.

Notwithstanding any contrary provision of this article:

- (a) The city manager or his designee may, and is hereby vested with the authority to, enter into written agreements allowing encroachments upon or over any public street, road, alley or other public right-of-way or public property or sidewalk in any zoning district listed in Section 102(a)(13), pertaining to districts implementing a Strategic Growth Area Plan, or in the B-4C Central Business Mixed Use District, by outdoor cafes, fixed furniture or planters, decorative architectural features, privately-maintained bus shelters or other storefront appurtenances that are expressly allowed by the regulations of the district in which they are located, provided that such encroachments conform to applicable regulations and design guidelines for the district in which they are located. Such encroachments shall also comply with all applicable zoning and building codes, regulations and standards.
- (b) Encroaching signs, fabric awnings, building-mounted light fixtures, non-fixed objects, and other storefront appurtenances, other than encroachments authorized pursuant to subsection (a), that are expressly allowed pursuant to the regulations of any zoning district listed in Section 102(a)(13), shall be permitted, without payment of a fee and without a written agreement. Such encroachments shall conform to the applicable regulations and design guidelines of the district in which they are located and to all applicable zoning and building codes.
- (c) Notwithstanding the provisions of subsection (a), open-air cafes on public property in the OR Oceanfront Resort District or the RT-1 or RT-3 Resort Tourist Districts shall require the approval of the city council pursuant to franchise and shall be subject to the provisions of the Resort Open Air Café Guidelines.

(Ord. No. 2701, 5-28-02; Ord. No. 2845, 10-12-04; Ord. No. 3250, 7-10-12; Ord. No. 3329, 2-25-14; Ord. No. 3428, 10-6-15)

Sec. 33-114.4. Encroachments by certain directional signs concerning the location of farms or farm stands.

- (a) Notwithstanding the provisions of section 33-114.1 of this Code, the city manager or his designee may, and is hereby authorized to, approve the encroachment, in, upon or over any public street or other publicly-owned property, of any sign conforming to the following criteria:
- (1) Such sign shall be owned by the city, and may be located, relocated or removed at the discretion of the city manager;

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- (2) Such sign may contain only the following matter:
 - (i) The name of a farm or farm stand on which at least fifty (50) percent by value of the products sold at such farm or farm stand have been produced on the farm of the operator thereof, or the name of a farm on which agriculturally-related recreational and amusement activities are conducted;
 - (ii) Directional arrows indicating the general direction of each such farm or farm stand; and
 - (iii) Such logo or other pictorial or graphic matter as may be approved by the city manager;
 - (3) Such sign shall be of a size, type and design approved by the city manager, and shall be located on public property at or near street intersections south of the Green Line; and
 - (4) The name of any such farm or farm stand may be displayed on a maximum of four (4) such signs at any one time.
- (b) Application for the inclusion of the name of a farm or farm stand upon a sign or signs authorized by subsection (a) hereof shall be made annually by no later than January 15. Each application shall be accompanied by a fee in an amount determined by the city manager or his designee to be sufficient to defray the costs of including such farm or farm stand on the number of signs requested.
 - (c) In addition to the signs authorized by subsection (a) hereof, the city manager or his designee may also authorize the encroachment in, upon or over any public street or other publicly-owned property, of signs, not exceeding an area of twenty-four (24) square feet per face, displaying words or pictorial or other graphic matter generally promoting agriculture in the City of Virginia Beach. Such signs may be located at the intersections of roads deemed by the city manager or his designee to be significant entryways to, or major travel routes within, the city's rural service area.

(Ord. No. 2624, 3-27-01)

Sec. 33-114.4.1. Roadside guide signs.

Roadside guide signs located on city property may be permitted in accordance with the following provisions:

- (a) Signs shall be allowed only by resolution of the city council upon the application of the owner or operator of a use or establishment operated exclusively for cultural, literary, scientific or artistic purposes and on a not-for-profit basis, and only if the city council, in its discretion, finds that the use or establishment: (1) is of outstanding cultural, literary, scientific or artistic value to the city, its residents and visitors; and (2) significantly contributes to the city's image as an attractive year-round destination and desirable place to live;
- (b) Applications for such signs, which shall include an application fee in the amount of two hundred fifty dollars (\$250.00), shall be made to the Director of Planning on forms prescribed by him;
- (c) No signs shall be larger than five (5) square feet in area or higher than nine and one-half (9½) feet above ground level, and all such signs shall have a minimum clearance from ground level to the bottom of the sign face of seven (7) feet;
- (d) No use or establishment shall be the subject of more than three (3) roadside guide signs; provided, however, that the city council may allow additional signs if it finds that three (3) signs are insufficient to provide motorists with adequate guidance to the use or establishment;
- (e) The lettering, graphic elements and background shall be consistent with the applicable standards for such signage;

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- (f) Signs shall be erected only in the specific locations approved by the city council as necessary to provide route confirmation and continuity of guidance to the use or establishment. The city manager or his designee may relocate a sign if necessary to accommodate public signage requirements; and
 - (g) Signs shall be maintained in good condition at all times. Any sign not in good condition shall be subject to removal and disposal by the city manager or his designee.
 - (h) As used in this section, the term "roadside guide sign" shall mean a sign intended to provide traffic directions concerning the location of a use or establishment described in subsection (a).

(Ord. No. 3445, 4-19-16)

Sec. 33-114.4.2. Public art sponsorship signs.

- (a) The city manager or his designee may permit signs in conjunction with exhibitions of public art authorized by the city council and located on public property. Such signs shall not be illuminated or larger than one (1) square foot in area, and no more than one such sign per individual item of public art shall be permitted.
- (b) As used in this section, "public art" shall mean works expressing creative skill or imagination in a visual form, such as painting or sculpture, which are intended to beautify or provide aesthetic influences to public areas or areas that are visible from public areas.

(Ord. No. 3445, 4-19-16)

Sec. 33-114.5. Exempted encroachments.

The following improvements upon city-owned property shall be exempt from the provisions of this article, provided such improvements are otherwise properly permitted and do not present a safety risk: (i) driveway aprons; (ii) private sidewalks that connect to public sidewalks; (iii) extension of private underground stormwater conveyance facilities that connect to public systems within a public street, public right-of-way, public easement, or other public property, provided such connections remain within the property's extended side lot lines; and (iv) fences along extended side lot lines between privately owned real property and a sound wall or similar noise attenuation structure. Nothing herein shall be construed to authorize the construction or maintenance of any improvement upon city property that constitutes a danger to the public health, safety, or welfare, and nothing herein shall relieve the owner of any such improvement from the duty to remove such encroachment if a public need for its removal should arise.

(Ord. No. 3428, 10-6-15)

Editor's note(s)—Ord. No. 3428, adopted October 6, 2015, amended § 33-114.5 in its entirety to read as herein set out. Former § 33-114.5, pertained to improvements not considered encroachments. See Code Comparative Table for complete derivation.

ARTICLE VII. SALE OF PROPERTY¹¹

¹¹Editor's note(s)—Ord. No. 1605, adopted June 23, 1986, added § 33-115 to Art. VII of Ch. 33. At the discretion of the editor, said Art. VII has been titled "Sale of Property"; § 33-115 is included as enacted.

Sec. 33-115. Disposition of excess property.

Applications for the sale of excess property shall be submitted to the real estate division of the department of public works. A nonrefundable fee of one hundred dollars (\$100.00) shall be paid to the city for the processing of the application. The department of public works is hereby authorized and directed to prepare and adopt a procedure for the processing of such applications and the reporting to city council of any detrimental effect the sale of the excess property may have on the public's health, safety, welfare or interest.

City council may deny or approve the sale of the excess property and direct, the city manager to execute the necessary documents to effectuate the sale of the property.

(Ord. No. 1605, 6-23-86)

Secs. 33-116—33-119. Reserved.

ARTICLE VIII. NEWSRACKS IN THE RESORT AREA

Sec. 33-120. Legislative intent and purpose.

The City Council of the City of Virginia Beach hereby finds and declares that:

- (1) The uncontrolled placement of newsracks and newspaper vending machines in public rights-of-way presents an inconvenience and danger to the safety and welfare of the public, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control, and emergency services;
- (2) The ready availability of newspapers and other publications is beneficial to the public and to government, for without an informed public, government cannot properly function. However, the uncontrolled placement of newsracks in the public rights-of-way can constitute a public nuisance;
- (3) The city's economic vitality depends in large measure upon its continued growth as a major center of tourism and as a place in which business can flourish. The resort area of the city, in particular, is a unique and valuable asset to the city and its citizens, inasmuch as it is a major center of tourism generating substantial revenue for the public benefit. The continued revitalization of the resort area, and especially Atlantic and Pacific Avenues, will be promoted by regulating the location and characteristics of newsracks. An appealing, well-kept appearance is critical to the city's continued ability to attract visitors and businesses;
- (4) Moreover, maintaining and improving the appearance of the city is vital to the well-being of the residents of the city. An attractive and harmonious community enhances the quality of life of the city's residents; and
- (5) It is the intention of city council in adopting this section to carefully weigh and balance the benefits of regulating the placement and other characteristics of newsracks in public rights-of-way against the potential impacts which may result from such regulation.

(Ord. No. 2975, 4-24-07)

Sec. 33-121. Definitions.

For purposes of this article, the following words and phrases shall be construed as follows:

City manager shall mean the city manager or such other employee of the city as may be designated by the city manager to perform the duties prescribed in this article.

City of Virginia Beach or *city* shall mean employees or agents of the City of Virginia Beach.

Distributor shall mean a person, firm, corporation or other entity responsible for placing or maintaining a newsrack in the public right-of-way.

Newsrack shall mean any self-service or coin-operated box, container, storage unit or other dispenser that rests or projects, in whole or in part, in or upon any portion of the public rights-of-way, and is installed, used or maintained for the display, sale, or distribution of newspapers or other publications.

Resort area shall mean that area bordered on the north by the northernmost curb line of 38th Street, on the east by the mean low water line of the Atlantic Ocean, on the south by Rudee Inlet, and on the west by the imaginary line running north to south, fifteen (15) feet to the west of the westernmost curb line of Pacific Avenue.

(Ord. No. 2975, 4-24-07)

Sec. 33-122. Applicability.

This article applies only to newsracks located in the public rights-of-way in the resort area.

(Ord. No. 2975, 4-24-07)

Sec. 33-123. General prohibitions.

No newsrack shall be placed, installed, used or maintained in any public right-of-way in the resort area unless such placement, installation, use, or maintenance is explicitly authorized by this article and the requirements of this article.

(Ord. No. 2975, 4-24-07)

Sec. 33-124. Location of newsracks.

The city manager surveyed the resort area and determined the locations that are suitable for newsracks. The locations are set forth in appendix A. In evaluating each location, the city manager used, and shall use in the future if additional locations are required, the following general criteria: 1) effect on pedestrian, emergency services, and public transportation access on, to, and from streets and sidewalks; 2) required maintenance of public facility infrastructure; 3) vehicular safety; 4) the effect of the location, mass, and bulk of newsracks on the streetscape aesthetics of each block; 5) sidewalk width; 6) parking meter access, including access by persons with disabilities; 7) access to bicycle parking; 8) access to fire hydrants; 9) access to bus stops; 10) access to benches and trash receptacles; 11) maintenance and access to street trees, planters, and utility and signal poles; 12) access generally from the street to the sidewalk and the sidewalk to the street; 13) blocking of views at intersections, alleys, and driveways; and 14) distance from intersections and driveways and alleys.

(Ord. No. 2975, 4-24-07)

Sec. 33-125. Installation of newsracks.

The space available at each location identified in appendix A shall be available to distributors on a first-come, first served basis. Distributors may not install more than one (1) newsrack per publication at each location identified in appendix A. A distributor may not divide, split, or separate a publication into two (2) or more

publications that are substantially similar for purposes of evading this article. A subcommittee of the resort advisory commission shall advise the city's director of the convention and visitors bureau as to whether two or more publications are substantially similar. The subcommittee shall consist of at least three (3) members, and none of the members may be distributors or publishers of similar publications. Upon receiving the subcommittee's recommendation, the city's director of the convention and visitors bureau shall make a determination as to whether the publications are substantially similar. If the director concludes that two (2) or more publications are substantially similar, in accordance with section 33-129, he shall inform the distributor in writing that only one of those publications may be placed in each location. Any distributor, person, or other entity who claims to be aggrieved by a finding under the provisions of this section may appeal pursuant to section 33-129(d).

(Ord. No. 2975, 4-24-07; Ord. No. 2980, 5-15-07)

Sec. 33-126. General standards for newsracks.

- (a) Each newsrack shall have permanently affixed, in a readily visible place, the current name, address, and telephone number of the distributor.
- (b) Each newsrack shall have a door, covering, and/or other appropriate device(s) preventing the publications therein from getting wet or flying out due to rain, wind, or similar environmental conditions.

(Ord. No. 2975, 4-24-07)

Sec. 33-127. Standards for installation and maintenance of newsracks.

In addition to the standards set forth in section 33-18.1, newsracks shall comply with the standards set forth in this section:

- (a) Newsracks shall only be placed in the resort area in the locations specifically identified in appendix A.
- (b) When installing a newsrack, if one or more newsracks have previously been installed in said location, a distributor shall install his/her newsrack in such a manner so that the newsrack is immediately contiguous to another newsrack previously installed in said location.
- (c) If any portion of a newsrack, including the door when ajar or the coin collection mechanism, is outside of the four corners of the location designated by the city manager for newsracks to be placed in the public rights-of-way, the city manager may remove the newsrack pursuant to the procedure set forth in section 33-129.
- (d) In the event that demand for newsrack space exceeds availability, the city manager shall consider the general criteria set forth in section 33-124 and may add additional newsrack locations.
- (e) No portion of any newsrack shall project into or be located in any roadway.
- (f) No portion of any newsrack shall be located directly in front of any display window.
- (g) Only drop-in type anchor bolts may be used to secure newsracks to the public right-of-way.
- (h) Newsracks shall not be chained, bolted, or otherwise attached to the private property of another, any street furniture, tree, sign, or other permanently fixed object.
- (i) Each newsrack shall be maintained in a reasonably neat and clean condition and in good repair, including: (1) reasonably free of dirt, trash, debris, foreign objects, graffiti, stickers, dents, and grease; (2) reasonably free of chipped, faded, peeling, and cracked paint in any visible painted areas; (3) reasonably free of rust and corrosion in any visible unpainted metal areas; (4) any clear parts through which publications are visible shall be unbroken and reasonably free of cracks, scratches, dents,

blemished, and discoloration; (5) any paper or cardboard parts or inserts shall be reasonably free of tears, peeling, or fading; and (6) no structural components shall be broken or unduly misshapen.

(Ord. No. 2975, 4-24-07)

Sec. 33-128. Standards for removal of newsracks by distributors.

Upon removal of any newsrack, the distributor shall eliminate any potential hazards to the public, such as bolts, brackets, or holes, and shall restore any disturbed area in the public right-of-way to the same or reasonably similar condition as any adjoining public right-of-way by removing any protrusions, cleaning the cavity of debris, filling the cavity with high strength epoxy or grout to meet the elevation of the adjoining public right-of-way, and avoiding potential depressions by taking into account shrinkage and settlement of new materials. The public right-of-way shall be level and free of protrusions or depressions. The distributor shall match as close as reasonably possible the color, texture, and material of any adjoining public right-of-way.

(Ord. No. 2975, 4-24-07)

Sec. 33-129. Removal of newsracks by city manager.

- (a) If the city manager determines (1) a newsrack has been installed or maintained in violation of the provisions of this article, or section 33-18.1; (2) the condition or placement of a newsrack poses a threat to the health, safety, or welfare of pedestrians or wheelchair users, or the safe flow of vehicles; or (3) that the identification of a distributor, publisher or other party responsible for a newsrack is not readily identifiable or affixed to the newsrack, the newsrack may be removed by the city manager and stored in temporary custody, subject to the notice requirements set forth below.
- (b) Prior to removing a newsrack, the city manager shall provide the distributor with a notice to correct the violation. Such notice shall be deemed to constitute sufficient notice of a violation if it is properly addressed and mailed to the distributor by certified mail, return receipt requested, at the address set forth on the newsrack. The notice shall specifically describe the violation and set forth the action(s) necessary to correct the violation. The notice shall also specify that failure to correct the violation within ten (10) days following the date of receipt of the notice will result in the removal of the newsrack by the city manager and its storage in temporary custody. The notice shall advise the distributor as to the location of the newsrack and the procedure for claiming same.
- (c) Notwithstanding the provisions of subsection (b), if any newsrack (i) has been installed, used or maintained in violation of the provisions of this article and (ii) does not display the name and address of the distributor, notice of violation shall be sufficient by posting such notice on the newsrack. Failure to correct the violation within seven (7) days following the date of posting will result in removal and storage of the newsrack as set forth in subsection (b).
- (d) Any distributor, person, or other entity who claims to be aggrieved by a finding, determination, notice or action taken under the provisions of this section may appeal to the city manager. An appeal shall be perfected within three (3) days after receipt of a notice of violation or other action by filing with the office of the city manager a letter of appeal stating the basis for such appeal. The city manager shall schedule a hearing of such appeal on a date not later than ten (10) days after the filing of the appeal; provided, however, that such hearing may, at the discretion of the city manager, be rescheduled for good cause shown. The city manager shall take no action during the pendency of an appeal. Failure to correct a violation of this section within seven (7) days following (i) the expiration of the time for noting an appeal or (ii) the denial of an appeal, shall result in the removal and storage of the newsrack or newspaper vending machine.

(Supp. No. 159, Update 1)

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- (e) Any newsrack removed pursuant to this section must be claimed by the distributor within thirty (30) days of such removal. Additionally, any distributor of any newsrack removed and stored pursuant to this subsection may be charged a reasonable fee for such removal, restoring any part of the public right-of-way, and storage. If the distributor fails to claim the newsrack or refuses to pay storage, removal, or restoration costs, the city manager may dispose of same. Any proceeds or monies from the disposal of a newsrack shall be forwarded to the city treasurer for deposit into the general fund of the city.

(Ord. No. 2975, 4-24-07; Ord. No. 2980, 5-15-07)

Sec. 33-130. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or application of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Ord. No. 2975, 4-24-07)

Sec. 33-131. Reserved.

Editor's note(s)—Ord. No. 3073, adopted March 24, 2009, repealed § 33-131, which pertained to sunset provision and derived from Ord. No. 2975, 4-24-07.

Sec. 35-7. Exemption of certain household goods and personal effects.

The following household goods and personal effects are exempt from taxation and shall not be assessed for that purpose:

- (1) Bicycles.
- (2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerator machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
- (3) Pianos, organs, phonographs and record players and records to be used therewith, and all other musical instruments of whatever kind, radio and television instruments and equipment.
- (4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.
- (5) Diamonds, cameos and other precious stones and all precious metals used as ornaments or jewelry.
- (6) Sporting and photographic equipment.
- (7) Clothing and objects of apparel.
- (8) All other tangible personal property used by an individual or a family or household incident to maintaining an abode. The classification above set forth shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(Code. 1965, § 33-10)

State law reference(s)—Authority for above section, Code of Virginia, § 58.1-3504.

Sec. 203. Off-street parking requirements.

- (a) The following specified uses shall comply with the off-street parking requirements designated therefor:

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- (1) Animal hospitals, business studios, eleemosynary and philanthropic institutions, veterinary establishments, commercial kennels, animal pounds and shelters, wholesaling and distribution operations, laboratories other than medical, passenger transportation terminals and broadcasting studios: One space per four hundred (400) square feet of floor area;
 - (2) Assembly uses, except religious uses: One space per one hundred (100) square feet of floor area or at least one space per five (5) fixed seats, whichever is greater;
 - (3) Banks, credit unions, savings and loans: One space per two hundred seventy (270) square feet of floor area;
 - (4) Botanical and zoological gardens: One space per ten thousand (10,000) square feet of lot area;
 - (5) Bowling alleys: Three (3) spaces per alley;
 - (6) Child care centers and child care education centers: One space per three hundred (300) square feet of floor area;
 - (7) College or university: As specified by the Conditional Use Permit;
 - (8) Commercial recreation facility—Indoor: One space per two hundred (200) square feet of floor area;
 - (8.1) Commercial recreation facility—Outdoor: As specified by the Conditional Use Permit;
 - (9) Country inns: One space per room provided for lodging transients;
 - (9.1) Craft breweries, craft distilleries, and craft wineries: One space per one hundred (100) square feet of area open to the public for drinking, eating and congregating, and one space per employee on the maximum working shift;
 - (10) Drive-in eating and drinking establishments: One space per fifty (50) square feet of floor area;
 - (11) Dwellings, single-family, semidetached, duplex and attached: Two (2) spaces per dwelling unit;
 - (12) Dwellings, multifamily: Two (2) spaces per dwelling unit for the first fifty (50) units located on a zoning lot and one and three-quarters (1¾) spaces per dwelling unit for all units in excess of fifty (50) units;
 - (13) Reserved;
 - (14) Eating and drinking establishments accessory to a hotel: One space for each three hundred (300) square feet of floor area in dining area;
 - (15) Fraternity or sorority house, student dormitory: One space per two (2) lodging units or one space per three (3) occupants, whichever is greater;
 - (16) Furniture or appliance stores, machinery equipment, automotive and boat sales and service: One space per nine hundred (900) square feet of floor area;
 - (17) Golf courses: Five (5) spaces per hole in the main course;
 - (18) Greenhouses and plant nurseries: One space per one thousand (1,000) square feet of selling area;
 - (19) Hospitals: Two and one-half (2.5) spaces per patient bed;
 - (20) Lodging units: One space per lodging unit;
 - (20.1) Medical offices: One space per two hundred seventy (270) square feet of floor area;
 - (21) Meeting rooms and convention hall facilities accessory to a hotel: One space per twenty (20) seating capacity;
 - (22) Museums and art galleries: Ten (10) spaces and one additional space for each three hundred (300) square feet of floor area or fraction thereof in excess of one thousand (1,000) square feet;

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- (23) Nurses homes and similar housing for institutional employees: One space per four (4) occupants;
 - (24) Offices: One space per three hundred thirty (330) square feet of floor area, except for call centers which are allowed one space per one hundred and fifty (150) square feet of floor area;
 - (25) Personal service establishments: One space per two hundred fifty (250) square feet of floor area;
 - (26) Reserved.
 - (27) Private clubs and lodges, social centers, athletic clubs: One space per one hundred (100) square feet of floor area;
 - (28) Public buildings and funeral homes: One space per five hundred (500) square feet of floor area;
 - (28.1) Religious uses: One space per five (5) seats or bench seating space in the main auditorium;
 - (29) Retail establishments, including beverage manufacturing shops and open-air markets: One space per two hundred fifty (250) square feet of floor area;
 - (30) Restaurants other than drive-in eating and drinking establishments: One space per one hundred (100) square feet of floor area, and one space per one hundred (100) square feet of additional area encompassed by decks, patios and other areas in which seating is provided and food or beverages are consumed;
 - (31) Sanitariums: One space per four (4) patient beds;
 - (32) Service or repair establishments, motion picture studios, utility installations, manufacturing, industrial, processing, packaging, fabricating, research or testing labs, warehouse establishments, printing, publishing, and plumbing and heating establishments: One space per employee on maximum working shift;
 - (33) Shopping centers containing at least one (1) acre or more than four (4) tenants: One space per two hundred fifty (250) square feet of floor area, provided that in shopping centers where restaurants with seating for fifty (50) or more patrons comprise fifty percent (50%) or more of the total floor area, parking shall be one (1) space per one hundred (100) square feet of floor area;
 - (34) Vocational, technical, industrial and trade schools: One space per two (2) seats of designated classroom space or as specified by the Conditional Use Permit;
 - (35) Uses permitted pursuant to a conditional use permit shall comply with the off-street parking requirement specified in the conditional use permit; provided, however, that if no such requirement is specified therein, the applicable requirement shall be as set forth in this section.
- (b) *General standards.* The following requirements shall apply to all off-street parking spaces:
- (1) Any off-street parking space shall have minimum dimensions of nine (9) feet by eighteen (18) feet, unless permitted under section 203 (3) below, except that in parking garages and parking structures, minimum dimensions shall be eight (8) feet, nine (9) inches by eighteen (18) feet and minimum dimensions for all parallel parking spaces shall be nine (9) feet by twenty-two (22) feet. Where the width of a parking space abuts a street frontage landscaping strip or interior landscaped areas, the length of the parking space may be reduced by one and one-half (1.5) feet;
 - (2) In any parking structure or parking garage with greater than twenty five (25) spaces, the Planning Director may allow a maximum of ten percent (10%) of the total number of spaces within a parking garage or structure to be compact car spaces if he finds that (i) the unusual shape, size, configuration or other building condition of the parking structure or parking garage precludes the efficient layout of parking spaces meeting the dimensional requirements of this section, thus resulting in residual space within such parking structure or parking garage; and (ii) the use of compact car spaces would not

substantially reduce the overall safety, ease of ingress and egress, or efficiency of the layout of parking spaces;

- (3) Within a parking lot not serving a use in the apartment or residential districts and larger than twenty-five (25) spaces, a maximum of thirty percent (30%) of the spaces provided may be designated for compact cars, provided that (i) the minimum dimensions shall be eight (8) by seventeen (17) feet for regular compact car spaces or eight (8) by twenty (20) feet for parallel compact car spaces and (ii) all such compact car spaces shall be clearly marked with the wording "Compact Cars Only."
- (4) Each space shall be unobstructed, have access to a street and be so arranged that any automobile may be moved without moving another, except in the case of parking for one- and two-family dwellings and in the case of parking for employees on the premises. In parking garages and parking structures, structural encroachments into a maximum of thirty (30) percent of the spaces may protrude into the front portion of a parking space not more than one (1) foot as measured perpendicularly to the drive aisle;
- (4.1) Within a parking lot, parking garage, or parking structure not serving a use in the apartment or residential districts, one (1) space per every thirty (30) spaces shall be designated motorcycle spaces to accommodate motorcycles, motor scooters, or other licensed vehicles, with dimensions of four (4) by eight (8) feet and shall be clearly marked as motorcycle spaces;
- (5) Parking surfaces shall be constructed of concrete, asphalt or other suitable material approved by the Planning Director. Where parking areas are illuminated, all sources of illumination shall be so shielded as to prevent any direct reflection toward adjacent premises where the zoning allows residential, apartment, or hotel use;
- (6) Parking areas for three (3) or more automobiles shall have individual spaces marked, except in the case of parking for one- and two-family detached dwellings, and spaces shall be so arranged that no maneuvering directly incidental to entering or leaving a parking space shall be on any public street, alley, or walkway; and
- (7) Minimum aisle width required for parking areas shall be according to the following table:

Parking Angle (in degrees)	Aisle Width (in feet)
0—44	12
45—59	13.5
60—69	18.5
70—79	19.5
80—89	21
90	22

In addition, in any parking garage or parking structure a drive aisle adjacent to a parking space which is less than nine (9) feet by eighteen (18) feet shall be at least twenty-three (23) feet in width. Aisle width shall not exceed twenty-four (24) feet unless required for emergency access or off-street loading per section 204. Only areas necessary for parking and safe vehicular maneuvering shall be impervious;

- (8) In the business, apartment and office districts the number of off-street parking spaces shall not exceed the required number by more than fifty percent (50%). Fractions shall be rounded up to the closest whole number. Such maximum parking requirements shall not apply to uses in the business, apartment or office districts whose off-street parking requirements are allocated within a parking structure;
- (9) The Planning Director may authorize additional parking spaces above the maximum for uses in the business, apartment and office districts, provided that all of the following conditions are met:

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- (i) Justification submitted by the applicant for the number of parking spaces proposed based upon estimates of parking demands in accordance with the Institute of Transportation Engineers parking data or other industry specific data or operation specific data. The justification shall document the source of data used to develop the number of parking spaces proposed;
 - (ii) The applicant demonstrates that no other parking alternatives exist including, but not limited to: shared parking opportunities with neighboring properties or businesses, public transit within one quarter (¼) of a mile, carpooling, public structured parking within one thousand (1,000) feet, staggered work shifts/hours of operation and telecommuting opportunities; and
 - (iii) Parking spaces above the maximum shall be constructed with a permeable paving system, as described in the City of Virginia Beach Landscaping Guide as revised, or stormwater runoff from those parking spaces above the maximum or the equivalent runoff from an equal area of impervious cover elsewhere on the site shall drain directly to a stormwater management facility that provides a reduction in runoff for the site. Stormwater runoff as described above shall be equal to the volume produced by one (1) inch of rain on the impervious area.

Applications must be reviewed and approved or denied within five (5) working days of the submittal of a complete request. Any completed request not approved or denied within five (5) working days shall be deemed approved.

- (10) Parking, including for bicycles, may be shared among two (2) or more uses that typically experience peak parking demands at different times and are located on the same parcel or on separate parcels at a distance no greater than five hundred (500) feet.
 - (i) For two (2) or more uses on the same parcel, or zoning lot, the total number of minimum required spaces may be reduced by the use of shared parking. To qualify for shared parking, a current parking study shall be submitted to the zoning administrator, who shall determine the final shared parking ratio. A shared parking agreement shall be continually maintained on the parcel or zoning lot in a form approved by the city attorney and a signed copy shall be maintained with the zoning administrator;
 - (ii) For two (2) or more uses on separate parcels within five hundred (500) feet of the main pedestrian entry to a building, the total number of required spaces may be reduced by the use of shared parking. To qualify for shared parking, a current parking study shall be submitted to the zoning administrator, who shall determine the final shared parking ratio under the following conditions:
 - (a) A shared parking agreement shall be continually maintained on the parcels in a form approved by the city attorney and a signed copy shall be maintained with the zoning administrator, which shall maintain the designated number of parking spaces; and
 - (b) Pedestrian access shall be provided from the off-site parking to the user, and shall be designated on the submitted site plan, subject to the approval of the zoning administrator; and
 - (c) Shared parking on both sites will not be detrimental to the sites or surrounding properties; and
 - (d) No parking required by a use may be used as off-site parking for another use, unless approved by the zoning administrator in accordance with this section.
- (11) The minimum required parking may be reduced upon the submittal of a parking study to the zoning administrator that indicates a substantial number of patrons of the use are pedestrian or arrive by means of public transportation or by bicycle. The zoning administrator shall determine the final parking ratio or reduction in the minimum required parking.

(12) All development in the apartment, office or business districts requiring twenty five (25) or more parking spaces shall have a minimum of five (5) bicycle spaces within two hundred (200) yards of the building, in a visible area. Each additional fifty (50) parking spaces above the first twenty-five (25) shall require one (1) additional bicycle space.

(13) Bicycle spaces shall be required as follows in all districts for the following uses:

Use	Bicycle Parking Requirement
Primary or secondary school	Equal to five (5) percent of all the building staff and students above grade three (3) level
College or university instructional building	Equal to six (6) percent of the classroom capacity of each building, or the amount required by section 203b (12), whichever is greater
Dormitories or residence halls	One (1) space per three (3) students, or the amount required by section 203b (12), whichever is greater
Public transit station	Thirty-five (35) percent of the required number of automobile parking spaces or a minimum of twenty (20), whichever is greater, or the amount required by section 203b (12), whichever is greater
Recreation centers, community centers, fitness centers, etc. (public or private)	Twelve (12) percent of the required number of automobile parking spaces, or the amount required by section 203b (12), whichever is greater
Parks and ball fields	Minimum of ten (10) spaces, or the amount required by section 203 b (12), whichever is greater

(14) For parking lots with three hundred (300) spaces or more, at least fifty (50) percent of the required bicycle spaces shall be indoors or covered in accordance with the City of Virginia Beach Landscaping Guide, with the exception of parks and ball fields.

- (c) *Parking for accessory uses.* Unless otherwise specified in the district regulations, accessory uses shall conform to the parking requirements applicable to such uses, which requirements shall be in addition to any parking required of the principal use.
- (d) *Reserved.* [Effective July 1, 2011]
- (e) *Requirements for Access by Disabled Persons.* Off-street parking for handicapped persons shall meet the standards established by the Americans With Disabilities Act.
- (f) *Residential parking requirements.* Any area within a garage or within an enclosed or covered space may be counted toward meeting off-street parking requirements except where specifically prohibited in the applicable district regulations.
- (g) *Parking requirements in the B-4C Central Business Mixed Use District.* Within the B-4C Central Business Mixed Use District, there shall be provided for nonresidential uses, except hotels and uses accessory to hotels, no fewer than three (3) spaces per one thousand (1,000) square feet of gross floor area, and for residential uses no fewer than one and seven-tenths (1.7) spaces per dwelling unit. Parking requirements for hotels and uses accessory to hotels shall be as specified in subsection (a).
- (h) *Same; shared parking.* Notwithstanding anything in this ordinance to the contrary, required off-street parking for any use located on property within the B-4C Central Business Mixed Use District may be made available for use by the general public as well as by the customers or patrons of such use; provided, however, that no parking space shall be used to satisfy the parking requirement of more than one (1) establishment. The required number and dimensions of parking spaces shall be as specified in this section.

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- (i) *Required parking in the B-4C Central Business Mixed Use District.* Parking requirements for uses within the B-4C Central Business Mixed Use District may be satisfied by any one, or a combination of, the following:
- (1) On-site parking;
 - (2) Off-site parking facilities, as set forth in section 901 of this ordinance; or
 - (3) Public parking, if the Planning Director determines (i) that there is at least a sufficient number of public parking spaces located within the same development phase of the District as the proposed use to meet public parking demands; (ii) that for uses in the B-4C Central Business Mixed Use District, such public parking spaces are not used to satisfy the parking requirements of any other use, and (iii) that the use of such public parking spaces to satisfy the parking requirements of the proposed use, either wholly or partially, is warranted in light of the following considerations:
 - A. The extent to which the proposed use advances the goals and objectives of the B-4C Central Business Mixed Use District, as stated in section 900 of the City Zoning Ordinance;
 - B. The extent to which the proposed use conforms to the Mixed Use Development Guidelines; and
 - C. The amount of the projected tax revenue to be generated by the proposed use and improvements.
- (j) Any regulation pertaining to vehicular parking in a zoning district listed in section 102(a)(13) that conflicts with a provision of this section shall be deemed to control to the extent of such conflict.

For purposes of this section, the term "*parking requirements*" shall mean the number of off-street vehicular parking spaces required by this section.

(Ord. No. 1976, 6-11-90; Ord. No. 2098, 8-27-91; Ord. No. 2100, 9-3-91; Ord. No. 2268, 6-14-94; Ord. No. 2315, 4-11-95; Ord. No. 2357, 11-28-95; Ord. No. 2420, 9-10-96; Ord. No. 2481, 4-14-98; Ord. No. 2482, 4-14-98; Ord. No. 2614, 10-10-00; Ord. No. 2616, 1-23-00; Ord. No. 2697, 5-14-02; Ord. No. 2725, 10-29-02; Ord. No. 2843, 10-12-04; Ord. No. 3000, 9-25-07; Ord. No. 3061, 12-2-08; Ord. No. 3109, 11-10-09; Ord. No. 3166, 4-26-11; Ord. No. 3174, 5-10-11; Ord. No. 3247, 7-10-12; Ord. No. 3259, 8-28-12; Ord. No. 3303, 8-27-13; Ord. No. 3328, 2-25-14; Ord. No. 3453, 6-7-16; Ord. No. 3506, 6-20-17; Ord. No. 3524, 12-5-17)

Sec. 226. Bicycle and moped rental establishments.

- (a) Where a conditional use permit is issued for the operation of a bicycle or moped rental establishment, not more than forty (40) bicycles or mopeds per zoning lot shall be permitted. A barrier shall be provided consisting of a canvas screen with grommets laced with suitable line secured to rust-resistant pipe and stanchion, anchored to a weighted base, or properly secured in ground. Such screen will be thirty-six (36) inches in height and capable of delineating the limits of the property for the duration of the use permit. It shall have an access opening not more than five (5) feet wide on either side of the enclosure not facing the ocean. Only one (1) nonilluminating sign in connection with the establishment may be allowed; provided, however, that the surface shall not exceed four (4) square feet, and further be a permanent part of the portion of canvas screen which is oriented towards the beach.
- (b) Bicycle and moped rental establishments located in the OR Oceanfront Resort District shall also be subject to the requirements of Section 5.3.5 of the Oceanfront Resort District Form-Based Code.

(Ord. No. 3247, 7-10-12)

Sec. 246. Site design.

The following site design characteristics shall apply to retail establishments and shopping centers which are subject to the provisions of this part:

(a) *Shopping center site layout:*

- (1) Buildings on shopping center outparcels shall be located so as to encourage pedestrian traffic and highlight architectural details of the buildings. No parking shall be permitted on outparcel sites between such buildings and public streets; provided, however, that on outparcels at the intersection of two (2) streets, the area between such buildings and one of the streets may have one row of parking if a berm meeting the requirements of subdivision (a)(2) is provided.
- (2) Subject to the provisions of subdivision (b)(1), in shopping centers exceeding five (5) acres in size, there shall be no buildings, parking surfaces or other above-ground improvements, except as specified herein, within thirty (30) feet of a public street. The area within such setback shall contain a heavily-landscaped berm having a minimum height of three (3) feet measured from the level of the abutting public street. The planning director may allow a reduction in setback to no less than ten (10) feet, provided that heavy landscaping and other features, such as brick walls, are located so as to reduce the visual impact of the parking lot from the abutting public street.

(b) *Parking:*

- (1) Except as provided in subdivision (a)(1), vehicular parking areas should be distributed around at least three (3) sides of retail buildings in order to reduce the overall scale of the paved parking surface.
- (2) Vehicular circulation systems providing access to parking areas shall be designed to reduce the potential for vehicular conflicts to a minimum. Adequate stacking for vehicles shall be provided at the access points from parking areas.
- (3) The use of alternative porous pavement finishes is encouraged.
- (4) In order to encourage the provision of site amenities, in any retail establishment or shopping center containing at least eighty thousand (80,000) square feet of retail space, parking may be reduced to one space for every two hundred fifty (250) square feet if pedestrian walkways meeting the requirements of subdivision (5) are provided through the parking area.
- (5) For any retail establishment or shopping center containing at least eighty thousand (80,000) square feet of retail space, pedestrian walkways shall provide access from the parking area to the primary building in such manner that pedestrians using walkways will be required to traverse the vehicular parking aisle to the minimum extent possible. Such walkways shall be located so that no customer entrance is farther than one hundred (100) feet from the nearest walkway. Walkways shall be landscaped and be readily distinguishable from driving aisles where they traverse such aisles through the use of durable, low-maintenance surface materials such as pavers, bricks, scored concrete or similar architectural treatments.

(c) *Building entrances.* Where possible, multiple entrances to buildings should be utilized in order to reduce the walking distance from cars and to facilitate pedestrian and bicycle access from public streets and sidewalks.

(d) *Pedestrian access:*

- (1) Sidewalks shall be located along public rights-of-way in accordance with the Public Works Design Standards Manual.

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- (2) Connecting internal pedestrian walkways, no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all anchor tenant buildings on the site. Outparcels shall be connected to each other, to the main shopping center and to the public sidewalk system by pedestrian walkways. In addition, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and parking areas. The walkways should feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground cover or similar materials to enhance the appearance of the walkway areas. Such landscaping shall be credited toward the parking lot landscaping requirements of section 5A of the Site Plan Ordinance. Clear sight lines allowing for good natural surveillance and adequate lighting shall be incorporated. Landscaping along the walkways shall be maintained at no more than three (3) feet in height or limbed up to at least seven (7) feet in order to avoid visibility obstructions.
 - (3) Entrances shall include weather protection features such as awnings or arcades having a width at least double that of the doorways over which they are located.
 - (4) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as pavers, bricks, scored concrete or other architectural treatments to enhance pedestrian safety and comfort.
 - (5) Provision of bicycle racks is encouraged. Bicycle racks shall be in a well-lighted area and placed in a location visible from the entrance and parking area.
- (e) *Central features and community spaces:*
- (1) Shopping centers and retail establishments should offer attractive and inviting pedestrian scale features, spaces and amenities. If served by mass transit, transit stops and dropoff/pickup points shall be integrated into the site so as to provide a high degree of convenience and efficiency. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, planter walls or other architectural elements that define circulation ways and outdoor spaces.
 - (2) Retail establishments containing one hundred thousand (100,000) square feet or more of gross square footage and shopping centers containing five (5) acres or more of land area shall provide at least two (2) of the following features:
 - (A) Patio/seating area;
 - (B) Pedestrian plaza with benches;
 - (C) Window shopping walkway;
 - (D) Outdoor playground area;
 - (E) Kiosk area;
 - (F) Water feature or stormwater management facility with amenities such as fountains, benches, walking trails, pedestrian furniture or lighting;
 - (G) Clock tower;
 - (H) Outdoor sculpture; or
 - (I) Any other focal feature or amenity which, in the judgment of the planning director, provides an equivalent benefit.

All such features and community spaces shall connect to internal or public walkways and, if present, to the bikeway network, and shall be constructed of materials of at least equal quality to that of the principal materials of the building and landscape.

Sec. 281. Findings.

The city council finds that:

- (a) In the 2003 Comprehensive Plan, the city established strategic growth areas, as areas designed to absorb most of the city's future growth, both residential and non-residential. SGAs were planned to contain uses that are more intensive than in most other areas of the city but are integrated into compact, yet compatible mixes of uses, including office, retail, service, hotel and, where appropriate, residential, uses.

The 2003 Plan also set forth five common planning principles applicable to all SGAs:

- (1) Efficient use of land resources;
 - (2) Full use of urban services;
 - (3) Compatible mix of uses;
 - (4) A range of transportation opportunities; and
 - (5) Detailed human-scale design.
- (b) The 2009 Comprehensive Plan retained the same strategy and guiding principles as are set forth hereinabove. That strategy has been refined and expanded by means of separate implementation plans that were specific to each of the city's SGAs and were adopted only after an extensive public outreach program was employed in each instance. The plans for all of those SGAs retain the five (5) basic planning principles set forth in subsection (a). In addition, the 2009 Plan noted that the city has identified SGAs as:
- (1) Providing opportunities for continued physical and economic growth;
 - (2) Helping to prevent urban sprawl;
 - (3) Protecting our established residential neighborhoods and rural areas from incompatible development due to growth pressures;
 - (4) Maximizing infrastructure efficiency; and
 - (5) Creating unique and exciting urban destinations.
- (c) Traditional suburban-style development typically lacks significant connectivity to mass transit systems and bicycle or pedestrian-oriented features, instead depending almost exclusively upon automobile traffic. Such dependence upon the automobile results in large expanses of asphalt or other impervious parking surfaces that are rarely, if ever, fully utilized, and has significant undesirable effects, including, among others:
- (1) Inefficient use of land;
 - (2) Greater adverse environmental impacts, notwithstanding compliance with applicable regulations, than vertically-oriented, mixed-use development;
 - (3) Incompatibility, both functional and architectural, with adjacent communities;
 - (4) Increased traffic congestion; and
 - (5) A lack of uniqueness and "sense of place" differentiating Virginia Beach from other cities.

- (d) While the city's vision for the SGAs is well-developed in the Comprehensive Plan and in the implementation plans for the SGAs, not all of the strategic growth areas contain updated development standards implementing the city council's vision. Among the development standards that contribute to the achievement of the urban form contemplated by the Comprehensive Plan are lesser setbacks from streets, as such setbacks activate the street frontage by locating building facades close to the street, thereby providing a walkable, pedestrian-oriented streetscape. However, the setback regulations currently applicable to the various zoning districts located within the remaining SGAs generally require large street setbacks, and as a result, have the effect of preventing by-right development that is consistent with the goals and objectives of the SGAs.
- (e) In light of the foregoing considerations, it is necessary, advisable, and in the public interest for the city council to adopt optional setback regulations in order to encourage and promote development that conforms to and advances the city's vision for the SGAs. Such regulations should remain in effect until such time as individual codes and other zoning tools that are specific to each of the SGAs and responsive to the city council's vision can be developed and adopted by the city council after having received the benefit of extensive public comment.

(Ord. No. 3384, 12-2-14)

Sec. 1501. Use regulations.

- (a) The following chart lists those uses permitted within the RT-1 Resort Tourist District as either principal uses, as indicated by a "P" or as conditional uses, as indicated by a "C." Conditional uses shall be subject to the provisions of Part C of Article 2 (section 220 et seq.). No uses or structures other than those specified shall be permitted. All uses, whether principal or conditional, should to the greatest extent possible adhere to the provisions of the Oceanfront Resort Area Design Guidelines.

Use	RT-1
Subject to the provisions of subsection (b), hotels and motels, which may have in conjunction with them any combination of restaurants, outdoor cafes, retail commercial use and convention facilities, provided that uses in conjunction with hotels and motels may not occupy more than ten (10) percent of the floor area of all structures (excluding parking) located on the lot	P
Bars or nightclubs, except as specified below	X
Bars or nightclubs operated in conjunction with hotels or motels	C
Bicycle rental establishments in conjunction with hotels and motels, subject to the following: (i) such establishments shall be no less than two hundred (200) feet in area and shall have minimum dimensions of ten (10) feet by twenty (20) feet; (ii) the area upon which bicycles are displayed shall be paved and the perimeter thereof delineated by 8" x 8" timber curbing, except at the point of ingress and egress; (iii) no more than twenty (20) bicycles shall be stored or displayed in the rental area at any one (1) time, repairs shall not be conducted in the rental area, and no rental activity shall be conducted on public property; (iv) no more than one (1) sign identifying any such establishment shall be permitted, and no such sign shall exceed four (4) square feet per face in surface area, be illuminated, or encroach into any portion of the public right-of-way; and (v) points of ingress of any such establishment located adjacent to public property shall be directly connected to the boardwalk bicycle path by means of an existing sidewalk, street or connector park	P
Building-mounted antennas meeting the requirements of section 207	P

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(Supp. No. 159, Update 1)

Commercial parking lots and garages	C
Eating and drinking establishments, whether or not operated in conjunction with a hotel or motel, where both of the following occur: (i) alcoholic beverages are served; and (ii) the establishment excludes persons on the basis of age during any part of the day	C
Heliports and helistops	C
Museums operated by non-profit organizations	P
Parking structures	C
Passenger vessels permitted by United States Coast Guard regulations to carry more than one hundred forty-nine (149) passengers and used for commercial purposes	C
Personal watercraft rentals	C
Public buildings and grounds	P
Public utilities installations and substations including offices; provided storage or maintenance facilities shall not be permitted; and provided further, that utilities substations, other than individual transformers, shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge five (5) to six (6) feet in height; and provided also, transformer vaults for underground utilities and the like shall require only a landscaped screening hedge, solid except for access opening.	P
Recreational and amusement facilities of an outdoor nature, which may be partially or temporarily enclosed on a seasonal basis with approval of city council, provided that, in the development of such properties, safeguards are provided to preserve and protect the existing character of adjacent properties	P
Satellite wagering facility	C
Short term rental	X
Short term rental within an STR Overlay District, meeting all of the requirements of section 241.2 and, where applicable, section 2303	C
Small wireless facilities meeting the requirements of section 207	P
Temporary commercial parking lots, provided that adjacent to any public right-of-way perimeter landscaping meeting the requirements of Section 5A of the Site Plan Ordinance and the Public Works Design Standards Manual shall be installed, and temporary surface treatment in accordance with the standards for temporary parking lots in Public Works Design Standards Manual shall be allowed.	P
Temporary communication towers meeting the requirements of section 207	P
Temporary communication towers other than those meeting the requirements of section 207	C
Wind energy conversion systems, roof-mounted, except as provided below	P
Wind energy conversion systems, roof-mounted, in excess of one (1) per principal structure	C

- (b) Structures enclosing uses permitted in conjunction with hotels and motels shall be subject to the following requirements:
- (1) Such structures shall be located entirely within and shall be fully enclosed at all times by solid exterior walls and roof with no exterior opening, other than passageway doors as may be required by the Virginia Uniform Statewide Building Code;

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- (2) Except with respect to boardwalk cafes as permitted by franchise agreements approved by the city council, no entrance or exit to the use shall be located on the side of any structure facing the boardwalk, unless such entrance or exit provides access to a courtyard or intervening open area, in which case such open area shall be fully fenced or walled to a height of at least four (4) feet and without any entrances or exits facing the boardwalk; and
 - (3) Parking structures shall be permitted in conjunction with hotels and motels provided that any ground level parking within the structure fronting on Atlantic Avenue, the boardwalk, or any public park or open space is prohibited except for necessary access drives and ramps.
- (c) Proposed conditional uses shall be evaluated for consistency with the following criteria regarding general land use, transportation, and aesthetic provisions in order to further the legislative intent of the RT-1 District and the goals of the Comprehensive Plan and Resort Area Strategic Action Plan:
- (1) Any development or redevelopment in this area should contribute to creating an attractive wholesome family resort destination;
 - (2) The use should be consistent with the resort area goal to promote a safe, day and night, year round resort destination;
 - (3) The use and structure should complement resort activity centers and corridors and advance the area's public and private investments;
 - (4) All development and other physical improvements, such as landscaping, signs, lighting, and other similar elements should strive to achieve a high level of design excellence and contribute to a quality image as expressed in the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan;
 - (5) All transportation improvements should be designed to shift the dominant transportation mode in the area from vehicular to pedestrian and transit; and
 - (6) The use should be appropriate for both local residents and visitors to the area.

(Ord. No. 1983, 6-18-90; Ord. No. 2062, 5-14-91; Ord. No. 2116, 3-24-92; Ord. No. 2261, 2-8-94; Ord. No. 2277, 6-14-94; Ord. No. 2316, 4-11-95; Ord. No. 2416, 9-3-96; Ord. No. 2427, 10-29-96; Ord. No. 2460, 10-28-97; Ord. No. 2513, 10-27-98; Ord. No. 2552, 7-6-99; Ord. No. 2570, 1-14-00; Ord. No. 2713, 7-9-02; Ord. No. 2914, 12-20-05; Ord. No. 2968, 1-23-07; Ord. No. 3046, 8-26-08; Ord. No. 3102, 9-8-09; Ord. No. 3247, 7-10-12; Ord. No. 3403, 4-21-15; Ord. No. 3514, 7-11-17; Ord. No. 3620, 6-16-20; Ord. No. 3661, 5-18-21; Ord. No. 3667, 7-13-21)

Sec. 1503. Sign regulations.

- (a) Within the RT-1 Resort Tourist District, sign regulations pertaining to hotels and motels shall be as follows:
- (1) For each twenty (20) feet of frontage and for each forty (40) feet of lot line adjoining a street, but not constituting frontage, not more than one (1) sign and not more than forty (40) square feet of signage shall be permitted; provided, however, that no establishment shall have more than four (4) signs of which one (1) may be a freestanding sign; and provided further, that no establishment having a frontage of less than one hundred (100) feet shall have a freestanding sign. No establishment having a frontage of at least one hundred (100) feet but less than or equal to two hundred (200) feet shall have a freestanding sign exceeding thirty-two (32) square feet in area per face, and no establishment having a frontage of more than two hundred (200) feet shall have a freestanding sign exceeding seventy-five (75) square feet in area per face. No sign of any type shall exceed one hundred fifty (150) square feet in area. Any establishment or property having less frontage or lot line adjoining a street than required above may have one (1) sign not exceeding thirty (30) square feet in area.

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- (b) Within the RT-1 Resort Tourist District, sign regulations pertaining to multiple-family dwellings, parks, playgrounds, community centers, botanical and zoological gardens and other public buildings and uses shall be as specified in the most restrictive district where the use is permitted as a principal use.
 - (c) Signage for boardwalk cafes permitted as part of a city council approved franchise agreement shall not be counted against the sign allowance specified elsewhere in this section.
 - (d) Signage for bicycle rental establishments, as permitted in section 1501(a)(4), shall not be counted against the sign allowance specified elsewhere in this section.
 - (e) Sign regulations pertaining to all other uses and structures shall be as specified for the building type in the SH-2 Shopping 2 frontage within the OR Oceanfront Resort District. Where the building is not of a type identified in the sign regulations applicable in the SH-2 Shopping 2 frontage, the applicable regulations shall be those pertaining to the building type determined by the zoning administrator to most closely resemble such building.

(Ord. No. 1983, 6-18-90; Ord. No. 2062, 5-14-91; Ord. No. 3442, 4-19-16)

Sec. 1.3. Street.

A vehicular way (which may also serve, in part, as a way for pedestrian and bicycle traffic) whether called street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, mall, bikeway or otherwise designated.

- (a) *Arterial or major streets or highways* are used by or designated primarily for fast or heavy traffic, and for the purpose of these regulations shall be considered to be as shown in any comprehensive plan or element thereof designating such arterial or major streets or highways officially adopted by city council.
- (b) *Collector streets* are used primarily to carry traffic from minor streets to arterial or major streets or highways.
- (c) *Minor streets* are used primarily for access to abutting properties, and include marginal access streets, which are generally parallel and adjacent to arterial streets or highways, serve abutting properties and provide protection from friction with through traffic.
- (d) *Marginal access streets* are used to separate local traffic from through traffic on an adjacent thoroughfare and to provide controlled ingress to and egress from through traffic.
- (e) *Alleys* are minor ways used primarily for vehicular access to the rear or side of properties otherwise abutting a street.
- (f) *Bikeways* are any road, path, or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared by other transportation modes.

(Ord. No. 1581, 1-27-86; Ord. No. 2155, 6-23-92; Ord. No. 2224, 5-25-93)

Sec. 4-1. Permit for special events.

- (a) *Events for Which Permit Required.* No person or entity shall hold, organize or sponsor any of the following events or activities unless a permit therefor has been granted by the city:
- (1) Parades, processions, marathons, bicycle races and other events utilizing the sidewalks or vehicular travel portion of city streets and highways, or the boardwalk.
 - (2) Carnivals, bazaars and similar events which offer such activities as amusement rides or devices, games of skill, animal rides or exhibitions, food concessions, and informal live entertainment.
 - (3) Outdoor festivals or other musical entertainment offering live or recorded music for public or private audiences in other than a fully enclosed building, with the exception of outdoor musical entertainment at any private residence attended by fewer than one hundred fifty (150) persons.
 - (4) Motion picture, video or broadcast television productions, other than news media, involving the staging of vehicles, equipment, props or personnel on public property, including buildings, streets and sidewalks, or requiring the use of city equipment or services, or the participation of city employees.
 - (5) Organized scheduled contests and exhibitions held on the sand beaches of the city.
 - (6) Marine events, including any prescheduled organized concentration of watercraft, involving participants and/or spectators, of a competitive or noncompetitive nature, which may interfere with ordinary navigation or require supplementary regulation by federal, state or city authorities.
 - (7) Scheduled races, exhibitions or other events involving the operation of motorized vehicles of any type.
 - (8) Scheduled gatherings of two hundred (200) or more persons on any public property, other than parks.
 - (8a) Activities on a parcel being used as a short term rental property as defined in section 111 of the city zoning ordinance, at which fifty (50) or more people are present. Further, no more than one hundred (100) total people shall be present at the activity. No more than three (3) special events permits shall be issued within a twelve-month period.
 - (9) Activities or events requiring a variance from the regulations for parks promulgated by the director of parks and recreation.
 - (10) Organized camps, athletic leagues or games, exercise classes, or other instruction, education or recreational activities or events which take place on city property in the Resort Area or on the sand beaches of the city, for which a fee is collected by a for-profit event organizer, sponsor, or producer, and which include three or more individuals paying to participate in the activity or event.
 - (11) Organized horseback riding events held on the sand beaches of the city; provided, however, that no such permit shall be issued unless (i) the applicant is a 501(c)(3) charitable organization, (ii) the event is held between November 1 and May 1, and (iii) the event lasts no longer than one day. The restrictions contained in section 6-12 shall not apply to activity authorized by such a permit.
 - (12) Agritourism activities allowed pursuant to section 401(a) of the City Zoning Ordinance, but not including agritourism activities requiring a conditional use permit or allowed pursuant to section 401(c) of the City Zoning Ordinance.
- (b) *Application: Contents and Fee.* An application for any permit required by this section shall be made to the city manager or his designee, accompanied by a nonrefundable processing fee as provided in section 4-1.1. The application shall be submitted not less than thirty (30) days nor more than six (6) months prior to the date of the proposed activity. An application for a major event held for two (2) or more consecutive days shall be filed not less than sixty (60) days nor more than six (6) months before the first date of the proposed activity. The application shall contain the following information, utilizing a form provided by the city manager:

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- (1) Description of the proposed activity.
 - (2) Date, time and location/route of proposed activity and the anticipated number of participants and spectators.
 - (3) Provisions for sanitation facilities, crowd, noise and traffic control, parking and loudspeaker placement.
 - (4) Food and beverages to be sold or distributed.
 - (5) The designation of an individual or individuals who shall be responsible for ensuring compliance with the provisions of this section and the conditions of the permit.
 - (6) Proposed equipment, vehicles, staging, bleachers, shelters and electricity requirements.
 - (7) If revenue is anticipated to be generated by the activity, the individuals or entity that will benefit therefrom.
 - (8) Such additional information or assurances as the city manager may require.
 - (9) If portable storage containers are requested, the duration of the containers at the site, the number of containers and the location of the containers.
- (c) *Application: Submission and Processing Requirements.*
- (1) A completed application shall be processed and either granted or denied within a reasonable time of receipt, but not more than thirty (30) days of receipt of any application requiring sixty (60) days' advance filing or fifteen (15) days following receipt of any application requiring thirty (30) days' advance filing. Such decision shall be in writing, setting forth the conditions of the permit, if granted, or the reasons for denial. The decision shall be provided to the applicant at the address stated in the application.
 - (2) If an application is submitted after the filing deadline set forth in subsection (a), the city manager or his designee may modify the requirements of subsections (a) and (b) upon a demonstration by the applicant, in writing, that circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit within the time prescribed.
- (d) *Permit Approval Process.*
- (1) The permit shall be granted by the city manager if the following conditions are met:
 - (i) Any proposed use of public property, right-of-way, or facilities will not unreasonably interfere with the normal use of the property, right-of-way or facility by the city or the general public.
 - (ii) The proposed activity does not present a safety or health risk to participants, spectators or the public, or an environmental hazard.
 - (iii) The proposed activity is compatible with the surrounding area or neighborhood, in consideration of anticipated noise, traffic, crowd capacity and other identifiable factors.
 - (iv) The applicant has provided proof of liability insurance underwritten by insurers acceptable to the city, indemnifying the applicant against any perils, suits, claims and losses which may arise in connection with the proposed activity. Such coverage shall be in amounts consistent with a standard schedule approved by the city manager, based upon risks associated with each type of event, in consideration of anticipated attendance.
 - (v) City resources necessary to support the proposed activity are reasonably available.
 - (2) When the grounds for anticipated denial of an application can be corrected by altering the date, time, duration, route or location of the event, the city manager or his designee may conditionally approve the application, subject to the applicant's acceptance of such conditions. Any conditions so imposed

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- shall provide only for such modification of the applicant's proposal as may be necessary to achieve compliance with this section.
- (3) Prior to the final denial of any application, the applicant shall be apprised of the reason therefor and shall be entitled to a hearing before the city manager or his representative.
- (e) *Permit Requirements.* The city manager or his designee may impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace and order. Such conditions may include, but are not limited to:
- (1) The payment of a reasonable fee for the use or allocation of city property, equipment and personnel not exceeding the actual costs incurred by the city in connection with the proposed activity; and the posting of a performance bond or other surety securing payment of such fee.
 - (2) The provision of adequate crowd and traffic control, security, fire protection, food handling, waste and refuse disposal, and noise restrictions.
 - (3) The duration, location and number of any portable storage containers.
- (f) *Exceptions for Expressive Activities.*
- (1) The requirements for insurance and for payment of fees for the use or allocation of city property, equipment and personnel authorized by this section shall not be imposed for any noncommercial gathering, parade or procession held for purposes of expressive activity, upon demonstration, in writing, that the applicant is financially unable to pay the costs of such fees and services and that the right to engage in expressive activity would be unreasonably curtailed by failure to waive such requirements; provided, that insurance may be required for collateral activities such as food service and the use of structures and equipment which present a demonstrable risk or hazard.
 - (2) Upon demonstration that the enforcement of the limitation provisions of subsections (b) and (c) would unreasonably restrict the right of free expression, the city manager shall waive the time prescribed for advance notice of an event and impose only such provisions as will not unreasonably restrict the element of timeliness of the expressive activity.
 - (3) For purposes of this section and of section 4-1.1, expressive activity shall include any public gathering, procession or parade, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment of the Constitution of the United States.
- (g) *Revocation or Suspension.* The city manager, or his designee, shall be authorized to revoke or suspend any permit previously granted by him (1) for violation of any provisions of this section or of any condition of the permit; (2) for any material misrepresentation, intentional or otherwise, made in connection with the application; (3) when weather conditions render the subject activity unsafe; and (4) when otherwise required in the interest of public health, safety and welfare or environmental considerations. In the event a permit is revoked or suspended, the permittee shall immediately discontinue, or cause to be discontinued, the activity for which the permit was granted, but shall thereafter be entitled to a hearing concerning the revocation or suspension decision as provided by subsection (d)(3).
- (h) *Duration.* Any permit granted under the provisions of this section shall remain in effect for the duration of the proposed activity; provided, however, that any permit for outdoor musical entertainment granted to any restaurant or any establishment holding an on-premises license to sell alcoholic beverages may be issued for a period not to exceed one (1) year.
- (i) *Other Requirements.* The granting of any permit required by this section shall not eliminate any requirement for any business license, any other permit(s) which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations, or compliance with any other applicable federal, state or local statutes, ordinances, rules or regulations.

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- (j) *Administration.* The city manager may designate one (1) or more officers or employees of the city to administer the provisions of this section.
- (k) *Violation.* Any person who shall violate any provision of this section shall be guilty of a Class 1 misdemeanor. (Code 1965, § 20-90; Ord. No. 1829, 2-6-89; Ord. No. 2138, 6-9-92; Ord. No. 3218, 2-28-12; Ord. No. 3262, 10-23-12; Ord. No. 3357, 6-17-14; Ord. No. 3389, 1-6-15; Ord. No. 3602, 10-1-19)

Cross reference(s)—License tax for theatrical performances, exhibitions, etc., § 18-110.

Chapter 21 MOTOR VEHICLE AND TRAFFIC CODE¹²

ARTICLE I. INCORPORATION OF TITLE 46.2 AND TITLE 18.2, CHAPTER 7, ARTICLE 2 OF THE VIRGINIA CODE; LOCAL AUTHORITY

Sec. 21-1. Adoption of Title 46.2 and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the state code.

- (a) Pursuant to the authority of § 46.2-1313 of the Code of Virginia, 1950, as amended, all of the provisions and requirements of the laws of the State contained in Title 46.2 and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, as amended, and pursuant to § 1-220 of the Code of Virginia as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can not have application to or within the City, are hereby adopted and incorporated in this Chapter by reference and made applicable within the City. Such provisions and requirements are hereby adopted and made a part of this Chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with any provision of the Code of Virginia, which is adopted by this section; provided, that in no

¹²Editor's note(s)—Ord. No. 2903, adopted Dec. 13, 2005, repealed former Ch. 21 of the Code in its entirety and enacted new provisions as Ch. 21. Former Ch. 21, §§ 21-1—21-12, 21-14—21-23.1, 21-24—21-33.1, 21-34, 21-46—21-56, 21-71, 21-71.1, 21-72—21-75.1, 21-76, 21-77, 21-79, 21-85—21-86, 21-101—21-102.1, 21-103—21-111, 21-113—21-130, 21-141—21-160, 21-176—21-179, 21-191—21-207.4, 21-209—21-211, 21-226—21-251.1, 21-252—21-260, 21-271—21-276, 21-278—21-281, 21-294—21-300, 21-311—21-316.1, 21-317—21-321.2, 21-322, 21-323, 21-323.1, 21-324, 21-336, 21-336.1, 21-337, 21-338.1—21-338.11, 21-339—21-340.1, 21-341, 21-341.1, 21-341.3, 21-342—21-344, 21-356—21-374.1, 21-375—21-386, 21-394—21-395.1, 21-396—21-403, 21-405—21-407, 21-419—21-429, 21-440.1—21-440.11, 21-441—21-444, 21-456—21-468, 21-481—21-485, and 21-496—21-502, pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion of the provisions of Ord. No. 2903.

Cross reference(s)—Composition and general duties of traffic division of department of public works, § 2-271; operation of vehicle for display of announcements or advertisements thereon, § 3-6; use of radios, amplifiers, etc., on vehicles for advertising purposes, § 3-7; driving vehicles on beach or dunes, § 6-12; bicycles and other wheeled vehicles, Ch. 7; vehicles used for sale of ice cream, candy, etc., on streets, § 13-46 et seq.; storage of vehicles, § 16-40 et seq.; insurance prerequisite to issuance of license for rental of certain vehicles, § 18-22; injuring, tampering with, etc., vehicles, § 23-41; streets and sidewalks, Ch. 33; local vehicle license, § 35-275 et seq.; vehicles for hire, Ch. 36; zoning ordinance, App. A; subdivision ordinance, App. B.

State law reference(s)—General authority of city to regulate traffic, Code of Virginia § 46.2-1300 et seq.

event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia.

- (b) Any change to any Section of this Article resulting from a future amendment to a state law that is adopted and incorporated by reference shall become effective at the same time the amended state law becomes effective.
- (c) All definitions of words and phrases contained in the State law hereby adopted shall apply to such words and phrases, when used in this Chapter, unless clearly indicated to the contrary. Reference to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the City.

(Ord. No. 2903, 12-13-05; Ord. No. 2926, 2-28-06)

Sec. 21-2. Title.

The provisions of this Chapter shall be known as the "Motor Vehicle and Traffic Code of the City of Virginia Beach, Virginia" and may be so cited.

(Ord. No. 2903, 12-13-05)

Sec. 21-3. General powers of City Manager relative to traffic.

- (a) The City Manager shall have final authority over the management and direction of all vehicular and pedestrian traffic in the City and of the parking and routing of vehicles in the interest of the public safety, comfort and convenience, not inconsistent with the provisions of this Chapter and Title 46.2 of the Code of Virginia. He may cause appropriate signs to be erected and maintained, designating residence and business districts, school, hospital and safety zones, highways and interurban railway crossings, turns at intersections, traffic lanes and such other signs as may be necessary to carry out the provisions of this chapter. He shall have power to regulate traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous or where, in his judgment, conditions may require. He may adopt any such regulations, not inconsistent with the provisions of this Chapter, as he shall deem advisable and necessary, and repeal, amend or modify any such regulation; provided, however, that such regulations 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 ordinary observant person, under the same circumstances, would not be apprised of or aware of the existence of such regulations.
- (b) Notwithstanding the provisions of subsection (a), the City Manager shall not implement any program or regulation which requires the payment of a fee to park in any public lot within or adjacent to the Municipal Center absent specific authorization from City Council.

(Ord. No. 2903, 12-13-05)

Sec. 21-4. Compliance with chapter; general penalty for violations.

It shall be unlawful for any person to violate or refuse, fail or neglect to comply with any of the provisions of this Chapter. Unless otherwise specifically provided, a violation of this Chapter shall constitute a traffic infraction punishable by a fine of not more than two hundred fifty dollars (\$250.00).

(Ord. No. 2903, 12-13-05)

Secs. 21-5—21-199. Reserved.

ARTICLE II. VEHICLE OPERATION

DIVISION 1. GENERALLY

Sec. 21-200. Blocking intersections or marked crosswalks.

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.

(Ord. No. 2903, 12-13-05)

Sec. 21-201. Cruising.

- (a) The City of Virginia Beach hereby finds and declares that the unregulated practice of cruising on Atlantic Avenue in the resort area creates substantial vehicular traffic congestion, including extended periods of gridlock; interferes with the smooth and orderly flow of both vehicular and pedestrian traffic; unduly interferes with the ability of police, fire, and rescue vehicles to respond to calls for assistance; and thereby endangers the health, safety and welfare of the City's citizens and visitors. By adoption of this Section, it is the intent of the City to regulate cruising on Atlantic Avenue in the resort area and thereby to alleviate the problems associated therewith.
- (b) The following words and phrases shall, for purposes of this Section, have the meanings respectively ascribed thereto:
 - (i) *Cruising or to cruise* shall mean to operate a motor vehicle or low-speed vehicle, or as a custodian thereof, to permit its operation, past a traffic-control point two (2) times in the same direction within any three-hour period.
 - (ii) *Custodian* shall mean any person who is the owner of a motor vehicle or low-speed vehicle, or has custody thereof, and who is riding therein (or thereon) at the time of its operation.
 - (iii) *Enforcement period* shall mean the period from May 1 to September 30, inclusive, between the hours of 2:00 p.m. and 4:00 a.m., inclusive.
 - (iv) *Restricted area* shall mean Atlantic Avenue from and including the Rudee Inlet Loop to and including 31st Street.
 - (v) *Resort area* shall mean the area, from and including, the sidewalk on the west side of Pacific Avenue to the Atlantic Ocean between Rudee Inlet and 42nd Street.
 - (vi) *Traffic-control point* shall mean the location of any sign indicating that cruising is prohibited, or any point designated by the chief of police or his duly authorized designee which is located between any such signs.
- (c) It shall be unlawful for any person to cruise in the restricted area during the enforcement period. A violation of this subsection shall constitute a traffic infraction, and each successive trip past a traffic-control point after a violation has occurred shall constitute a separate violation.

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- (d) Signs indicating that cruising is prohibited shall be posted at periodic intervals immediately adjacent to the restricted area. Such signs shall state substantially as follows:

NO CRUISING 2 P.M. TO 4 A.M.
UNLAWFUL TO PASS THIS POINT
2 TIMES IN 3-HOUR PERIOD

- (e) The provisions of this Section shall not be applicable to the operator of a police, fire or rescue vehicle in the conduct of official duties, the operator of a common carrier, or the operator of any motor vehicle or low-speed vehicle when such motor vehicle or low-speed vehicle is being operated for business purposes.

(Ord. No. 2903, 12-13-05)

Secs. 21-202—21-219. Reserved.

DIVISION 2. TRAFFIC SIGNS, SIGNALS AND MARKINGS

Sec. 21-220. Activation of traffic control signals by fire department and emergency medical services agency members.

Members of any fire department or any emergency medical services agency, when on duty, may activate electric traffic-control signals when such control signals are specifically authorized by the State Highway and Transportation Commissioner or the City Manager.

(Ord. No. 2903, 12-13-05; Ord. No. 3432, 11-17-15)

Sec. 21-221. Duty to obey traffic signs and signals and orders of police officers.

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 two hundred dollars (\$200.00) for each offense.

(Ord. No. 2903, 12-13-05)

Sec. 21-222. Traffic signal enforcement program.

- (a) *Establishment.* There is hereby established a traffic signal enforcement program pursuant to and in accordance with Code of Virginia § 15.2-968.1. The program shall include the installation and operation of traffic light signal violation monitoring systems in a number up to the maximum number permitted by state law. No traffic light signal violation monitoring system shall be operated for enforcement purposes at an intersection until all prerequisites for such operation have been fulfilled.
- (b) *Implementation.* The city manager shall (i) have the authority to implement the provisions of this section, (ii) promulgate the rules and regulations necessary to administer the traffic signal enforcement program in compliance with all requirements of Code of Virginia § 15.2-968.1 and this section, and (iii) be responsible for the compliance of all aspects of the traffic signal enforcement program with applicable state law.

(c) *Private contractor.* The city may enter into an agreement with a private entity for the installation and operation of traffic light signal violation monitoring systems and related services as permitted by and subject to the restrictions imposed by Code of Virginia § 15.2-968.1(l).

(d) *Penalties.*

(1) For failure to comply with traffic light signal. The operator of a vehicle shall be liable for a monetary penalty of fifty dollars (\$50.00) if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within the city. Any person found liable under this ordinance may contest the summons as provided by Code of Virginia § 15.2-968.1.

(2) For disclosure of personal information. Any person who discloses personal information collected by a traffic light signal violation monitoring system in violation of the provisions of Code of Virginia § 15.2-968.1(H) shall be subject to a civil penalty of one thousand dollars (\$1,000.00).

(Ord. No. 3048, 9-2-08)

Sec. 21-223. Video-monitoring systems in or on school buses.

(a) The School Board of the City of Virginia Beach dba Virginia Beach City Public Schools is hereby authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board or to contract with a private vendor to do so on behalf of the School Board for the purpose of recording violations of the Code of Virginia § 46.2-844(A).

(b) For purposes of this section, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia § 46.2-859.

(c) All video-monitoring systems installed on public school buses shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

(d) The driver of a motor vehicle found to be in violation of Code of Virginia § 46.2-859, based upon evidence obtained from a video-monitoring system, shall be liable for a civil penalty of two hundred fifty dollars (\$250.00) imposed in accordance with this section if such vehicle is found, as evidenced by information obtained from a video-monitoring system in or on a school bus, to have violated Code of Virginia § 46.2-859 within the city. Any person found liable under this ordinance may contest the summons as provided by Code of Virginia § 46.2-844(A).

(e) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of violation of Code of Virginia § 46.2-859. Notwithstanding any other provision of law, all images or video or other personal information recorded by such video-monitoring systems shall be used exclusively for that purpose.

(Ord. No. 3562, 7-3-18)

Secs. 21-224—21-229. Reserved.

DIVISION 3. SPEEDING

Sec. 21-230. Traffic calming via maximum speed limits in certain residential districts; penalty.

Pursuant to § 46.2-878.2 of the Code of Virginia, any person who operates a motor vehicle in excess of the maximum speed limit established for any portion of the following highways located within the designated neighborhoods, on or after the effective date, shall be guilty of a traffic infraction punishable by a prepayable fine of two hundred dollars (\$200.00), in addition to other penalties provided by law. No portion of the fine shall be suspended unless the court orders twenty (20) hours of community service.

- (1) L & J Garden: Norwich Avenue; Tajo Avenue; Fairlawn Avenue; Dulcie Avenue.
- (2) Acredale: Andover Road; Langston Road; Bonneydale Road; Olive Road, Alton Road; Old Kempsville Road.
- (3) Lake Shores: Jack Frost Road; Lake Shores Road.
- (4) Little Neck: Harris Road.
- (5) Lake Shores: Oak Leaf Lane, Tern Road; Lake Road S; Regina Lane; Meredith Road, School Road, Mosby Road, Frizzel Drive; Finn Road; Charla Lee Lane; Smith Farm Road.
- (6) Brighton on the Bay: Templeton Lane; Wivenhoe Way; Starr Way.
- (7) Baylake Pines/Baylake Beach: Ben Gunn Road; Indian Hill Road; Baylake Road; Rampart Avenue; Bayville Road; Lookout Road; Sandy Bay Drive.
- (8) Country Haven: Stewart Drive.
- (9) Fairfield: Lord Dunmore Drive.
- (10) Bellamy Manor: Homestead Drive.
- (11) Church Point: Church Point Road; Church Point Place; Timber Ridge Drive.
- (12) Stratford Chase: Stratford Chase Drive; Minden Road; Violet Bank; Kittery Drive.
- (13) Bayville Park: Greenwell Road (From Shore Drive to First Court Road).
- (14) Milburn Manor: Davis Street.
- (15) Lake James: Lake James Drive.
- (16) Larkspur: Edwin Drive from Princess Anne Road to Independence Blvd.

Effective as of April 6, 2004:

- (1) Croatan: Croatan Road.
- (2) Birdneck Point: Cardinal Road.

Effective as of April 5, 2005:

- (1) Thoroughgood: Thoroughgood Drive.
- (2) Hermitage Road.

Effective as of September 12, 2006:

- (1) Kings Grant: Oxford Drive.

Effective as of January 27, 2009:

- (1) Baycliff: Baycliff Drive between Mill Dam Road and Stephens Road.
- (2) Lakeview Park: Cullen Road between Shell Road and Lakeside Road.

Effective as of August 10, 2010:

- (1) Bellamy Plantation: Grey Friars Chase between Lynnhaven Parkway and the 1900 block of Grey Friars Chase.

Effective as of September 5, 2018:

- (1) Mediterranean Avenue between Virginia Beach Boulevard and Norfolk Avenue.

Effective as of November 12, 2019:

- (1) Aragona: Sullivan Boulevard between Aragona Boulevard to Haygood Road.
- (2) Red Mill: Red Mill Boulevard between General Booth Boulevard to Warner Hall Drive.

Effective as of November 17, 2020:

- (1) Kings Grant: Kings Grant Road between Little Neck Road and Edinburgh Drive.

Effective as of October 4, 2022:

- (1) Bay Island: Broad Bay Road.

(Ord. No. 2903, 12-13-05; Ord. No. 2961, 9-12-06; Ord. No. 3071, 3-10-09; Ord. No. 3149, 8-10-10; Ord. No. 3568, 9-4-18; Ord. No. 3604, 11-12-19; Ord. No. 3645, 11-17-20; Ord. No. 3714, 10-4-22)

Secs. 21-231—21-239. Reserved.

DIVISION 4. DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS

Sec. 21-240. Reimbursement for expenses incurred from emergency responses.

- (a) Any person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the City for restitution of reasonable expenses incurred by the City when issuing any related arrest warrant or summons. Further, any person so convicted shall at the time of sentencing or in a separate civil action, be liable to the City and to any responding volunteer rescue squads, or both for restitution of reasonable expenses incurred by the City or any volunteer rescue squad, for responding law enforcement, firefighting, rescue and emergency services, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation.
 - (1) The provisions of Code of Virginia §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02 or 46.2-341.24, when such operation of motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;
 - (2) The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
 - (3) The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and
 - (4) The provisions of Code of Virginia § 46.2-894 relating to improperly leaving the scene of an accident.
- (b) Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection (a) shall not exceed one thousand dollars (\$1,000.00) in the aggregate for a particular accident, arrest or incident. In determining the "reasonable expenses" a flat fee of two hundred and fifty dollars (\$250.00) may be billed, or a minute-by-minute accounting of the actual cost incurred may be billed.

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- (c) As used in this section, "appropriate emergency response" includes all cost of providing law-enforcement, fire-fighting, rescue and emergency medical services.
 - (d) The provisions of this section shall not preempt or limit any remedy available to the commonwealth, the City of Virginia Beach, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

(Ord. No. 2903, 12-13-05; Ord. No. 3025, 5-27-08; Ord. No. 3093, 6-23-09)

Secs. 21-241—21-249. Reserved.

DIVISION 5. OPERATION OF MOTORCYCLES, MINIBIKES, ETC.

Sec. 21-250. Operation on private property; compliance with registration and licensing requirements.

- (a) It shall be unlawful for any person to operate or permit to be operated any motorcycle, minibike, trail bike, motor scooter or other form of two (2) or more wheeled transportation propelled by an internal combustion engine, upon the private property of another, unless the operator of said vehicle has in his possession written authorization from the property owner or his agent.
- (b) The owner of any privately owned property desiring enforcement upon his property of any provision of this Section shall notify the Chief of Police or his authorized designee.
- (c) When any police officer arrests a person and charges him with a violation of this Section, such officer may seize the vehicle involved and deliver the same to the Chief of Police or his authorized designee, and the vehicle shall be held until the charge is disposed of by the court having jurisdiction; provided, that seizure shall not be made of any vehicle operated on private property, unless the owner of such property has complied with the requirements of subsection (b) above. In disposing of the charge, the court shall order the vehicle returned to its owner, except that, when any person has been convicted of a second or subsequent violation of this Section, the judge may order such vehicle held by the Chief of Police or his authorized designee for a period not to exceed ninety (90) days.
- (d) The provisions of this Section shall not apply to emergency vehicles, government vehicles or to persons driving upon such property with the written consent of the owner or person in lawful possession of such property or to the property owner or his family, employees, agents or lessees.

(Ord. No. 2903, 12-13-05)

Sec. 21-251. Reserved.

Editor's note(s)—Ord. No. 3180, adopted May 24, 2011, repealed § 21-251, which pertained to unreasonable loud, disturbing, etc., noise from operation of motorcycle and derived from Ord. No. 2903, 12-13-05.

Sec. 21-252. Boarding or alighting from moving vehicles.

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

(Ord. No. 2903, 12-13-05)

Sec. 21-253. Riding on portion of vehicle not intended for passengers; persons under sixteen prohibited from riding in cargo areas of pickup trucks.

- (a) No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise; provided, however, no person under sixteen (16) years of age shall be transported in the rear cargo area of any pickup truck on any highway in this City.
- (b) The provisions of this Section shall not apply to transportation of persons in the bed of any pickup truck being operated (i) as part of an organized parade authorized by the state department of transportation or the City or (ii) on or across a highway from one field or parcel of land to another field or parcel of land in connection with farming operations.

(Ord. No. 2903, 12-13-05)

Secs. 21-254—21-299. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

Sec. 21-300. General authority of director of public works as to parking.

- (a) Notwithstanding any provisions of this Chapter, the Director of Public Works is hereby authorized, when in his judgement it is in the public interest so to do, to set apart on any of the streets of the city spaces for loading and unloading merchandise, bus stops and other places in which no general parking shall be permitted, and he is further authorized to set aside spaces in which parking time shall be further limited or prohibited. Such action shall not be effective, unless signs or other markings are present, within or near such spaces, so as to apprise an ordinarily observant person of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of signs or other markings.
- (b) This Section shall not be construed to authorize the Director of Public Works to designate parking meter zones or taxicab stands.

(Ord. No. 2903, 12-13-05)

Sec. 21-301. Appointees to enforce parking regulations.

The City Manager is hereby authorized to appoint city personnel and/or personnel serving under contract with the City to enforce the provisions of Sections 21-303 through 21-310 of the City Code in addition to the regular police officers of the City. Such personnel shall wear a uniform as prescribed by the City Manager. Nothing shall preclude the City Manager from appointing personnel under this Section who may also have been appointed under Section 21-328 of the City Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-302. Stopping or parking on highways generally.

- (a) Except when actually loading or unloading merchandise, as permitted in this chapter, no vehicle shall be stopped except close to and parallel to the edge of the curb or roadway, except that a vehicle may be parked at an angle, where permitted.
- (b) All trailers with a gross vehicle weight of less than ten thousand (10,000) pounds shall either be fitted with reflective tape or sheeting on the rear upright side posts of the trailer in a manner clearly visible to approaching traffic, or shall place a reflective cone behind the rear portion of the trailer which is closest to the center of the street.

(Ord. No. 2903, 12-13-05; Ord. No. 2962, 11-7-06; Ord. No. 2971, 2-27-07)

Sec. 21-303. General parking prohibitions; penalties for violation.

- (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) Within any designated fire lane.
 - (2) At any place so as to block any fire department connection.
 - (3) Within seventy-five (75) feet of the driveway entrance to any fire station if properly posted, or on the side of a street opposite the entrance to any fire station.
 - (4) In front of a public driveway.
 - (5) On the roadway side of any vehicle parked at the edge or curb of a street (double parking).
 - (6) Upon any bridge or other elevated structure upon a street or highway or within a tunnel.
 - (7) On the left-hand side of roadway of a two-way street. The provisions of this sub-section exclude those city vehicles operated by city employees executing official duties that require repeated vehicle exit and entry.
 - (8) At any place so as to impede or render dangerous the use of any street or highway.
- (b) 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) On a crosswalk.
 - (3) Within twenty (20) feet of a marked crosswalk at an intersection.
 - (4) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
 - (5) Between a safety zone and the adjacent curb or within thirty (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.
 - (6) Within fifty (50) feet of the nearest rail of a railroad grade crossing.
 - (7) Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic.
 - (8) At any place where official signs prohibit, reserve or restrict parking.

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- (9) In a residential or apartment district (area), if such vehicle is a commercial vehicle in excess of twenty (20) feet in length and/or seven (7) feet in height. This restriction shall not apply to commercial vehicles parked while engaged in the normal conduct of business or in the delivery or provision of goods or services in a residential or apartment district (area).
 - (10) At any place so as to prevent the use of a curb ramp located on public property or on privately owned property open to the public.
 - (11) At any place, angle parked or perpendicular to a curb, unless street markings permit.
 - (12) In a cul-de-sac other than close to and parallel to the edge of the curb or roadway, except in parking spaces approved and marked by the City or where a lawfully erected sign otherwise permits.
 - (13) On any street or highway or any city parking lot or other city-owned property for the purpose of selling or offering the vehicle for sale or rent. Factors that shall be considered in determining the purpose for which a vehicle is parked shall include, but not be limited to (i) the number, size and placement of signs offering the vehicle for sale or rent; (ii) the length of time the vehicle is parked; and (iii) the manner in which the vehicle is parked.
- (c) No person shall park on any street or highway, or on any city parking lot, any vehicle which fails to display valid and current state license plates.
- (d) Penalties.
- (1) When a notice or citation is attached to a vehicle found parked in violation of any provision of this section or section 21-1 incorporating the provisions of Title 46.2 of the Code of Virginia, the owner of the vehicle may pay to the city treasurer, in satisfaction of any such violation, a penalty fine as listed below when such payment is postmarked or received by the city treasurer within fourteen (14) calendar day after issuance of such a notice or citation. Such payment shall constitute a plea of guilty to the violation in question.
 - (i) A penalty fine of thirty-five dollars (\$35.00) for all parking violations citing City Code section 21-1 incorporating the parking provisions of Title 46.2 of the Code of Virginia.
 - (ii) A penalty fine of thirty-five dollars (\$35.00) for a violation of any provision of subsection (a), except (a)(1), for each hour or fraction thereof during which such vehicle was unlawfully parked.
 - (iii) A penalty fine of twenty dollars (\$20.00) for a violation of any provision of subsection (b) for each hour or fraction thereof during which such vehicle was unlawfully parked.
 - (iv) A penalty fine of thirty-five dollars (\$35.00) for a violation of subsection (c) for each day or fraction thereof during which such vehicle was unlawfully parked.
 - (v) A penalty fine of fifty dollars (\$50.00) for a violation of subsection (a)(1) for each hour or fraction thereof during which such vehicle was unlawfully parked.
 - (2) If such payment is not postmarked or received by the city treasurer within fourteen (14) calendar days after issuance of such notice or citation, the penalty fine shall increase to double that indicated above.
 - (3) For failure to respond to notices or citations within thirty (30) days, refer to subsection 21-312(b) below.

(Ord. No. 2903, 12-13-05; Ord. No. 2971, 2-27-07; Ord. No. 2988, 6-26-07; Ord. No. 3053, 9-23-08; Ord. No. 3065, 1-27-09; Ord. No. 3529, 1-9-18)

Sec. 21-303.1. Parking in spaces reserved for persons with disabilities; enforcement and penalties for violations.

Pursuant to Virginia Code § 46.2-1313, all of the provisions and requirements of Virginia Code § 46.2-1242, including, pursuant to Virginia Code § 1-220, future amendments, are hereby adopted and incorporated in this section by reference and made applicable within the City. Such provisions and requirements are hereby adopted and made a part of this section as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with Virginia Code § 46.2-1242. Any change to this section resulting from a future amendment to Virginia Code § 46.2-1242 shall become effective at the same time the state law amendment becomes effective. All definitions of words and phrases contained in Virginia Code § 46.2-100 shall apply to such words and phrases when used in this section. In addition to the provisions contained in Virginia Code § 46.2-1242, the following provisions also apply:

- (a) A summons or parking ticket for violation of the state law that prohibits unauthorized parking in spaces reserved for persons with disabilities may be issued by law-enforcement officers, uniformed law-enforcement department employees, or volunteers supervised by the Police Department, without the necessity of a warrant's being obtained by the owner of any private parking area.
- (b) When a notice or citation is attached to a vehicle found parked in violation of this section, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the city treasurer, in satisfaction of such violation, a penalty of one hundred fifty dollars (\$150.00). Such payment shall constitute a plea of guilty for the violation in question. If such payment is not postmarked or received by the city treasurer within fourteen (14) calendar days after receipt of such notice or violation, the penalty shall be two hundred fifty dollars (\$250.00). The failure of any owner to make payment as prescribed above within thirty (30) days shall render such owner, upon conviction of such violation, subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(Ord. No. 2940, 5-9-06)

Sec. 21-304. Parking or stopping for certain purposes prohibited.

- (a) It shall be unlawful for any person to park or place any automobile, truck, trailer or other vehicle upon or in any street, alley or parkway for the purpose of selling or offering the same for sale or rent. No sign or lettering shall be attached or placed upon any automobile, truck, trailer or other vehicle parked in or upon any public street, alley or parkway in the City indicating that such vehicle is offered for sale or for rent.
- (b) It shall be unlawful for any person to stop a vehicle at any time upon a highway for the purpose of advertising any article of any kind, or to display thereupon advertisements of any article or advertisement for the sale of the vehicle itself.

(Ord. No. 2903, 12-13-05)

Sec. 21-305. Washing or greasing vehicle on highway or 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.

(Ord. No. 2903, 12-13-05)

Sec. 21-306. Backing to curb.

No vehicle shall be backed to a curb, except during the time actually engaged in loading or unloading merchandise therefrom.

(Ord. No. 2903, 12-13-05)

Sec. 21-307. Reserved.

Editor's note(s)—Ord. No. 2988, adopted June 26, 2007, repealed § 21-307, which pertained to parking vehicle without current state license and derived from Ord. No. 2903, 12-13-05.

Sec. 21-308. Parking in street sweeping zones.

It shall be unlawful for any person to park any vehicle in a "no parking" zone designated for street sweeping during the respective hours as noted. It shall also be unlawful for any person to park any vehicle in a zone scheduled for street sweeping when proper notification has been given by the City through the placement of a notice on the windshield of vehicles located in the sweeping zone. The City has the right to remove any vehicle located within these zones during the designated times of street sweeping.

(Ord. No. 2903, 12-13-05)

Sec. 21-309. Manner of using loading zones.

Where a loading or unloading zone has been set apart by the Director of Public Works 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 (3) 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.

(Ord. No. 2903, 12-13-05)

Sec. 21-310. Manner of using bus stops and taxicab stands.

Where a bus stop has been set apart by the Director of Public Works in accordance with the applicable provisions of this Chapter or where a taxicab stand has been designated in accordance with Section 36-78 of this Code, the following regulations shall apply as to the use thereof: No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, where such stop or stand 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 or taxicab waiting to enter or about to enter such zone.

(Ord. No. 2903, 12-13-05)

Sec. 21-311. Contest of parking citations.

Any person who shall desire to contest a parking citation shall present the citation at any office of the City Treasurer, who shall certify it on an appropriate form to the General District Court.

(Ord. No. 2903, 12-13-05)

Sec. 21-312. Penalty for violations of division; fine for failure to pay in timely manner.

- (a) Unless otherwise provided, when a notice or citation is attached to a vehicle or given to a driver pursuant to this Division, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of the violation, a penalty of thirty-five dollars (\$35.00). Such payment shall constitute a plea of guilty to the violation. If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice or citation, the penalty shall be seventy dollars (\$70.00).
- (b) Any owner who, within thirty (30) days of notice or citation issuance, fails to either make payment as provided by this Division, or to present the citation or notice of violation at any office of the City Treasurer for certification to the general district court, shall be subject to a supplementary fine of not more than fifty dollars (\$50.00) in addition to the penalty set forth in this Division.

(Ord. No. 2988, 6-26-07)

Secs. 21-313—21-319. Reserved.

DIVISION 2. PARKING METERS

Sec. 21-320. Installation, maintenance, required signals, etc.

The City Manager shall have the authority to provide for the installation or placing of parking meters within the City and the regulation, control, operation and use thereof in accordance with the provisions of this Division and shall maintain such meters in good working condition. Such parking meters shall be placed upon the curbing immediately adjacent to individual parking spaces designated as provided in this Division. Each parking meter shall be placed or set in such a manner as to show or display a signal that the parking space assigned to it is or is not legally in use and to display, upon deposit of the proper coin of the United States of America therein, a signal indicating legal parking time for the time allotted for such coin for the part of the street upon which such meter is placed. Each meter shall be so arranged that, upon the expiration of such parking limit, or the portion thereof for which the necessary coin or coins have been deposited, it will indicate, by mechanical operation and proper signal, that the lawful parking period has expired.

(Ord. No. 2903, 12-13-05)

Sec. 21-321. Designation of and method of parking in meter spaces.

- (a) The City Manager or such officers and employees of the City as he shall select shall place lines or markings on the curb or in the street about or alongside of each parking meter installed pursuant to the provisions of this Division, to designate the parking meter space for which such meter is to be used. It shall be unlawful for any person to park any vehicle in any such space, except within the lines and markings designating such space.

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- (b) When a parking space in any parking meter zone is parallel with the adjacent curb or sidewalk, any vehicle parked in such space shall be parked so that the foremost part of such vehicle shall be alongside of and nearest to the parking meter. When a parking space in any parking meter zone is diagonal to the curb or sidewalk, any vehicle parked in such parking space shall be parked with the foremost part of such vehicle directed at and nearest to such meter.
 - (c) The number of vehicles allowed to be parked in a designated parking space in a parking meter zone shall be limited to one (1) vehicle per space.

(Ord. No. 2903, 12-13-05)

Sec. 21-322. Deposit of coin required; exemption for senior citizens; overtime parking generally.

- (a) When any vehicle shall be parked in any parking meter space designated as provided in this division, the operator of such vehicle shall, upon entering such space, immediately deposit, or cause to be deposited, one or more coins of the United States of America in the parking meter adjacent thereto, and such space may then be lawfully occupied by such vehicle during the period of parking time calculated at an hourly rate in an amount to be determined by the city manager or his designee, not to exceed, however, the maximum time prescribed by section 21-423. If such vehicle shall remain in such parking space beyond the period of parking time calculated at an hourly rate in an amount to be determined by the city manager or his designee, the parking meter shall display a sign or signal showing illegal parking, in which event, the vehicle parked in such parking space shall be considered as parked overtime and beyond the period of legal parking time.
- (b) Notwithstanding the provisions of subsection (a) above, the City Manager or his designee may issue a parking permit to any citizen of the City who is sixty-five (65) years of age or older, which will allow the permittee to park in metered spaces in the area commonly known as Rudee Inlet Loop Wayside without depositing a coin or coins.
- (c) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle to be parked overtime or beyond the period of legal parking time established for any parking space provided for in this division. It shall likewise be unlawful for any person to permit a vehicle to remain or to be parked in any parking space adjacent to any parking meter installed pursuant to the provisions of this Division 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.

(Ord. No. 2903, 12-13-05; Ord. No. 3074, 3-24-09)

Sec. 21-322.1. Veterans' paid parking exemption.

- (a) A veteran to whom special license plates issued under Virginia Code Sections 46.2-741 (Pearl Harbor Survivor), 46.2-742 (Purple Heart), 46.2-742.1 (Bronze Star or Silver Star), 46.2-742.1:1 (Air Medal), 46.2-742.2 (Navy Cross, Distinguished Service Cross, Air Force Cross, or Distinguished Flying Cross), 46.2-745 (Medal of Honor), 46.2-746 (Prisoner of War), or 46.2-739 (Service-Disabled Veterans) have been issued, or a person transporting such veteran in a motor vehicle displaying special license plates, may park such motor vehicle, without charge, in a parking space in a City parking facility or a metered parking space.
- (b) This section shall not exempt a vehicle displaying special license plates from compliance with any other state law or ordinance, including, but not limited to, limitations on the types of vehicles that may park in certain reserved parking spaces and time-based restrictions on parking in City parking facilities or metered parking spaces.

(Supp. No. 159, Update 1)

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(Ord. No. 3029, 6-10-08; Ord. No. 3466, 11-1-16)

Sec. 21-323. Parking for more than three hours in metered space; exemption for senior citizens.

Notwithstanding any other provisions of this Division, and whether or not coins have been deposited in a parking meter, no person shall park a vehicle in any parking space in a parking meter zone established by this Division for longer than three (3) hours at any one time. The three-hour limit shall not apply to any citizen of the City who is sixty-five (65) years of age or older who is parked in a metered space in the area commonly known as Rudee Inlet Wayside Loop and who has been issued and displays a permit obtained under the provisions of Section 21-322(b).

(Ord. No. 2903, 12-13-05)

Sec. 21-324. Hours and dates during which Division is applicable.

- (a) The provisions of this division shall apply to parking twenty-four (24) hours per day in all areas, every day including federal and state legal holidays and Sundays from April first to November first of each calendar year.
- (b) Pursuant to section 21-320, the city manager shall have the authority to designate specific areas in which the hours and/or dates that the provisions of this division is applicable are different from the hours and/or dates set forth in subsection (a), provided that any such area is clearly identified by signs, curb markings or other means.

(Ord. No. 2903, 12-13-05; Ord. No. 3074, 3-24-09)

Sec. 21-325. Use of metered space without deposit for loading, unloading, etc.

Operators of delivery vehicles may use, without deposit, any parking meter space referred to in this Division during the actual loading and unloading of such delivery vehicles. Operators of passenger vehicles, commercial or private, may use, without deposit, such a parking meter space for the purpose of promptly receiving or discharging any passenger.

(Ord. No. 2903, 12-13-05)

Sec. 21-326. Establishment of loading zones, bus stops, etc., in meter zones.

The Director of Public Works may set apart, within the parking meter zones established by this Division, spaces for loading zones, bus stops and other places in which no parking by the general public shall be permitted; provided, however, that taxicab stands within such parking meter zones shall be designated as provided in Section 36-78 of this Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-327. Purpose of required deposits.

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 on the public streets and to cover the

cost of the supervision, inspection, installation, operation, maintenance, control and use of the parking meter spaces and regulating the parking of vehicles in the parking meter zones established by this Division.

(Ord. No. 2903, 12-13-05)

Sec. 21-328. Appointment of persons to enforce Division.

The City Manager is authorized to appoint city personnel and/or personnel serving under contract with the City to enforce the provisions of this Division, except Section 21-331, in addition to the regular police officers of the City. Such personnel shall wear a uniform as prescribed by the City Manager.

(Ord. No. 2903, 12-13-05)

Sec. 21-329. Duty of enforcing officers or persons with reference to violations of Division.

Each police officer or other person charged with the duty of enforcing this Division shall take the number of any parking meter at which any vehicle is parked in violation of this Division, the tag number of such vehicle and the length of time during which such vehicle is parked in violation of any provision of this Division and report the same to the police department and make proper complaint touching such violation. Each such officer shall attach to the vehicle in question a notice to the owner thereof that such vehicle has been parked in violation of a provision of the parking meter regulations and instructing such owner when and where to report with reference to such violation.

(Ord. No. 2903, 12-13-05)

Sec. 21-330. Prepayment of penalty for parking in metered spaces in violation of division.

- (a) When a notice is attached to a vehicle pursuant to section 21-329, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of the violation for which the notice was given, a penalty of twenty dollars (\$20.00) for each hour or fraction thereof during which such vehicle occupied a parking meter space illegally. Such payment shall constitute a plea of guilty to the violation in question. If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice, the penalty for each hour or fraction thereof during which such vehicle occupied a parking meter space illegally shall be forty dollars (\$40.00).
- (b) The failure of any owner to make payment in accord with subsection (a) above or present the citation or notice of violation at any office of the City Treasurer for certification to the General District Court, within thirty (30) days shall render such owner subject to a fine of not more than fifty dollars (\$50.00) in addition to the penalty set forth in subsection (a).

(Ord. No. 2903, 12-13-05; Ord. No. 3349, 5-13-14, eff. 7-1-14)

Sec. 21-331. Injuring, defacing, 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 pursuant to this Division.

(Ord. No. 2903, 12-13-05)

Sec. 21-332. Division does not affect other provisions as to traffic or parking.

Nothing in this Division shall alter or affect any other provision of this Code or ordinance, rule or regulation of the City relating to traffic or parking on any street, alley, lane or highway within the City, other than those included within the parking meter zones established by this Division.

(Ord. No. 2903, 12-13-05)

Secs. 21-333—21-349. Reserved.

DIVISION 3. RESIDENTIAL PARKING PERMITS

Sec. 21-350. Objectives.

This Division is adopted in order to reduce nighttime traffic congestion in public streets within residential neighborhoods; to reduce hazardous traffic conditions during nighttime hours in residential neighborhoods caused by the use of such streets for vehicular parking by persons attempting to avoid the use of nearby city meter-regulated parking; to protect residents of such neighborhoods from unreasonable noise and disturbance during nighttime hours; to protect such residents from unreasonable burdens in gaining access to their residences; and to protect and preserve the peace, good order, convenience and character of residential neighborhoods located in close proximity to commercial areas of the City.

(Ord. No. 2903, 12-13-05)

Sec. 21-351. Definitions.

As used in this Division:

- (a) *Eligible business* shall mean a business located on or between the west side of Atlantic Avenue and the east side of Pacific Avenue, from Rudee Loop to 29th Street, or located on Winston Salem Avenue, but only if the business has not been authorized to reduce the required parking of such business. With respect to the east side of Atlantic Avenue, "eligible business" includes only those businesses for which one or more employees were issued, in calendar year 2021, a monthly business parking permit in accordance with this Division.
- (b) *Motor vehicle* shall have the meaning set forth in § 46.2-100 of the State Code, and shall also include mopeds and motorcycles, as defined therein.
- (c) *Residence* shall mean a single-family dwelling or a dwelling unit, as defined in Section 111 of the City Zoning Ordinance [Appendix A].
- (d) *Residential area* shall mean an area designated on the zoning map of the City as a residential zoning district or an area containing streets primarily abutted by residences or other noncommercial uses, including, but not limited to, schools, parks and churches.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-352. Designation of residential permit parking areas.

The City Manager or his designee is hereby authorized to designate as residential permit parking areas street blocks within any residential areas, or part thereof, which is located within one-half mile of a city meter-regulated parking area.

The City Manager or his designee is hereby authorized to create a resident induction policy for new neighborhoods or street blocks that are located with the residential parking permit regulated area.

The City Manager or his designee is hereby authorized to administratively remove a neighborhood or street blocks from the residential parking program when the dominant land use (seventy-five (75) percent of the parcels) on the street block is no longer used for residential purposes.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-353. Parking restrictions.

- (a) In any area designated as a residential permit parking area, it shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on the street.
- (b) In any area designated as a residential permit parking area, it shall be unlawful for any person to park any motor vehicle on the street between the hours of 8:00 p.m. and 6:00 a.m. unless the vehicle owner has a valid residential parking permit; provided, however, that the provisions of this Section shall not apply to emergency or governmental vehicles, to delivery or service vehicles while engaged in such delivery or service, or to vehicles displaying a valid guest pass plainly visible from the exterior of the vehicle.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-354. Permits generally.

- (a) Following the designation of a residential permit parking area by the City Manager or his designee, the city's parking management office shall issue annual residential parking permits for the area so designated. One (1) permit shall be issued, upon application and payment of the prescribed fee, if applicable, for each motor vehicle owned by a person residing on a street within the residential permit parking area, or on a street within a residential area that is contiguous to the residential permit parking area as specified in subsection (b).
- (b) An applicant for a permit shall present his motor vehicle registration and operator's license with the application. No permit shall be issued in the event either the registration or operator's license shows an address not within a designated residential permit parking area, unless the applicant demonstrates to the satisfaction of the city's parking management office that he is, in fact, a resident of such area, or that he is a resident of a residential area which is contiguous to a designated residential permit parking area and in which neither off-street nor nonmeter-regulated on-street parking is available. Any applicant who is a resident of such a contiguous residential area shall, upon receipt of a permit issued hereunder, be permitted to park in the designated residential permit parking area. Registered residential parking permit holders may obtain annual or temporary guest passes by applying to the city's parking systems management office. Temporary guest passes shall be issued and validated for up to seventy-two (72) hours.
- (c) Monthly business parking permits shall be issued by the city's parking systems management office to businesses licensed to operate in city meter-regulated parking areas. A current valid business license must be

presented by the business owner or his designee to the city's parking systems management office at the time a request is made for annual business parking permits. The number of permits issued to a single business shall be limited to the maximum number of employees required to work after 8:00 p.m. Employees of eligible businesses may purchase employee parking permit passes directly from the city's parking management office after verification of employment with an eligible business. Any business that has been authorized to reduce the required parking of such business shall not be eligible for such monthly business parking permits.

- (d) Permits issued pursuant to subsection (a) shall not be transferable, and may be revoked in the event the city's parking management office determines that the owner of the vehicle for which a permit has been issued no longer resides in the residential permit parking area. Upon written notification of such revocation, the holder of the permit shall surrender such permit to the city's parking management office. The willful failure to surrender such permit shall be punishable by a fine in the amount of twenty-five dollars (\$25.00).
- (e) Permits issued pursuant to subsection (c) shall be transferable, and may be revoked in the event the city's parking management office determines that the number of permits exceeds the allowable number according to the criteria set forth in subsection (c).
- (f) A replacement permit shall be issued upon proof of loss, theft or damage of the original permit, and payment of the replacement fee prescribed in section 21-359.

(Ord. No. 2903, 12-13-05; Ord. No. 3057, 11-25-08; Ord. No. 3407, 5-12-15, eff. 7-1-15; Ord. No. 3523, 12-5-17; Ord. No. 3692, 4-19-22)

Sec. 21-355. Signs.

Following the designation of a residential permit parking area, the traffic engineer shall cause to be posted in appropriate locations within such area signs indicating the restrictions set forth in section 21-353.

(Ord. No. 2903, 12-13-05)

Sec. 21-356. Unauthorized use or display of permit.

It shall be unlawful for any person to use or display, or to allow to be used or displayed, a permit issued under this Division upon any vehicle other than the vehicle for which the permit was issued.

(Ord. No. 2903, 12-13-05)

Sec. 21-357. Obtaining permit by false pretenses.

It shall be unlawful for any person falsely to represent himself as eligible for a permit under this division or to furnish any false information in, or in conjunction with, an application for a residential parking permit.

(Ord. No. 2903, 12-13-05)

Sec. 21-358. Penalties for violation of residential parking restrictions.

- (a) When a notice or citation is attached to a vehicle parked in violation of section 21-353, the owner may within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of such violation, a penalty of seventy dollars (\$70.00). If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice or citation, the penalty therefore shall be one

hundred forty dollars (\$140.00). Additionally, any vehicle parked in violation of section 21-353 may be towed at the direction of a law enforcement officer.

- (b) The failure of any owner to make payment in accordance with subsection (a) above or to present the notice or citation for a violation of section 21-353 at an office of the City Treasurer for certification to the General District Court within thirty (30) days shall render such owner subject to a fine of not more than fifty dollars (\$50.00) in addition to the penalty set forth in subsection (a) above.
- (c) A violation of section 21-356 or 21-357 shall be punishable by a fine in an amount not to exceed one hundred dollars (\$100.00).

(Ord. No. 2903, 12-13-05; Ord. No. 3306, 9-24-13)

Sec. 21-359. Fees.

Fees required under this division shall be set in an amount to be determined by the City Manager or his designee. For a temporary guest permit, no fee. No more than ten (10) temporary guest permits shall be issued per week per residence. The city's parking systems management office may consider requests for more than ten (10) temporary guest permits per week per residence on a case-by-case basis.

(Ord. No. 2903, 12-13-05; Ord. No. 3057, 11-25-08; Ord. No. 3407, 5-12-15, eff. 7-1-15; Ord. No. 3448, § 1, 4-19-16)

Sec. 21-360. Appointees to enforce parking regulations.

The City Manager shall be authorized to appoint city personnel and/or personnel serving under contract with the city, in addition to regular police officers of the city, to enforce the provisions of this Division. Such personnel shall, while performing their duties pursuant to this Division, wear a uniform prescribed by the City Manager.

(Ord. No. 2903, 12-13-05)

DIVISION 4. RESERVED

Secs. 21-361—21-380. Reserved.

DIVISION 5. CAVALIER SHORES RESIDENTIAL PERMIT PARKING PILOT PROGRAM¹³

Sec. 21-381. Objectives.

This Division is adopted as a temporary pilot program in order to mitigate traffic congestion and parking scarcity on public streets within the Cavalier Shores Neighborhood adjacent to an ongoing construction project.

(Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22)

¹³Editor's note(s)—Ord. No. 3689, adopted March 15, 2022 extended the one-year temporary pilot program. This ordinance shall automatically sunset and expire on April 5, 2023.

Sec. 21-382. Definitions.

As used in this division:

- (a) *Motor vehicle* shall have the meaning set forth in Code of Virginia, § 46.2-100, and shall also include mopeds and motorcycles, as defined therein.
- (b) *Cavalier Shores Neighborhood* refers to all on-street parking on the south side of 45th Street; the alley between 45th Street and 44th Street; both sides of 44th, 43rd ½, 43rd, and 42nd ½ Streets; the north side of 42nd Street; the alley that runs parallel to the west side of Atlantic Avenue from Cavalier Drive to 45th Street; and the north side of Cavalier Drive between Holly Road and Atlantic Avenue.

(Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22)

Sec. 21-383. Parking restrictions.

- (a) It shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on any street in the Cavalier Shores Neighborhood.
- (b) It shall be unlawful for any person to park a motor vehicle on any street in the Cavalier Shores Neighborhood, where notice of these restrictions have been conspicuously posted in accordance with this Division, for longer than a four-hour period in any day unless there is affixed to the driver's side exterior surface of the windshield of such motor vehicle a valid residential parking permit or a temporary guest pass as authorized by subsection 21-354(b) hanging from the rearview mirror.

(Ord. No. 3582, 3-5-19; Ord. No. 3687, 4-6-21; Ord. No. 3689, 3-15-22)

Sec. 21-384. Permits generally.

The City Treasurer or the city's parking management office shall issue residential parking permits pursuant to this division in accordance with the procedures set forth in section 21-354. However, no permit shall be issued pursuant to this section for employee parking in the Cavalier Shores Neighborhood.

(Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22)

Secs. 21-385—21-399. Reserved.

**ARTICLE IV. USE OF TOW TRUCK SERVICE TO ENFORCE PARKING RESTRICTIONS
ON PRIVATE PROPERTY**

Sec. 21-400. Definitions.

Unless a different meaning is required by the context, the following terms, as used in this Division, shall have the meaning hereinafter respectively ascribed to them:

Custodian means any person who is in possession and control of a vehicle whether or not such person is the registered owner of the vehicle. A person who is in possession of the ignition key to a vehicle, and who is also in possession of a valid driver's license, shall be deemed to be the "custodian" of such vehicle.

Decal-controlled parking area means a parking area in which parking is limited to vehicles on which a decal, sign, placard or similar authorization issued by the owner, lessee or agent of the parking area is conspicuously displayed.

Operator means any person operating a tow truck for a tow truck service.

Tow truck service means a person engaged in any business which provides the services of one (1) or more tow trucks for hire or use to tow, transport or move motor vehicles on or from public streets or on or from private property by way of public streets.

Tow truck service storage yard means any property, including the premises of any service station, upon which vehicles are stored that have been towed from privately owned lots or property at the request of the owner, lessee or agent of such lot or property and without the consent of the owner of the vehicle towed.

(Ord. No. 2903, 12-13-05)

Sec. 21-401. Applicability of Division.

The provisions of this Division shall apply only to tow services which tow vehicles on or from privately owned lots or property, at the request of the owner of such lot or property and without the consent of the owner of the vehicle towed.

(Ord. No. 2903, 12-13-05)

Sec. 21-402. Violations of Division.

- (a) It shall be unlawful for any person to violate or refuse, fail or neglect to comply with any of the provisions of this Division. Each day that a continuing violation of the provisions of any section of this Division occurs shall constitute a separate violation.
- (b) Any person violating any provision of this Division shall be guilty of a Class 1 misdemeanor.

(Ord. No. 2903, 12-13-05)

Sec. 21-403. Signs required on property.

- (a) Each owner of private property having parking facilities accessible to the public, and offering parking to its customers, clientele, residents, lessees or guests, who intends to enforce parking restrictions by the use of a tow truck service, shall post, at each point of ingress and egress to the parking area, clearly legible signs, visible and unobstructed day and night upon entering the parking area, that contains the following wording and sets forth the hours of enforcement:

PRIVATE PARKING
NAME OF BUSINESS
RESIDENTS/CUSTOMERS/CLIENTELE/
LESSEES/GUESTS ONLY
TOWING ENFORCED

HOURS OF ENFORCEMENT

Unauthorized cars towed at owner's expense: \$_____ day or night. Call (telephone number of tow truck service) for location and information concerning return of car if towed. With respect to retail establishments, this sign shall also contain the wording "WHILE ON THE PREMISES" following the wording "CUSTOMERS ONLY." Finally, this sign or an accompanying sign shall indicate whether the parking area is decal-controlled and shall contain the name and telephone number of any contracted towing service.

- (b) The signs required by this Section shall be at least thirty-six (36) inches in width and thirty (30) inches in height. Lettering for the capitalized words shall be at least three (3) inches in height and, for all other lines, at least one and one-half (1½) inches in height. The face of the sign shall be composed of engineering grade reflectorized sheeting or like material. The name of the business may be on a separate sign, but must be adjacent to the primary sign containing the information required by this Section. The provisions of subsection (a) above shall be applicable to any parking area located on private property including parking areas of apartment houses, condominiums and nonprofit organizations.
- (c) In addition to the provisions of subsections (a) and (b) above, if towing is enforced twenty-four (24) hours a day, the sign or signs required by this section shall include the wording "TOWING ENFORCED TWENTY-FOUR (OR 24) HOURS A DAY" in letters at least three (3) inches in height. In the alternative, an accompanying sign containing this wording in letters of the same height may be placed adjacent to each sign required by subsection (a) above.
- (d) Vehicles may be towed from designated fire lanes approved by the fire department on private parking areas open to the public on which are posted signs as required by subsection (a) above, provided that such fire lanes are properly marked, including the posting of above grade signs stating FIRE LANE-TOWING ENFORCED.
- (e) It shall be unlawful for any tow truck service or operator to tow or otherwise move a vehicle from any privately owned land or property within the City, unless such land or property is properly signed in accordance with this Section.
- (f) An owner or operator of private property who enforces parking restrictions on the property by use of a tow truck service shall offer a copy of the survey and comment form developed by the Towing Advisory Board to anyone who contacts the owner, operator, or any employee or representative of the owner or operator, regarding a vehicle that has been towed or released after hookup from the owner's property.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06)

Sec. 21-403.1. Written authorization required.

- (a) No tow truck service or operator shall remove any trespassing vehicle from private property without first obtaining, at the time the vehicle is towed, specific written authorization of the owner of the property from which the vehicle is towed, or the owner's agent. Such written authorization shall identify the vehicle to be towed by make, model, and color and shall include the legibly printed name of the agent or owner, as well as the agent's or owner's signature. This written authorization shall be in addition to any written contract between the tow truck service and the owner of the property or his agent. For purposes of this subsection, "agent" shall not include any person who either (i) is related by blood or marriage to the towing and recovery operator or (ii) has a financial interest in the towing and recovery operator's business.
- (b) Written authorization shall not be required if the owner or operator of the private property is a business and the business is closed at the time of the tow.
- (c) This section shall not apply to residential parking lots, decks, garages, or spaces.

(Ord. No. 2954, 6-27-06)

Sec. 21-404. Business license requirements; identification of tow trucks.

- (a) No tow truck service or operator shall remove any vehicle from public or private property unless the tow truck service possesses a valid business license issued in accordance with Chapter 18 of this Code.
- (b) All tow trucks operated by a tow truck service shall display the name, address and telephone number of the owner thereof on both sides of the tow truck on permanently mounted signs or painted directly on the body of the truck in reflectorized letters large enough to be readily legible, but in no case less than two (2) inches in height. It shall be unlawful to operate a tow truck displaying an incorrect name or address, or a telephone number which is incorrect or not in service.

(Ord. No. 2903, 12-13-05)

Sec. 21-405. Release of vehicle to owner or custodian prior to towing.

- (a) If the owner or custodian of any vehicle not authorized to be parked in a private parking area returns after a tow truck service has arrived but before the vehicle has been towed from the private parking area, he may reclaim the vehicle whether or not it is fully hooked up to the tow truck, and it shall be unlawful for the tow truck service or operator to refuse to release the vehicle. However, if the vehicle has been hooked up, or is in the process of being hooked up, the tow truck operator may charge a drop fee not to exceed twenty-five dollars (\$25.00) before releasing the vehicle or discontinuing the towing process. The process of hooking up shall be defined as (i) the removal and/or unreeling of any towing equipment from the tow truck after the truck is positioned to effect the tow, whether or not the equipment has been attached to the vehicle, or (ii) the lowering of a hydraulically-operated lift in preparation for loading the vehicle.
- (b) If the owner or custodian is unable or refuses to pay the fee set forth in subsection (a) above, the vehicle may be towed and the tow truck service may charge its basic fee for the tow. Whenever a vehicle is towed under these circumstances, the tow truck operator shall permit the owner or custodian to remove personal items from the vehicle prior to the tow.
- (c) No tow truck operator shall request payment of the fee set forth in subsection (a) above or tow any vehicle thereafter if the charge is not paid unless he shall first provide to the owner or custodian of the vehicle a copy of this section. The tow truck operator, upon receiving such payment, shall provide to the owner or custodian a legible receipt containing the name of the towing service, the date, time and place of vehicle release, and the name of the tow truck operator. A copy of the receipt shall be retained by the tow truck service for a period of one (1) year and shall be made available for inspection by City police or the Commissioner of the Revenue during the normal business hours of the tow truck service.
- (d) Notwithstanding any provision of this Section to the contrary, if a police officer determines that a vehicle is needed as evidence in a criminal matter, or concludes that, based upon surrounding circumstances, the failure to release a vehicle is likely to result in a disturbance of the public peace and good order, such officer may order release of the vehicle without immediate payment by the owner or custodian thereof of the fee set forth in subsection (a) above; provided, however, that nothing herein shall preclude a tow truck service or operator from civilly pursuing payment of such fee at a later date from the owner or custodian of the vehicle, or from the owner, lessee or agent of the parking area.

(Ord. No. 2903, 12-13-05)

Sec. 21-406. Emergency communications and citizen services to be notified of removal of vehicle.

- (a) At the time of removal of any vehicle by a tow truck service operator, or no later than thirty (30) minutes thereafter, the tow truck service shall notify emergency communications and citizen services operations of such removal by calling 3-1-1 or 385-3111, and specifying the location of the storage yard to which the vehicle will be towed and the telephone number which the owner should call to reclaim the vehicle. Emergency communications and citizen services operations shall be given the license number and state of issuance of the license and, if known, the vehicle identification number and the make, model, and year of the vehicle towed or to be towed.
- (b) If notified by emergency communications and citizen services operations or any law enforcement officer that the vehicle is subject to seizure by law enforcement authorities for evidentiary purposes, the tow truck operator or towing service shall forthwith relinquish the vehicle to such authorities and shall not be entitled to recover any costs or fees.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06; Ord. No. 3148, 8-10-10)

Sec. 21-407. Charges for towing and storage of vehicle; receipt required.

- (a) No tow truck service or operator operating within the City shall, at any time, charge a basic towing fee greater than the fees set forth below:

Gross weight of vehicle	Maximum fee
11,000 pounds or less	\$145.00
11,001 pounds or more	285.00

The basic fee shall be inclusive of any additional towing services such as the use of a dolly. This subsection shall apply only when a vehicle is moved or towed without the prior consent and agreement of the owner or custodian of the vehicle.

- (b) No tow truck service or operator shall assess any charges for storage for the initial twenty-four (24) hours, nor charge more than twenty-five dollars (\$25.00) per twenty-four-hour period thereafter, for any vehicle with a gross weight of eleven thousand (11,000) pounds or less removed from private property without the consent of the owner or custodian of the vehicle, whether such tow originates in this City or any other jurisdiction. For vehicles with a gross weight of more than eleven thousand (11,000) pounds, a storage fee not to exceed twenty-five dollars (\$25.00) per twenty-four-hour period may be assessed after the first twenty-four (24) hours. Delays caused by storage yard personnel shall not be included when computing storage charges.
- (c) If any vehicle is not redeemed within seventy-two (72) hours after it is towed, the tow truck service shall be entitled to recover an additional fee, not to exceed seventy-five dollars (\$75.00), as payment for the cost of any search conducted to determine the registered owner and lien holder, if any, of the vehicle.
- (d) No tow truck service or operator shall charge any fee for mileage, or any other fee in addition to the basic towing fee set forth in subsection (a) above. In order to ensure that no tow truck service or operator collects more than the fees authorized by this section, tow truck services and operators shall provide change for cash payments made by any person whose vehicle has been towed or released after hook up.
- (e) A monetary receipt for each and every fee collected must be given to those persons whose vehicles have been towed by a tow truck service, or released after hook up, upon release of the vehicle. The information

on the receipt must be clearly legible and include the time, date and place of the tow, the name of the tow truck operator who made the tow, and the name of the tow truck service for which said operator works. The receipt must also list the amount of money paid for the release of the vehicle, any additional charges incurred in the tow, and the reason for said additional charges. The following shall be printed conspicuously on every receipt: "NOTICE: Virginia Beach City Code § 21-407(f) requires the tow company to offer you a Survey and Comment Form with this receipt." A copy of the receipt must be retained by the tow truck service for a period of one (1) year and shall be made available for inspection by city police or the Commissioner of the Revenue during normal business hours of the tow truck service owner.

- (f) A survey and comment form, developed by the Towing Advisory Board, shall be offered to those persons whose vehicles have been towed by a tow truck service, or released after hookup, upon release of the vehicle.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06; Ord. No. 2949, 6-27-06; Ord. No. 2974, 4-10-07; Ord. No. 3212, 1-10-12; Ord. No. 3299, 7-9-13)

Sec. 21-408. Requirements for storage yard.

- (a) At the storage yard of each tow truck service, there shall be a sign prominently displayed specifying tow and storage rates.
- (b) If an attendant is not on duty twenty-four (24) hours a day, seven (7) days a week, to return vehicles upon the payment of towing and storage charges, the sign provided for in subsection (a) hereof shall also contain a telephone number where the owner, manager or attendant of the tow truck service storage yard may be reached at any time so that a towed vehicle may be reclaimed by its owner in a minimum amount of time, not to exceed two (2) hours.
- (c) Each tow truck service storage yard shall provide reasonable security and protection for all vehicles towed, whether such tow originates in this City or any other jurisdiction, including illumination of the storage area during hours of darkness, and including a fence enclosing the storage yard if an attendant or security guard is not on duty twenty-four (24) hours a day, seven (7) days a week.
- (d) During the hours of darkness, the operator shall provide an area sufficiently illuminated to enable an owner to inspect a vehicle prior to removing it from the storage yard.
- (e) It shall be unlawful to operate any tow truck service storage yard or to deposit, impound or store any towed vehicle therein, unless said yard is in full compliance with the sign, security and lighting requirements of this Section and with all applicable zoning regulations, licensing requirements and use permits, established by this Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-409. Tow truck service operator's log.

Tow trucks service operators shall, within thirty (30) minutes of vehicle hook up, complete a record of the make, model, year and vehicle identification number, if known, of the vehicle, its license number and state of issuance, the time, date and place of removal, the name of the tow truck operator who made the tow and, for each entry of tow, the signature of the owner of the private lot, or his representative, requesting and authorizing the tow shall be required. A letter of authorization from the owner of the private lot or his representative, when carried in the tow truck making the tow, shall be sufficient to meet this latter requirement. Such record shall be retained by the tow truck service for not less than one (1) year, and shall be available for inspection by City police during normal business hours of the tow truck service owner, including any time that a vehicle is being impounded

or reclaimed. Failure to keep and retain such a record, or omitting to make a true and complete entry for each vehicle towed, or failure to surrender such record to any police officer upon request shall be unlawful.

(Ord. No. 2903, 12-13-05)

Sec. 21-410. Miscellaneous prohibited acts by tow truck service or operator.

Except when acting as an agent in the legal repossession of a vehicle, it shall be unlawful for any tow truck service or operator to:

- (1) Tow or otherwise move a vehicle from any area or portion of a public street without either the consent of the owner or custodian of the vehicle or authorization from a police officer or other designated official of the City.
- (2) Block the movement of or tow or otherwise move a vehicle from any private road, driveway or any other privately owned land or property within the City without the consent of the owner or custodian thereof, unless:
 - (i) The vehicle is parked in a designated parking space of a decal-controlled parking area and is not displaying a decal or other form of authorization issued by the owner, lessee or agent of such parking area;
 - (ii) The vehicle is parked in a designated parking space of a non-decal-controlled parking area during any period when the business(es) serviced by the parking is (are) open, and the tow truck operator obtains the written consent of the owner, lessee or agent of such parking area prior to towing the vehicle; or
 - (iii) The vehicle is parked in a non-decal-controlled parking area during any period when the business(es) serviced by the parking area is (are) closed, and towing is enforced twenty-four (24) hours a day by such business(es); or
 - (iv) The vehicle is parked on any portion of a parking area in such manner as to block ingress or egress to the parking area, or to block access to a dumpster or properly marked service or delivery area, or is otherwise parked in a portion of the parking area that is not specifically designated, by lines, curbs or similar markings, as an area for the parking of vehicles.

No vehicle shall be towed pursuant to subsections (i) (ii), (iii), or (iv) unless there is a written contract between the tow truck service and the owner, lessee or agent of the parking area to remove all unauthorized vehicles from the parking area, the tow truck operator has a copy of such contract in his or her possession, and the owner, lessee or agent has complied with all of the signage requirements set forth in Section 21-403.

- (3) Tow or otherwise move a vehicle from any private road or driveway, or from any other privately owned land or property within the City to a place out of the City without the consent of the owner or custodian of the vehicle; provided that, after a period of not less than twenty-four (24) hours following the initial towing of a vehicle, as recorded in the police dispatcher's log, any such vehicle may be moved to a storage area located outside of the City, with prior notification to and approval of the police department. Notwithstanding the above, if a tow truck service or operator owns or leases a storage area located outside of the City, and such storage area is closer to the location from which a vehicle is towed than the closest in-city storage area owned or leased by the tow truck service or operator, such vehicle may be initially towed to the storage area located outside of the City, provided the tow truck service or operator is authorized to do business in both cities, charges a fee not greater than that fee authorized in Virginia Beach and invoices the tow in Virginia Beach.

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- (4) Block any vehicle, other than when on the property of the tow truck service, to prevent the movement thereof by its owner or custodian who has appeared prior to the vehicle being hooked up and desires to move the vehicle.
 - (5) Wait for employment by standing or parking on public property.
 - (6) Drive a tow truck or wrecker along any street to solicit towing.
 - (7) Tow or otherwise move a vehicle from any place in the city utilizing a wrecker or tow truck which is not insured as required by Section 18-55.1 of this Code.
 - (8) Provide false information to any police dispatcher concerning any vehicle towed.
 - (9) Require the owner of any towed vehicle to wait for a period exceeding two (2) hours for release of a vehicle. Any delay over two (2) hours caused by failure to monitor or respond to calls placed to the operator's designated telephone number shall constitute a violation of this Section.
 - (10) Move any vehicle to any intermediate place of storage, or to any location other than to the registered secure storage yard of a tow truck service, unless specifically requested by the owner or custodian of said vehicle.
 - (11) During the initial twenty-four (24) hours after the vehicle is towed and upon request by any owner or custodian of a currently licensed vehicle, deny or prevent access to said vehicle for the purpose of removing personal items, whether or not the owner or custodian is then able to reclaim the vehicle. After the initial twenty-four (24) hours has expired and upon the request by any owner or custodian of a currently licensed vehicle, no tow truck service or operator shall refuse to allow such owner or custodian access to such vehicle once per day between the hours of 8:00 a.m. and 5:00 p.m.
 - (12) Assess or collect any charge or fee in excess of, or in addition to, the charges and fees authorized by this division.
 - (13) Fail to provide a monetary receipt, for each and every fee collected, containing the notice provision outlined in Section 21-407(e).
 - (14) Fail to make the survey and comment form developed by the Towing Advisory Board available when the vehicle is retrieved.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06)

Secs. 21-411—21-499. Reserved.

ARTICLE V. VEHICLE SIZE, WEIGHT AND LOAD

Sec. 21-500. Temporary reduction of weight limit.

- (a) The City Manager may make, promulgate and enforce rules and regulations decreasing the weight limits prescribed in Sections 46.2-1122 through 46.2-1127 of the Code of Virginia, for a total period not to exceed ninety (90) days in any calendar year, when an engineering study discloses that operation of vehicles over highways or streets under the jurisdiction of the City, by reason of deterioration or rain, snow or other climatic conditions, will seriously damage such highways or streets unless such weights are reduced.
- (b) In all instances where the limits for weight have been reduced by the City Manager pursuant to this Section, signs stating the weight permitted on such highway or street shall be erected at each end of the section of highway or street affected and no such reduced limits shall be effective until such signs have been posted.

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- (c) It shall be unlawful for any person to operate a vehicle or combination of vehicles over or upon any highway, street or section thereof when the weight exceeds the maximum posted by authority of the City manager pursuant to this Section.
 - (d) Any person convicted of a violation of any provision of this Section shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or be confined in jail for not less than one day nor more than six (6) months, or both, and the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

(Ord. No. 2903, 12-13-05)

Sec. 21-501. Special permits for oversize and overweight vehicles generally.

- (a) The City Manager may, in his discretion, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle upon the highways of the City of a size or weight exceeding the maximum specified in this Article. Except as otherwise specifically provided, every such permit may designate the route to be traversed and contain any other requirements or conditions deemed necessary by the City Manager. For permits other than those specified in subsections (b), (c) and (d), the following processing fees shall be charged:
 - (1) Annual (blanket) permit \$300.00
 - (2) Restricted equipment 75.00
 - (3) Single trip permit 75.00
- (b) Special permits to operate or move a vehicle upon the highways of the City of a weight exceeding the maximum specified in this Article shall be granted without cost where the vehicle is hauling or carrying containerized cargo in a sealed, seagoing container bound to or from a Virginia seaport and has been or will be transported by marine shipment, provided the single axle weight does not exceed twenty thousand (20,000) pounds, the tandem axle weight does not exceed thirty-four thousand (34,000) pounds and the gross weight does not exceed eighty thousand (80,000) pounds, and provided the contents of such seagoing container are not changed from the time it is loaded by the consignor or his agents to the time it is delivered to the consignee or his agents. Cargo moving in vehicles conforming to specifications shown in this subsection but exceeding axle and gross weight limitations shown in this subsection shall be considered irreducible and eligible for permits under regulations of the State Highway and Transportation Commission. The requirement of this paragraph that the container be bound to or from a Virginia seaport need not be met if the cargo in the container (i) is destined for a seaport outside Virginia and (ii) consists wholly of farm products grown in that part of Virginia separated from the larger part of the Commonwealth by the Chesapeake Bay.
- (c) The City Manager upon application in writing made by the owner or operator of three-axle vehicles used exclusively for the mixing of concrete in transit or at a project site or for transporting necessary components in a compartmentalized vehicle to produce concrete immediately upon arrival at the project site, and having a gross weight not exceeding sixty thousand (60,000) pounds, a single axle weight not exceeding twenty thousand (20,000) pounds, and a tandem axle weight not exceeding forty thousand (40,000) pounds, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicles upon the highways of the City. No such permit shall be issued authorizing the operation of the vehicles enumerated in this subsection for a distance of more than twenty-five (25) miles from a batching plant; however, the said permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.
- (d) The City Manager, upon application in writing made by the owner or operator of three-axle passenger buses, consisting of two (2) sections joined together by an articulated joint with the trailer being equipped with a

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(Supp. No. 159, Update 1)

mechanically steered rear axle, and having a gross weight not exceeding sixty thousand (60,000) pounds, a single axle weight not exceeding twenty-five thousand (25,000) pounds and a width not to exceed one hundred two (102) inches, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicles upon the highways.

- (e) No permit issued under this Section providing for a single axle weight in excess of twenty thousand (20,000) pounds or for a tandem axle weight in excess of thirty-four thousand (34,000) pounds shall be issued to include travel on the federal interstate system of highways.
- (f) 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 (10) miles per hour slower than the legal limit in fifty-five (55), forty-five (45) and thirty-five (35) miles per hour speed limit zones.
- (g) Every permit issued under this Section shall be carried in the vehicle to which it refers and shall be open to inspection by any officer and it shall be a misdemeanor for any person to violate any of the terms or conditions of such special permit.
- (h) Technology fee. In addition to any fees otherwise required by this chapter, there shall be a fee in the amount of ten dollars (\$10.00) for permits issued pursuant to section 33-51. Such fee shall be for the following purposes:
 - (1) To improve community access to general information about cases, applications, permits and inspections by providing online, user-friendly search and viewing tools;
 - (2) To facilitate communications with property owners, consultants and contractors through use of on-line checklist and activity tracking that automatically emails notifications and updates regarding permit status and other information not previously available on-line;
 - (3) To increase transparency and accountability in business operations by providing users the ability to track all transactions online;
 - (4) To enhance performance and revenue reporting by providing the ability to produce ad hoc reports on demand; and
 - (5) To improve the expand electronic document storage, management and retrieval by including scanned images as part of the on-line permit record.

(Ord. No. 2903, 12-13-05; Ord. No. 3697, 5-10-22)

Sec. 21-502. Penalty for violation of weight limits.

Any person violating any weight limits as provided in this Chapter or any permit issued by either the Department of Transportation or by the City pursuant to this Article shall be subject to a civil penalty of twenty-five dollars (\$25.00) and a processing fee of twenty dollars (\$20.00) in addition to any liquidated damages and weighing fees imposed by this Article. Upon collection by the Department or by the court, the civil penalty shall be forwarded to the City Treasurer, to be allocated to the fund appropriated for the construction and maintenance of City highways; and the processing fee shall be paid to the state treasury to be used to meet the expenses of the Department of Motor Vehicles.

The penalties, damages and fees specified in this Article shall be in addition to any other liability which may be legally fixed against the owner, operator or other person charged with the weight violation for damage to a highway or bridge attributable to such weight violation.

(Ord. No. 2903, 12-13-05)

Sec. 21-503. Reduction of noise from loads.

No vehicle shall be loaded with materials likely to create loud noises by striking together, without using every reasonable effort to deaden the noise.

(Ord. No. 2903, 12-13-05)

Secs. 21-504—21-599. Reserved.

ARTICLE VI. HIGHWAY MEDIANS

Sec. 21-600. Highway medians; exemptions; penalty.

- (a) No person or vehicle shall occupy a highway median.
- (b) For the purpose of this section, "highway median" shall be that paved or landscaped strip of ground dividing a highway into lanes according to direction of travel.
- (c) This section shall not apply:
 - (1) To a pedestrian traversing a median while in the immediate process of crossing the highway;
 - (2) To any governmental employee or authorized agent while in the performance of official duties;
 - (3) At any time the adjacent highway is closed to traffic;
 - (4) To governmental vehicles operated in the course of official business;
 - (5) To utility employees or vehicles when necessary for utility installation, maintenance or repair; and
 - (6) In the event of a mechanical breakdown, or an emergency requiring a public safety response.
- (d) A violation of this section shall constitute a class II misdemeanor.

(Ord. No. 3098, 8-11-09)

Secs. 21-601—21-699. Reserved.

ARTICLE VII. VEHICLE DEMOLISHERS, REBUILDERS, SALVAGE DEALERS, ETC.

Sec. 21-700. Daily reports to police department.

All persons engaged in a business requiring a license under the provisions of 46.2-1601 of the Code of Virginia shall make a daily electronic report to the police department regarding the purchase, exchange or acquisition of all salvage or scrap vehicles.

(Ord. No. 3162, 3-22-11)

Sec. 21-701. Contents of daily reports; reporting time.

- (a) Each daily electronic report shall contain the information mandated for maintenance under the provisions of 46.2-1608 of the Code of Virginia.
- (b) Each daily electronic report shall be submitted to the police department no later than 10:00 a.m. on the day after the vehicle purchase. Electronic reports submitted from out-of-state shall be submitted no later than 10:00 a.m. in the time zone from which the report is submitted.

(Ord. No. 3162, 3-22-11; Ord. No. 3196, 8-23-11)

Sec. 21-702. Holding period.

No person required to be licensed under the provisions of 46.2-1601 of the Code of Virginia, or his employee or agent shall crush, flatten, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle until the vehicle has been in his possession for ten (10) days unless otherwise exempted under Chapter 16 of Title 46.2 of the Code of Virginia.

(Ord. No. 3162, 3-22-11)

Sec. 21-703. Penalty.

Any violation of this article shall be punishable by a fine of two thousand five hundred dollars (\$2,500.00).

(Ord. No. 3162, 3-22-11)

Sec. 26-3. Peddling or selling on or in public parks, public buildings, or on public property in the Resort Tourist or Oceanfront Resort Districts.

- (a) It shall be unlawful for any person to engage in the activity of selling or offering for sale, renting, or offering for rent or taking orders for, goods, wares, merchandise, beverages, foods, prepackaged or otherwise, or any service whatsoever, to or from any prospective customers or passersby while such person, prospective customer or passerby is in any public park, on the grounds of the city municipal complex, in any city-owned or - leased building, or on public property in the RT-1, RT-3, or RT-4 Resort Tourist Districts or the OR Oceanfront Resort District without obtaining a permit from the city manager or his or her designee as set forth in subsection (d) of this section. Such permit shall be in addition to any other permit required by this Code.
- (b) The restriction set forth in subsection (a) above shall not be applicable to:
 - (1) Special events conducted pursuant to a permit granted under section 4-1 of this Code;
 - (2) Events conducted pursuant to the city's contract for general entertainment and major events;
 - (3) Duly licensed or permitted concessions granted by the city pursuant to a competitive procurement process;
 - (4) Franchises granted in accordance with section 15.2-2100 et seq. of the Code of Virginia; or
 - (5) Activities commonly associated with expression as guaranteed by the First Amendment of the Constitution of the United States.
- (c) For the purposes of this section, the following terms shall have the meanings respectively ascribed to them:

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- (1) Public property in the RT-1, RT-3, or RT-4 Resort Tourist Districts or the OR Oceanfront Resort District shall include, without limitation, the boardwalk, the grassy area adjacent thereto, streets, alleys, sidewalks, bicycle paths, parks, the sand beach, city-owned or operated facilities, and all other public property.
 - (2) The terms *selling, offering for sale, renting, offering for rent, or taking orders for* shall include selling or taking orders for goods, wares, merchandise, food, beverages, prepackaged or otherwise, or any service whatsoever from a walk-up window or an opening on private property adjacent to a public right-of-way, public alley, or other public property.
- (d) An application for a permit required by this section shall be filed with the city manager's office, on forms provided by the city, and processed as follows:
- (1) A completed application shall be processed and either granted or denied within thirty (30) days of receipt of such application. All decisions shall be in writing, setting forth the conditions of the permit, if granted, or the reasons for denial.
 - (2) No permit shall be granted unless the city manager or his or her designee finds that:
 - (i) In consideration of factors such as public safety, noise, and vehicular and pedestrian traffic, the proposed activity will not unreasonably interfere with the normal and intended use of the public property by the city or the general public;
 - (ii) The proposed activity will not adversely affect the city's efforts to protect the general welfare and to promote tranquility and the high quality of life associated with resort community living and recreation; and
 - (iii) The proposed activity is not inconsistent with city policies for the use of the public property at the particular location.
 - (3) The city manager or his or her designee may impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace, and order. Such conditions may include, but are not limited to:
 - (i) A limitation on the dates and hours of operation, the number of peddlers or salespersons, or location of the peddling or sales activity; and/or
 - (ii) The provision of adequate crowd and traffic control, food handling, waste and refuse disposal, and noise restrictions.
 - (4) The city manager or his or her designee is authorized to revoke or suspend any permit previously granted: (i) for violation of any provision of this code or of any condition of the permit; (ii) for damage to city property; (iii) for any material misrepresentation, intentional or otherwise, made in connection with the application; (iv) when weather conditions render the subject activity unsafe; or (v) when revocation or suspension is required in the interest of public health, safety, and welfare, or environmental considerations. In the event a permit is revoked or suspended, the permittee shall immediately discontinue, or cause to be discontinued, the activity for which the permit was granted, but shall be thereafter entitled to a hearing before the city manager or his or her designee concerning the revocation or suspension within ten (10) days of the date of such revocation or suspension.
 - (6) A permit granted under the provisions of this section shall expire after such period as determined by the city manager or his or her designee, not to exceed one (1) year from the date of issuance. The holder of the permit may thereafter apply for a new permit as set forth in subsection (d) (1).
 - (7) No permit issued under this section shall be transferred to another person or entity without the approval of the city manager or his or her designee. Such approval, if granted, shall be granted in the same manner as for original applications for permits.

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- (8) In addition to any penalty imposed under section 26-1, the city may institute legal action to enjoin a continuing violation of any of the provisions of this section or any terms and conditions of a permit issued pursuant to this section.

(Code 1965, § 18-1.1; Ord. No. 1410, 10-24-83; Ord. No. 1990, 7-2-90; Ord. No. 2483, 4-24-98; Ord. No. 3252, 7-10-12)

Sec. 111. Definitions.

For the purpose of this ordinance, words used in the present tense shall include the future; words used in the singular number include the plural and the plural the singular; the use of any gender shall be applicable to all genders; the word "shall" is mandatory; the word "may" is permissive; the word "land" includes only the area described as being above mean sea level; and the word "person" includes an individual, a partnership, association, or corporation.

In addition, the following terms shall be defined as herein indicated; provided that in the event a term defined in this section is defined differently in the regulations of any district identified in section 102(a)(13), the latter definition shall control if the property to which the definition applies is located in such district:

Accessory use. Except as otherwise provided in the zoning district regulations, an "accessory use":

- (a) Is a use which is conducted on the same zoning lot as the principal use to which it is related (whether located within the same building or an accessory building or structure, or as an accessory use of land) or which is conducted on a contiguous lot (in the same ownership); and
- (b) Is clearly incidental to, and customarily found in connection with, such principal use;
- (c) Is operated and maintained substantially for the benefit of the owners, occupants, employees, customers, or visitors of the zoning lot with the principal use.

Adult bookstore. An establishment that either (a) has twenty (20) percent or more of its stock for sale or rent on the premises, or has twenty (20) percent or more of its stock on display either in plain view or in an enclosed or partitioned area, in books, magazines, periodicals, drawings, sculptures, devices, paraphernalia, motion pictures, films, video recordings or photographs which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein; or (b) devotes twenty (20) percent or more of its display area or floor space, excluding aisles and storage areas, to the sale or display of such materials; or (c) receives in any one-month period twenty (20) percent or more of its gross income from the sale or rental of such materials; or (d) has on the premises one (1) or more mechanical or more mechanical or electronic devices for viewing such materials; or (e) sells products featuring specified sexual activities or specified anatomical areas and prohibits access by minors, because of age, to any area of the premises that is open to customers, and advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "pornographic" material on signage visible from a public right-of-way.

(a) *Specified anatomical areas:*

- (1) Less than completely and opaquely covered:
 - (i) Human genitals, pubic region, buttock; and
 - (ii) Female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(b) *Specified sexual activities:*

- (1) Human genitals in a state of sexual stimulation or arousal.

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- (2) Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy.
 - (3) Fondling or other erotic touching or human genitals, pubic region, buttock or female breast.

Alcoholic beverage. Alcohol, spirits, wine and beer, or any one or more of such varieties containing one-half of one percent (0.5%) or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being.

Alleys. Alleys are minor ways used primarily for vehicular access to the rear or side of properties otherwise abutting a street.

Alternative discharging sewage treatment system. Any device or system which results in a point source discharge of treated sewage for which the department of health may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board (SWCB) pursuant to a general Virginia Pollution Discharge Elimination System (VPDES) permit issued for an individual single-family dwelling with flows less than or equal to one thousand (1,000) gallons per day on a yearly average. Such a system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all weather stream, an intermittent stream, a dry ditch, or other location approved by the department of health.

Antenna, building mounted. Any structure or device affixed to a building or other structure, except a water tank, for the purpose of supporting broadcast equipment of any frequency or electromagnetic wave, or any similar system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. The term does not include communication towers, antennas mounted on communication towers, home satellite dishes, small wireless facilities or television or radio antennas used primarily for the benefit of the occupants of, or visitors to, property on which such antennas are located.

Antique shop. A retail store, not exceeding three thousand (3,000) square feet, where manmade articles at least one hundred (100) years old are offered for sale and cover at least fifty (50) percent of the display floor area.

Approximated floodplain. The area for which no detailed flood profiles or elevations are provided, but where a one (1) percent annual chance floodplain boundary has been approximated as set forth in the Floodplain Ordinance (Appendix K).

Assembly uses. Uses that involve the gathering of individuals or groups in one (1) location, such as arenas, assembly halls, auditoriums, bingo halls, civic centers, community centers, eleemosynary establishments, private clubs, union halls and excluding religious uses.

Automobile museum. A museum at which vintage or classic automobiles manufactured prior to 1971, exotic or limited-production automobiles, or automobiles having a special cultural or historical significance and generally regarded as collector's items are displayed as exhibits and may be made available for purchase by members of the general public as an ancillary activity.

Automobile repair establishment. A building or portion thereof, designed or used for servicing of automotive or other motorized vehicles where repair services are limited to the following and no motor vehicle fuel is dispensed:

- (a) Adjusting and repairing brakes;
- (b) Emergency wiring repairs;
- (c) Greasing, lubrication and oil change;
- (d) Motor adjustments not involving removal of the head or crankcase;
- (e) Providing and repairing fuel pumps and lines;
- (f) Radiator cleaning and flushing; provision of water, antifreeze and other additives;

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- (g) Replacement or adjustment of minor automobile accessories, to include mirrors, windshield wipers and the like;
 - (h) Servicing of nonmotorized bicycles;
 - (i) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
 - (j) Servicing and repair of carburetors;
 - (k) Servicing, repair and sales of mufflers and exhaust systems;
 - (l) Tire sales, servicing and repair, but not recapping or regrooving;
 - (m) Washing and polishing, and sale of automotive washing and polishing materials.

Uses permissible at an automobile repair establishment do not include body work, straightening of frames or body parts, steam cleaning, painting, storage of automobiles not in operating condition nor the operation of a commercial garage as an accessory use.

Automobile service station. Any establishment at which motor vehicle fuel is dispensed at retail. Such establishments may provide some or all of the services provided by an automobile repair establishment.

Bar or nightclub. An establishment, including a private club as defined by this ordinance, that serves alcoholic beverages, or where alcoholic beverages are consumed, at any time between midnight and 6:00 a.m., except establishments in which the service of alcoholic beverages is incident to a wedding, banquet or similar function not open to the general public, and in which both of the following conditions are met:

- (1) The combined area of the dance floor and any other standing space exceeds fifteen (15) percent of the public floor area of the establishment; and
- (2) Amplified music, other than prerecorded background music intended solely as an accompaniment to dining, is provided between midnight and 6:00 a.m.

Base flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year; also referred to as the one hundred (100) year flood.

Bed and breakfast inn. A residential structure of historical significance in which not more than thirteen (13) rooms are provided for lodging transients, for compensation, on daily or weekly terms, with breakfast.

Beverage manufacturing shop. A retail establishment in which ingredients for the manufacture or production of beer or wine are sold, and in which beer or wine is manufactured or produced for off-premises consumption.

Bingo halls. A facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use.

Body piercing establishment. An establishment in which body piercing takes place. For purposes of this definition, the term "body piercing" means the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature, but does not include the use of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear, or both.

Borrow pit. Any operation involving the breaking or disturbing of the surface soil or rock where the primary purpose of the operation is to facilitate or accomplish the extraction or removal of sand, soil, gravel, fill, or other similar material. Specifically exempt from this definition are the following:

- (a) Any excavation for roads, drainage, stormwater management facilities as defined in the city stormwater management ordinance (Appendix D), or similar features necessarily incidental to, and in accordance with, the approved construction plans for a residential subdivision or other similar development activity; provided, however, if the depth or surface area of the excavation exceeds that of the approved construction plans and the excavated material is hauled off site, an excavation permit and conditional use permit for a borrow pit must be obtained.

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- (b) Any excavation for the sole purpose of conducting a bona fide agricultural operation, including, but not limited to, excavations to improve drainage, provide watering facilities for livestock, or create a holding lagoon for animal waste, or farm ponds or fish ponds; provided, that none of the excavated material may be hauled off site or sold.
 - (c) Any excavation or excavations on any single lot or parcel of land which total less than one-quarter acre in area and less than twelve (12) feet in excavated depth as measured from the original ground level, to the lowest point of the excavation.
 - (d) Any trench, ditch or hole for utility lines, drainage pipes or other similar public works facilities or projects where the excavation is in accordance with the approved construction plans.

Boundary walls. A solid wall without openings, situated within a building and erected on the boundary line between adjacent lots and which is to be jointly maintained.

Building. A structure with a roof intended for shelter or enclosure.

Building area. The total area covered by enclosed building space including total area of all covered open space (except for open space covered by eaves and normal overhang of roofs) but not including uncovered entrance platforms, uncovered terraces, or uncovered steps where such features do not themselves constitute enclosures for building areas below them.

Bulk storage yard. A facility for the storage of raw materials, finished goods or vehicles, provided they are in good running order. No sale, storage or processing of scrap, salvage, junk, toxic or hazardous materials is allowed.

Campground. Premises where spaces are offered for occupancy for relatively short periods by portable recreational housing, including any land, building, structure or facility on such premises used by occupants of such portable recreational housing.

Cemetery. Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

Chesapeake Bay Preservation Area. Any land designated as such on the Chesapeake Bay Preservation Area Map adopted by the city council, subject to the determination of the Chesapeake Bay Preservation Area Review Committee on a site-specific basis. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area, and shall include any designated intensely developed areas.

Clinic. An office building or group of offices wherein only persons engaged in the practice of a medical profession or occupation are located, but which does not have beds for overnight care of patients. A "medical profession or occupation" is any activity involving the diagnosis, cure, treatment, mitigation, or prevention of disease or which affects any bodily function or structure.

Coastal high-hazard area. An area of special flood hazard extending from offshore to the inland limit of a coastal primary sand dune along an open coast and any other area subject to high-velocity wave action from storm or seismic sources. As a minimum, the coastal high-hazard areas are identified as V zones in the flood insurance study and accompanying maps.

Collection depot for recyclable materials. A fully enclosed building where recyclable materials are collected or redeemed, and temporarily stored until transported to a separate processing facility.

College or university housing. Buildings or structures which contain dwelling units for the housing of regularly enrolled students, faculty and employees of an established college or university, and their families.

Communication tower. Any pole, spire or other structure, including supporting lines, cables, wires, braces, masts or other appurtenances, intended or used primarily for the purpose of affixing antennas or other wireless telecommunications equipment and any associated base station. For purposes of this ordinance, regulations pertaining to communication towers shall apply to any associated base station as applicable. The term "base

station" includes any equipment and non-tower supporting structure at a fixed location that enable wireless communications between user equipment and a communications network, and any other equipment associated with wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supply, and comparable equipment. The term does not include private home use of satellite dishes and television antennas or by amateur radio operators as licensed by the Federal Communications Commission.

Communication tower, temporary. A portable communication tower that is intended or used to provide wireless telecommunication service on a temporary or emergency basis and that is not permanently affixed to the site on which it is located. Such towers include, without limitation, Cells-on-Wheels (COW), Site-on-Wheels (SOW), Cell on Light Trucks (COLT) or other portable devices.

Community boat dock. A facility for secure mooring of boats provided in conjunction with a residential development for use by residents of the development as opposed to the public at large, and that facilities for storage and repair of boats and sale of boating supplies and fuel are not provided for.

Country inn. A building in which not more than five (5) rooms are provided for lodging transients, for compensation, for daily or weekly terms, with or without board, in conjunction with which antiques may be sold at retail as an accessory use. No such rooms shall have an entrance or exit to the outside of the building, and no such room shall exceed three hundred (300) square feet in floor area.

Craft brewery. A facility, other than a farm brewery, that produces and distributes beer or other fermented malt beverages in quantities not exceeding fifteen thousand barrels (15,000 BBL) per year and at which beer, ale or other fermented beverages are served to customers for on-premises or off-premises consumption and at which food may be served.

Craft distillery. A facility that produces and distributes spirits, as defined in the Alcoholic Beverage Control Act, in quantities not exceeding five thousand barrels (5,000 BBL) per year and at which such spirits produced at such facility are served to customers for on-premises or off-premises consumption and at which food may be served.

Craft winery. A facility, other than a farm winery, that produces, manufactures and distributes wine, and at which wine is served to customers for on-premise and off-premise consumption, and at which food may be prepared and served.

Day-care center. Any facility, other than a family day-care home, operated for the purpose of providing care, protection and guidance during a part of the twenty-four-hour day to a group of: (1) children separated from their parents or guardians; (2) adults sixty-two (62) years of age or older; or (3) persons under a disability during a part of the twenty-four-hour day.

Decommissioning. The removal and proper disposal of equipment, facilities, or devices on real property, including restoration of the real property upon which equipment, facilities, or devices are located. Restoration of the real property shall include soil stabilization, and revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

Density. The number of dwelling or lodging units per gross acre.

Developer. An owner, or any person with written authorization from the owner, who intends to improve or to construct improvements upon a given property.

Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

Drive-in eating and drinking establishment. Any eating and drinking establishment encouraging the consumption of food or beverages in automobiles through the use of outside service personnel. This does not include those restaurants which only contain drive-in or walk-up service windows.

Dwelling, attached/townhouses. A building containing three (3) or more dwelling units attached at the side or sides in a series, separated by a boundary wall and each unit having a separate lot with at least minimum dimensions required by district regulations for such sections.

Dwelling, duplex. A building containing two (2) dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

Dwelling, mobile home. A special form of one-family dwelling with the following characteristics:

- (a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
- (b) Designed to be transported after fabrication on its own wheels.
- (c) Arriving at the site where it is to be occupied complete, usually including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location and provision of support on the site, connection with utilities and the like.
- (d) Intended to be used other than as a component in a structure two (2) or more stories in height.

Dwelling, multiple-family. A building containing three (3) or more dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot.

Dwelling, semidetached. A building containing two (2) dwelling units attached at the sides, separated by a boundary wall and each having a separate lot.

Dwelling, single-family. A building containing one (1) dwelling unit, entirely surrounded by a yard. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

Dwelling, single-family, ancillary. A building containing one (1) dwelling unit, entirely surrounded by a yard but located on the same lot with a separate single-family dwelling of greater floor area. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents, or other forms of temporary or portable housing are not included within this definition.

Dwelling unit. A "dwelling unit" is a room or rooms connected together, constituting an independent housekeeping unit for a family and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Eating and drinking establishment or restaurant. A commercial establishment where food, beverages and meals are served and consumed, including any areas set aside for their storage or preparation, but not including bars or nightclubs.

Eleemosynary or philanthropic institution. A charitable or benevolent operation qualifying for tax exemption under section 501 of the Internal Revenue Code of 1954, as amended.

Energy storage facility. Energy storage equipment or technology that can absorb energy, store such energy for a period of time, and redeliver energy after it has been stored. This term includes battery storage facilities.

Environmental education center. A facility having the primary purpose of educating visitors on the nearby natural environment through the use of informative displays, exhibits, outdoor activities and similar means.

Exchange visitor program participant. A foreign national who has been selected by a sponsor to participate in an exchange visitor program, and is seeking to enter or has entered the United States temporarily on a non-immigrant J-1 visa and who meets all requirements set forth for participation in the summer work travel program by the United States Department of State.

Explosive, high. Explosive material, as defined in the current editions of the International Fire Code and International Building Code, which can be detonated by means of a No. 8 test blasting cap when unconfined.

Explosive, low. Explosive material, as defined in the current edition of the International Fire Code and International Building Code, that will burn or deflagrate when ignited and is characterized by a rate of reaction that is less than the speed of sound.

Family. A "family" is:

- (a) An individual living alone in a dwelling unit; or
- (b) Any of the following groups of persons, living together and sharing living areas in a dwelling unit:
 - (1) Two (2) or more persons related by blood, marriage, adoption, or approved foster care;
 - (2) A group of not more than four (4) persons (including on premise employees) who need not be related by blood, marriage, adoption or approved foster care;
 - (3) A group of not more than eight (8) persons with mental illness, intellectual disability or developmental disabilities residing with one (1) or more resident or nonresident staff persons in a facility whose licensing authority is the Department of Behavioral Health and Developmental Services; provided, that mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401 of the Code of Virginia;
 - (4) A group of not more than eight (8) aged, infirm or disabled persons residing with one (1) or more resident counselors or other staff persons in a residential facility or assisted living facility for which the Virginia Department of Social Services is the licensing authority;
 - (5) A group of not more than two (2) adults, who need not be related by blood or marriage, and the dependent children of each of the two (2) adults, provided that the children are under nineteen (19) years of age or are physically or developmentally disabled; or
 - (6) A group of not more than eight (8) Exchange Visitor Program Participants as defined by this ordinance living in accordance with the provisions of Article 2, Section 209.7 - Dwelling unit - Exchange Visitor Program Participant Housing.

Family day-care home. Any private family home which, as a home occupation, provides care, protection and guidance during a part of the twenty-four-hour day to a group of: (1) children separated from their parents or guardians; (2) adults sixty-two (62) years of age or older; or (3) persons under a disability. This term shall apply only to homes in which more than four (4) such persons are received, except persons who are related by blood or marriage to persons who maintain the home or where the total number of such persons received, including relatives, exceeds seven (7). For purposes of this definition, a person is deemed to be under a disability if he or she is found by a licensed physician to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or to last for the duration of such person's life.

Farm distillery. A distillery that manufactures not more than thirty-six thousand (36,000) gallons of alcoholic beverages other than wine or beer per calendar year, and (i) is located on a farm owned or leased by such distillery or its owner; and (ii) in which all agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm.

Farm winery. An establishment licensed as a farm winery pursuant to Code of Virginia § 4.1-207(5) and located on a farm having a producing vineyard, orchard or similar growing area, or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises, where the owner or lessee manufactures wine that contains not more than eighteen (18) percent alcohol by volume.

As used in this definition, the terms "owner" and "lessee" includes a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative within the Commonwealth of Virginia.

Fiber-optics transmission facility. A centralized facility in which fiber-optic voice and data transmission equipment is used to regenerate and route incoming fiber-optic signals.

Firewood preparation facility. A facility where the cutting and splitting of firewood not grown on the premises occurs and where the operation occupies one (1) acre or more.

Flex suite. A living unit with separate kitchen and toilet facilities, located within a single-family dwelling and having direct interior access to the primary living unit.

Flood insurance study. A report by the Federal Emergency Management Agency (FEMA) that examines, evaluates, and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow or flood-related erosion hazards.

Floodplain. Any land area susceptible to being inundated by water from any source and floodplains subject to special restrictions as defined in Appendix K, section 4.10.

Floodway. The channel of a river or other watercourse and the adjacent land areas that shall be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. The "floodway" may also be referred to as the "regulatory floodway."

Floor area. "Floor area" shall be construed as the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings; provided that the following areas shall be excluded from the determination of floor area: Attic areas with headroom of less than seven (7) feet, unenclosed stairs of fire escapes, elevator structures on the roof, areas devoted exclusively to air conditioning, ventilating and other building machinery and equipment, and parking structures.

Floor area ratio. The ratio of floor area to land area expressed as a percent or decimal which shall be determined by dividing the total floor area on a zoning lot by the lot area of that zoning lot.

Garage apartment. A structure above a private garage in which provision is made for one (1) dwelling unit, requiring an interior stairway to the second floor, provided that the living area does not exceed eight hundred (800) square feet of floor area and the height does not exceed twenty-eight (28) feet.

Garage, parking. A building or structure, or portion thereof, designed or used for temporary parking of motor vehicles, and consisting of no more than one (1) parking level.

Garage, private. An accessory structure or part of the principal structure which is intended for parking or temporary storage of automobiles of owners or occupants of the premises.

Garage, repair. A building or portion thereof, other than a private, storage or parking garage, designed or used for repairing or equipping of automotive vehicles only where the repair work includes activities in addition to those allowed at automobile service stations. Such garages may also be used for storage of automotive vehicles.

Garage, storage. A building or portion thereof designed and used exclusively for the storage of automotive vehicles, and within which temporary parking may also be permitted.

Guest house. A dwelling or lodging unit for temporary nonpaying guests in an accessory building. No such living quarters shall be rented, leased, or otherwise made available for compensation of any kind, nor shall such quarters include over five hundred (500) square feet of floor area. Kitchen facilities are not permitted.

Heliport. A landing and take-off place for a helicopter including accessory terminal and fuel accommodations.

Helistop. A landing and take-off place for a helicopter.

Home-based wildlife rehabilitation facility. A facility where care is regularly given to sick, injured, orphaned, or displaced wildlife on a temporary basis.

Home occupation. The conduct of a business in a residential dwelling unit where all of the following characteristics are present:

- (a) The use of the dwelling unit for the business is clearly incidental and subordinate to its use for residential purposes by its occupants.
- (b) There is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently, of the conduct of such business except for an identification sign regulated by this ordinance.
- (c) The home occupation is conducted on the premises which is the bona fide residence of the principal practitioner, and no more than one (1) person other than a member of the immediate family occupying such dwelling unit is employed in the business.
- (d) There are no sales to the general public of products or merchandise from the home.
- (e) The use does not qualify as an accessory use as defined by this ordinance.

Homeowners' association. An incorporated, nonprofit organization made up of homeowners in a specified subdivision or subdivisions, that shall be responsible for maintenance and operation of neighborhood recreation facilities or other community facilities or functions, and that shall assess its members fees or dues to offset the cost thereof.

Home sharing. A dwelling in which a room or rooms are offered for rental for compensation for a period of less than thirty (30) consecutive days by an owner who utilizes the dwelling as his principal residence and occupies the dwelling during any such rental period.

Hotel and motel. A building or group of attached or detached buildings containing dwelling or lodging units in which fifty (50) percent or more of the units are lodging units, and for which compensation is exchanged for short-term occupancy of the dwelling or lodging units. A hotel shall include a lobby, clerk's desk or counter and facilities for registration and keeping of records relating to hotel guests.

Housing for seniors and disabled persons. A category of multiple-family housing that includes one or more of the following types of housing facility:

- (a) *Independent living facilities* are intended for residency by individuals capable of functional independence. Such facilities stress the social, rather than the medical, needs of the resident;
- (b) *Assisted living facilities* provide regular medical, nursing, social and rehabilitative services, in addition to room and board, for functionally impaired persons incapable of independent living. Such facilities provide less intensive care for residents than is provided by nursing facilities; and
- (c) *Nursing facilities* provide twenty-four-hour nursing service for infirm or incapacitated persons.

Indoor play center. A type of indoor recreational facility at which indoor playground equipment, inflatable play structures, soft play equipment or similar items are provided for use primarily, but not necessarily exclusively, by children under twelve (12) years of age or at which organized activities for such children are regularly held.

Junkyard. Any lot or parcel of land, structure or part thereof used for the collection, storage and sale of wastepaper, rags or scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

Kennel, commercial. Any premises in which caring, breeding, housing, and keeping of dogs, cats, or other domestic animals is done for monetary purposes.

Kennels, residential. Any premises in which, or parcel of land upon which, more than four (4) dogs over six (6) months of age are kept for pets or for hunting, exhibiting, dog shows, field and obedience trials.

Kitchen. An area with a housekeeping unit which contains a cooking facility.

Landscaped. Devoted exclusively to plants which are rooted directly in the ground or in permanently fixed planter boxes properly maintained.

Limited use accessory dwelling unit. A dwelling unit located on the same zoning lot as the principal dwelling unit which (i) shall only be occupied by a member(s) of the immediate family who currently reside in and are owners of the principal dwelling unit or an on premise employee, (ii) are only allowed in the R-40 Residential Zoning District as an accessory use, (iii) shall not be rented, leased or otherwise used for any purpose not specifically permitted, (iv) shall not contain more than one (1) bedroom nor more than eight hundred (800) square feet of building floor area, and (v) the building floor area of the limited use accessory dwelling unit shall be counted toward the maximum accessory structure building floor area of the zoning lot. For the purposes of this definition a "member(s) of the immediate family" means any person who is a natural or legally adopted child or grandchild, grandparent, parent or spouse of a family member that resides in the principal dwelling, and an "on premise employee" means one who is employed, for compensation, by a family member residing in the principal dwelling and must provide an on premise service such as, but not limited to, caretaker, childcare provider, landscaper, or chef.

Live-work unit. A unit, consisting of both living space and work space, in which commercial activity is carried on by at least one resident of the unit and in which such activity is not otherwise allowed as a home occupation or accessory use.

Lodging unit. Living quarters for a family which do not contain independent kitchen facilities; provided, however, that dwelling units which do not exceed one thousand two hundred (1,200) square feet and are not made available for occupancy on a lease or rental basis for periods of more than one (1) month shall be considered lodging units even though they contain independent kitchen facilities.

Lot. A piece or parcel of land abutting on a street and treated by proper legal instrument.

Lot coverage. That percent of a zoning lot covered by enclosed building space including total area of all covered open space (except for open space covered by eaves and normal overhang of roofs) but not including uncovered entrance platforms, uncovered terraces, or uncovered steps where such features do not themselves constitute enclosures for building areas below them.

Lot, front of. The front of a lot shall be considered to be that boundary of the lot which abuts on a street. In the case of corner lot, the narrowest boundary fronting on a street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on the principal street on which the greatest number of lots have been platted within the same block.

Lot, through. Any lot other than a corner lot that has frontage on more than one (1) street or private road.

Major entertainment venue. An establishment located other than in an Agricultural, Residential or Apartment District on any zoning lot of one and one-half (1½) acres or more in area and having more than three hundred (300) feet of continuous street frontage on a public street or streets, the principal use of which is to provide entertainment consisting of organized professional sporting events, live theatre presentations or concerts, conventions, museum exhibitions, trade shows, or similar activities.

Major recreational equipment. For purposes of this ordinance, major recreational equipment includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, converted buses or similar devices intended for use as portable recreational housing, boats and boat trailers, amphibious houseboats, utility trailers and similar items, and cases, boxes, or trailers used for transporting recreational equipment, whether occupied by such equipment or not.

Major retail venue. An establishment located other than in an Agricultural, Residential or Apartment District on any zoning lot of four million (4,000,000) square feet or more the principal use of which is to provide entertainment (indoor recreation) and retail shopping. Such zoning lot shall be distinguishable by architecture, design and accessibility of the development features of the property.

Marina, commercial. A facility for secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel, for use by the owner or resident of the lot, and those other than the owner or resident of the lot, upon which the facility is located.

Marina, noncommercial. A facility for secure mooring of boats for use by persons including the owner or resident of the lot and those other than the owner or resident of the lot upon which the facility is located, at which facilities for storage and repair of boats and sale of boating supplies and fuel are not provided for.

Mini-warehouses. A series of individual enclosed storage units for rent or lease.

Mixed use. Two (2) or more separate uses allowed as principal or conditional uses that are physically and functionally integrated with the same structure on one (1) zoning lot.

Mobile home. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes, but it is not limited to, the definition of "mobile home" as set forth in regulations governing the mobile home safety and construction standards program.

Mobile home park or mobile home subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale which include facilities for servicing the lot on which the mobile home is to be affixed, including at a minimum the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets.

Motor vehicle sales and rental. Any lot or establishment where two (2) or more motor vehicles, including trucks, trailers, house trailers or motor homes, or any combination thereof, but not including motorcycles, are displayed for sale or rent.

Mulch processing facility. A facility at which raw materials are processed into mulch.

Municipal oceanfront entertainment venue. An establishment located in the Oceanfront Resort District on property owned or leased by the municipality, and the principal use of which is to provide entertainment to the public consisting of live theatre presentations, concerts, and similar activities. A municipal oceanfront entertainment venue must meet the requirements of section 218.

Open-air market. An outdoor market for the retail sale of new or used merchandise, produce or other farm products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors. The term does not include the outside display of merchandise as an incidental part of retail activities regularly conducted from a permanent building on sidewalks or other areas immediately adjacent to, and upon the same lot as, such building. The term also does not include merchandise sold at festivals or other special events, temporary in duration, at which the display and sale of merchandise is incidental to the primary cultural, informational or recreational activities of such festival or special event.

Outdoor amenity space. An outdoor area of an establishment that: (1) serves as an amenity for occupants of the establishment or members of the public or (2) consists of green space, such as gardens (including roof gardens), landscaping beds or other vegetated and maintained areas. Examples of outdoor amenity space include, but are not limited to, courtyards, fountains, plazas, cafes, and gardens, but do not include outdoor display areas.

Outdoor cafe. An eating and drinking establishment located wholly or partially outdoors.

Outdoor plaza. An outdoor open area, located in an urban setting, which is intended be used by the public for walking, sitting, informally meeting and similar activities.

Owner. Any person or authorized agent who has legal title to the land involved or who has a lease having a term of not less than thirty (30) years.

Parking lot, commercial. A parcel of land or portion thereof used for the parking or storage of motor vehicles as a commercial enterprise for which compensation is charged independently of any other use of the premises.

Parking lot, commercial, temporary. A commercial parking lot that operates for one (1) year or less.

Parking structure. A building or structure, or portion thereof, designed or used for temporary parking of motor vehicles and consisting of more than one (1) parking level or containing retail sales establishments and parking at different levels.

Personal service establishment. An establishment in which personal, financial, technical or similar services are provided, including barbershops, beauty shops, shoe repair shops, cleaning, dyeing, laundry, pressing, dressmaking, tailoring and garment repair shops, linen supply establishments, photography studios and similar establishments, but not including automobile repair establishments, tattoo parlors, body piercing establishments or any other use allowed separately as a principal or conditional use in a zoning district.

Personal watercraft. A motorboat less than sixteen (16) feet in length which uses an inboard motor powering a jet pump as its primary motive power and which is designed to be operated by a person sitting, standing or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

Planning director. The director of the department of planning or his designee.

Portable recreation housing—Recreation units. A general term used to include travel trailers, pick-up campers, tents, converted buses or similar devices, other than mobile homes, intended for use as temporary portable recreational housing.

Portable storage container. A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. The term shall not include yard waste containers provided by the city pursuant to City Code section 31-35, roll-off containers, or containers having a storage capacity of less than one hundred fifty (150) cubic feet.

Principal residence. Principal residence shall be the location where a person lives fifty (50) percent or more of the time. A person shall not have more than one (1) principal residence.

Principal structure. A structure that encloses or houses any principal use.

Private club. An incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

Private sewage treatment facility. Any works, owned or operated by a person or entity other than the City of Virginia Beach or the Hampton Roads Sanitation District, for the treatment of sewage generated by one (1) or more privately owned structures. The term shall include treatment works, interceptor sewers, outfall sewers which provide surface discharge into a ditch, stream or body of water, sewage conveyance systems, and their equipment and appurtenances, but shall not include on-site septic tank systems or similar in-ground systems approved by the Virginia Beach Health Department or facilities connected to the public sewer system.

Public floor area shall include the entire floor area of an establishment except for rest rooms, offices, storage areas, kitchen areas and other areas in which patrons do not ordinarily congregate. "Standing space" shall include the entire public floor area of an establishment except for areas designated for seating or egress. The permits and inspections administrator of the department of planning shall make such determination based upon the floor plan of the establishment in accordance with the provisions of the International Building Code. Once such a determination has been made, the standing space of an establishment shall not be increased so as to be in excess of fifteen (15) percent of the public floor area except in accordance with section 233.1(a)(5) of this ordinance.

Public use. Any use conducted by a public agency for a bona fide public purpose on land owned or leased by that agency.

Recreational resort community. A community with an emphasis on outdoor recreational activities with seasonal living accommodations for tourists and owners. Such communities shall not provide long-term permanent housing or principal residences. Accommodations may consist of any combination of motor homes, recreation vehicles, park model trailers, manufactured housing or cottages.

Religious uses. Places of religious worship, such as churches, synagogues, temples, mosques, similar places and their appurtenant uses.

Residential care for seniors. A single-family dwelling in which a resident thereof or twenty-four (24) hour caretakers, for compensation, regularly provide care, protection, and supervision for a maximum of three (3) persons sixty-two (62) years of age or older.

Resource management area. That component of a Chesapeake Bay Preservation Area not classified as a resource protection area. Resource management areas include land types which, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of a resource protection area.

Resource protection area. That component of a Chesapeake Bay Preservation Area comprised of lands at or near the shoreline which have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Retail establishment. Any building used for the display and sale of merchandise, except of an incidental nature, to the general public at retail. As used in Part D of Article 2 of this Ordinance, the term shall also include eating and drinking establishments.

Shelter for farm employees. A single-family residential structure located on a farm for the purpose of housing a single-family of employees of that farming business.

Shopping center. A group of two (2) or more retail or other commercial establishments, including those located on outparcels, having any or all of the following characteristics:

- (a) The establishments are connected by party walls, partitions, canopies or similar features;
- (b) Some or all of the establishments are located in separate buildings which are designed as a single commercial group sharing common parking areas and vehicular ways and which are connected by walkways or other access ways;
- (c) The establishments are under the same management or association for the purpose of enforcing reciprocal agreements controlling management or parking; or
- (d) The establishments are structurally designed in an integrated fashion around or along the sides of a promenade, walkway, concourse or courtyard.

Short term rental. A dwelling that does not meet the definition of home sharing in which a room or rooms, or the entire dwelling are rented for less than thirty (30) consecutive days for compensation.

Single room occupancy facility. A building or buildings containing multiple single room occupancy units.

Single room occupancy unit. A living space with a minimum floor area of one hundred fifty (150) square feet and a maximum floor area of four hundred fifty (450) square feet restricted to occupancy by one (1) person identified by the department of human services as having limited permanent housing alternatives and occupying the unit as a primary residence and not as transient or overnight housing or lodging.

Small wireless facility. Small wireless 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 (6) 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 (6) cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet.

Solid waste management facility. A facility or site used for the treatment, source separation, storage, transportation, transfer or disposal of solid waste.

Special flood hazard area. The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year as set forth in the Floodplain Ordinance (Appendix K).

Specialty shop. A retail store, not exceeding three thousand (3,000) square feet, that caters to particularized markets, such as tourists, ethnic groups, collectors, and offering goods not generally available in convenience or general retail stores.

Street. A vehicular way, whether public or private, (which may also serve in part as a way for pedestrian traffic) whether called street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, mall or otherwise designated.

Structure. Anything constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having or requiring a fixed location on the ground.

Student center. A building or structure devoted to active or passive recreational facilities for students of a college or university and operated by an agent of the college or university.

Student dormitory. A building or structure devoted to housing of regularly enrolled students of a college or university which contains lodging units or sleeping rooms and may contain a common kitchen and dining facility for the occupants and operated by an agent of the college or university with which the students are affiliated.

Substantial damage. Damage from any cause sustained by a structure as a result of which the cost of restoring such structure to its pre-damaged condition equals or exceeds fifty (50) percent of its market value prior to the occurrence of such damage.

Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Tattoo parlor. Any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin, except when performed by a medical doctor, veterinarian, registered nurse or any other medical services personnel licensed pursuant to Title 54.1 of the Code of Virginia in the performance of his professional duties.

Trailer. Any vehicle lacking motive power designed for carrying property or passengers wholly on its own structure and which is customarily drawn by a motor vehicle.

Truck. Any motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of seven thousand five hundred (7,500) pounds.

Use. A "use" is:

- (a) Any purpose for which a structure or a tract of land is designed, arranged, intended, maintained, or occupied; or
- (b) Any activity, occupation, business, or operation carried on, or intended to be carried on, in a structure or on a tract of land.

Utility installation (public or private). Any plant, or equipment or other facility used for the production, transmission or distribution to the public of telecommunications, electric, natural gas, water, cable, stormwater or sewage service; provided, however that the term shall not include communication towers or other uses or structures listed separately in this ordinance.

Wetlands. Areas shall include those defined in section 1401(e)(f)(j) of this ordinance and shall also include tidal wetlands, which are vegetated and nonvegetated wetlands, as defined in section 1401 of this ordinance; and nontidal wetlands, which are those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as identified or referred to in the City of Virginia Beach Soil Survey by soil names Backbay Mucky Peat; Duckston portion of Corolla-Duckston Fine Sands; Dorovan Mucky Peat; Duckston Fine Sand; Nawney Silt Loam; Pamlico Mucky Peat; Pamlico-Lakehurst Variant Complex; Rapahannock Mucky Peat, Strongly Saline or Pocaty Peat; and any other lands which under normal conditions are saturated to the ground surface and connected by surface flow and contiguous to tidal wetlands or tributary streams.

Wildlife. Any mammal, bird, reptile or amphibian listed on the Virginia Department of Game and Inland Fisheries' list of native and naturalized fauna of Virginia.

Wildlife rehabilitation center. A professionally-operated facility with an on-site veterinary staff where care is regularly given to sick, injured, orphaned, or displaced wildlife until such time as such wildlife possesses sufficient health that it can be returned to its native habitat.

Wind energy conversion system. Any device, such as a windmill, wind turbine or wind charger, that converts wind energy into electricity, including the rotors, nacelles, generators, towers and associated control or conversion electronics.

Wind energy conversion system, freestanding. A wind energy conversion system other than roof-mounted.

Wind energy conversion system, roof-mounted. A wind energy conversion system affixed to the roof of a building or other structure.

Wine-tasting room. An establishment licensed as a winery or farm winery that serves only wine or non-alcoholic beverages for retail on-premises or off-premises consumption and that does not serve meals.

Wireless telecommunication equipment includes antennas and their appurtenances used for purposes of providing wireless telecommunication services.

Yard. An open space that lies between the principal or accessory building or buildings and the lot lines, and in the case of lots containing ancillary single-family dwellings, a yard also consists of open space that lies between the ancillary single-family dwelling and the principal single-family dwelling located on the lot. This term includes front yards, rear yards, interior yards, and side yards as appropriate. Minimum dimensions of such yards are specified in the appropriate sections of this ordinance and within such minimum dimensions, yards are unoccupied and unobstructed from the ground upward except as may be specifically provided in this ordinance.

Yard, required. That portion of a lot adjacent to each lot line and encompassing all points on the lot within a minimum setback distance of the lot lines as set forth in the applicable district regulations.

Yard, required front. That portion of a lot encompassing all points on the lot within a minimum setback distance of the front of the lot as specified in the applicable district regulations.

Yard, required interior. That portion of a lot encompassing all points in the lot within a minimum distance between an ancillary single-family dwelling and the principal single-family dwelling located on the lot as specified in the applicable district regulations.

Yard, required side. That portion of a lot encompassing all points in the lot within a minimum setback distance of the side lot line or lines of the lot as specified in the applicable district regulations.

Yard, required rear. That portion of a lot encompassing all points in the lot within a minimum setback distance of the rear lot line or line of the lot as specified in the applicable district regulations, except that in the case of through lots there will be no rear yards, but only front and side yards.

Zoning lot. A lot or any portion thereof, or contiguous lots under common ownership within a single zoning district, which are to be used, developed or built upon as a unit. For the purpose of this definition, lots of the same ownership separated solely by an alley of no more than twenty (20) feet in width and by a distance not exceeding the width of the alley shall be considered contiguous. In a Strategic Growth Area, zoning lots may include lots containing parking structures not under common ownership with the other lots, provided that such parking structures are utilized to satisfy, in whole or in part, the vehicular parking requirements of one or more of the uses on the zoning lot and the property is developed in such manner that the uses, including the parking structures, are functionally integrated by means such as, but not limited to, pedestrian connections, similar building materials and architecture and similarly-styled signage. Such signs shall conform to the Central Business Core District Sign Design Guidelines.

(Ord. No. 1836, 3-20-89; Ord. No. 1843, 3-27-89; Ord. No. 1906, 8-14-89; Ord. No. 1915, 9-11-89; Ord. No. 2002, 9-18-90; Ord. No. 2007, 11-6-90; Ord. No. 2117, 3-24-92; Ord. No. 2151, 6-23-92; Ord. No. 2175, 9-22-92; Ord. No. 2196, 12-8-92; Ord. No. 2210, 4-13-93; Ord. No. 2270, 6-14-94; Ord. No. 2315, 4-11-95; Ord. No. 2360, 11-28-95; Ord. No. 2413, 8-13-96; Ord. No. 2459, 10-28-97; Ord. No. 2495, 6-23-98; Ord. No. 2505, 9-8-98; Ord. No. 2513, 10-27-98; Ord. No. 2563, 10-26-99; Ord. No. 2570, 1-4-00; Ord. No. 2607, 8-22-00; Ord. No. 2609, 8-22-00; Ord. No. 2627, 4-24-01; Ord. No. 2660, 8-28-01; Ord. No. 2671, 10-23-01; Ord. No. 2693, 5-14-02; Ord. No. 2704, 6-25-02; Ord. No. 2713, 7-9-02; Ord. No. 2782, 8-26-03; Ord. No. 2856, 12-7-04; Ord. No. 2864, 2-8-05; Ord. No. 2883, 6-14-05; Ord. No. 2909, 12-20-05; Ord. No. 2929, 3-14-06; Ord. No. 2968, 1-23-07; Ord. No. 2972, 2-27-07; Ord. No. 2976, 4-24-07; Ord. No. 3000, 9-25-07; Ord. No. 3004, 11-13-07; Ord. No. 3042, 7-1-08; Ord. No. 3046, 8-26-08; Ord. No. 3050, 9-9-08; Ord. No. 3080, 5-12-09; Ord. No. 3102, 9-8-09; Ord. No. 3114, 2-9-10; Ord. No. 3115, 2-9-10; Ord. No. 3119, 3-9-10; Ord. No. 3141, 6-22-10; Ord. No. 3145, 7-13-10; Ord. No. 3154, 11-9-10; Ord. No. 3161, 2-8-11; Ord. No. 3217, 2-28-12; Ord. No. 3227, 4-24-12; Ord. No. 3244, 7-3-12; Ord. No. 3246, 7-10-12; Ord. No. 3247, 7-10-12; Ord. No. 3259, 8-28-12; Ord. No. 3310, 11-26-13; Ord. No. 3322, 1-14-14; Ord. No. 3328, 2-25-14; Ord. No. 3361, 7-1-14; Ord. No. 3378, 10-7-14; Ord. No. 3390, 1-6-15; Ord. No. 3397, 3-17-15; Ord. No. 3403, 4-21-15; Ord. No. 3412, 5-19-15; Ord. No. 3416, 5-19-15; Ord. No. 3423, 7-7-15; Ord. No. 3427, 8-18-15; Ord. No. 3441, 4-19-16; Ord. No. 3468, 12-6-16; Ord. No. 3471, 12-6-16; Ord. No. 3506, 6-20-17; Ord. No. 3514, 7-11-17; Ord. No. 3524, 12-5-17; Ord. No. 3526, 12-12-17; Ord. No. 3528, 1-9-18; Ord. No. 3571, 11-20-18; Ord. No. 3578, 1-15-19; Ord. No. 3613, 2-11-20; Ord. No. 3702, 7-12-22)

Sec. 901. Use regulations.

- (a) *Principal and conditional uses.* The following chart lists those uses permitted within the B-1 through B-4K Business Districts. Those uses and structures in the respective business districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
Animal hospitals, veterinary establishments, pounds, shelters, commercial kennels, provided all animals shall be kept in soundproofed, air-conditioned buildings	P	P	P	P	P	P	P
Assembly uses	C	C	C	C	C	C	C
Automobile museums	X	C	C	C	C	C	C

Automobile repair garages and small engine repair establishments, provided that all repair work shall be performed within a building	X	X	C	X	C	X	X
Automobile service stations; provided that, where there is an adjoining residential or apartment district without an intervening street, alley or permanent open space over twenty-five (25) feet in width and where lots separated by a district boundary have adjacent front yards, Category VI screening shall separate the automobile service station use from the adjacent residential district or apartment district and no ground sign shall be within fifty (50) feet of the residential district or apartment district	X	X	C	C	C	X	X
Bakeries, confectioneries and delicatessens, provided that products prepared or processed on the premises shall be sold only at retail and only on the premises	P	P	P	P	P	P	P
Bars or nightclubs	X	X	C	C	C	C	C
Bed and breakfast inns	X	X	X	X	C	X	C
Beverage manufacturing shops, which shall not exceed three thousand (3,000) square feet in floor area	X	X	P	P	P	P	X
Bicycle and moped rental establishments	X	X	X	X	C	X	X
Boat sales	X	X	P	X	P	X	X
Body piercing establishments	X	X	C	X	X	X	X
Borrow pits	X	X	C	X	X	X	X
Bulk storage yards and building contractors yards; provided that no sale or processing of scrap, salvage or secondhand material shall be permitted in such yards; and, provided further that such storage yards shall be completely enclosed except for necessary openings in ingress and egress by a fence or wall not less than six (6) feet in height	X	X	C	X	X	X	X
Business and vocational schools which do not involve the operation of woodwork shops, machine shops or other similar facilities, with a floor area greater than seven thousand five hundred (7,500) square feet	X	C	C	C	C	C	C
Business and vocational schools which do not involve the operation of woodwork shops, machine shops or other similar facilities, with a maximum floor area of seven thousand five hundred (7,500) square feet	X	P	P	P	P	P	P
Business studios, offices and clinics	P	P	P	P	P	P	P
Car wash facilities, subject to the provisions of section 228.1.	X	X	C	C	C	X	X
Colleges and universities, public or private	X	C	C	C	C	C	C
Commercial parking lots, parking garages, parking structures and storage garages	X	X	P	P	P	P	C
Commercial parking garages and storage garages which include car wash, car rental or car detailing services when wholly enclosed within a parking structure and accessory thereto	X	X	C	C	C	P	X

Communication towers meeting the requirements of administrative review eligible project (j) and temporary communication towers meeting the requirements of section 207	P	P	P	P	P	P	P
Communication towers standard process	X	C	C	C	C	C	X
Craft breweries, subject to the provisions of section 230	X	X	C	C	X	C	C
Craft distilleries, subject to the provisions of section 230	X	X	C	C	X	C	C
Craft wineries, subject to the provisions of section 230	X	X	C	C	X	C	C
Day-care centers and child care education centers	C	C	P	P	P	P	C
Dormitories for marine pilots	X	X	X	X	C	X	X
Drugstores, beauty shops and barbershops and other similar personal service establishments	P	P	P	P	P	P	P
Dwellings, Attached	X		X	X	P	X	P
Dwellings, Multi-family	X	X	X	X	P	C	C
Eating and drinking establishments without drive-through windows, when not freestanding and incorporated inside a mixed use building, except as otherwise specified in this section	X	X	X	X	X	P	P
Eating and drinking establishments with drive-through windows, except as specified below	X	X	P	P	P	X	C
Eating and drinking establishments without drive-through windows, except as specified below	P	P	P	P	P	X	P
Fiber-optics transmission facilities	X	C	C	C	X	C	C
Financial institutions; provided, that drive-through windows shall not be allowed in the B-4K District	P	P	P	P	P	P	P
Florists, gift shops and stationery stores	P	P	P	P	P	P	P
Funeral homes	X	P	P	P	P	X	X
Furniture repair and upholstery, repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying; tile setting, sign shops and other small service businesses	X	P	P	P	P	X	X
Greenhouses and plant nurseries	X	P	P	X	P	X	P
Grocery stores, carry-out food stores and convenience stores all being both freestanding and in a structure with a gross floor area of less than five thousand (5,000) square feet. Within the B-4K, also including that it is not open to the public twenty-four (24) hours a day	C	C	P	P	P	X	P
Grocery stores, carry-out food stores and convenience stores whether or not freestanding, but in a structure of a gross floor area of not less than five thousand (5,000) square feet	X	X	P	P	P	C	P
Grocery stores, carry-out food stores and convenience stores any of which are not freestanding but in a structure with a gross floor area of less than five thousand (5,000) square feet	P	P	P	P	P	C	C

Grocery stores, carry-out food stores and convenience stores whether or not freestanding, but in a structure of more than forty-five thousand (45,000) square feet	X	X	P	P	P	C	C
Group Home	X	X	X	X	C	X	X
Heliports and helistops	X	X	C	C	C	C	X
Home-based wildlife rehabilitation facilities	C	C	C	X	X	X	X
Home occupations	X	X	X	X	C	C	C
Home sharing meeting the requirements of section 209.6	X	X	X	X	P	P	P
Housing for seniors and disabled persons or handicapped, including convalescent or nursing; maternity homes; day-care centers other than covered under permitted principal uses hereinabove, provided that the maximum height shall not exceed one hundred sixty-five (165) feet; provided, however, that no structure shall exceed the height limit established by section 202(b) regarding air navigation	C	C	X	X	C	C	C
Hospitals and sanitariums	X	X	C	C	C	C	X
Hotels and motels	X	X	X	P	P	P	X
Hotels and motels with increased lodging unit density and height, provided that the maximum density shall be one hundred twenty (120) lodging units per acre, the minimum lot area shall be one (1) acre and the maximum height shall be one hundred (100) feet; notwithstanding the above, no structure shall exceed the height limit established by section 202(b) regarding air navigation	X	X	X	X	C	X	X
Laboratories and establishments for the production and repair of eye glasses, hearing aids and prosthetic devices	X	X	P	P	P	P	P
Laundry and dry cleaning agencies	P	P	P	P	P	P	P
Liquor stores, package only	P	P	P	P	P	P	P
Marinas, commercial	X	X	C	C	C	X	X
Medical and dental offices and clinics	P	P	P	P	P	P	P
Medical laboratories	X	X	P	P	P	P	P
Mini-warehouses	X	C	C	C	C	X	X
Mobile home sales	X	X	C	X	X	X	X
Motor vehicle sales and rental, provided the minimum lot size is twenty thousand (20,000) square feet; and provided further, that truck and trailer rentals shall comply with the provisions of section 242.2	X	X	C	C	C	X	X
Motor vehicle sales and rental, provided such use is wholly enclosed within a building, and further provided that no outdoor use accessory to or in conjunction with the principal use shall be allowed	X	X	X	X	X	P	X
Museums and art galleries	C	P	P	P	P	P	P
Newspaper printing and publishing, job and commercial printing	X	P	P	P	P	P	P

Off-site parking facilities, subject to the provisions of subsection (d)	X	X	X	P	X	P	X
Open-air markets	X	X	C	C	C	C	C
Outdoor cafes	P	P	P	P	P	P	P
Outdoor plazas	P	P	P	P	P	P	P
Passenger transportation terminals	X	X	C	C	C	C	X
Passenger vessels permitted by U.S. Coast Guard regulations to carry more than one hundred forty-nine (149) passengers and used for commercial purposes	X	X	C	X	C	X	X
Personal service establishments, other than those listed separately	P	P	P	P	P	P	P
Personal watercraft rentals	X	C	C	C	C	X	X
Public buildings and grounds	P	P	P	P	P	P	P
Public utilities installations and substations provided storage and maintenance facilities shall not be permitted; and provided further that utilities substations, other than individual transformers, shall be surrounded by Category IV screening solid except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require only Category I screening, solid except for access openings	P	P	P	P	P	P	P
Public utilities offices	X	X	P	P	P	P	P
Public utility storage or maintenance installations	X	X	C	C	C	X	X
Radio and television broadcasting stations	X	C	C	C	C	C	C
Recreation facilities other than those of an outdoor nature, with a floor area greater than seven thousand five hundred (7,500) square feet	X	X	C	C	P	C	C
Recreational and amusement facilities of an outdoor nature, which may be partially or temporarily enclosed on a seasonal basis with approval of city council; provided that, in the development of such properties, safeguards are provided to preserve and protect the existing character of adjacent properties, except that riding academies and recreational campgrounds shall not be allowed as a conditional use or otherwise	X	C	C	C	C	C	C
Recreational facilities other than those of an outdoor nature, with a maximum floor area of seven thousand five hundred (7,500) square feet	X	X	P	P	P	P	P
Religious uses with a floor area greater than four thousand (4,000) square feet	C	C	C	C	C	C	C
Religious uses with a maximum floor area of four thousand (4,000) square feet	P	P	P	P	P	P	P
Repair and sales for radio and television and other household appliances and small business machines	P	P	P	P	P	P	P
Retail establishments, other than those listed separately, including the incidental manufacturing of goods for sale only at retail on the premises; retail	X	P	P	P	P	P	P

sales and display rooms and lots, provided that yards for storage of new or used building materials or yards for any scrap or salvage operations or for storage or display of any scrap, salvage or secondhand building materials or automobile parts shall not be allowed, further provided that adult book stores shall be prohibited from locating within five hundred (500) feet of any apartment or residential district, single- or multiple-family dwelling, church, park, or school. In B-4K also including with a floor area of twenty thousand (20,000) square feet or less.							
Retail establishments, other than those listed separately, including the incidental manufacturing of goods for sale only at retail on the premises; retail sales and display rooms and lots, provided that yards for storage of new or used building materials or yards for any scrap or salvage operations or for storage or display of any scrap, salvage or secondhand building materials or automobile parts shall not be allowed, further provided that adult book stores shall be prohibited from locating within five hundred (500) feet of any apartment or residential district, single- or multiple-family dwelling, church, park, or school. In B-4K also including a floor area of more than twenty thousand (20,000) square feet	X	P	P	P	P	P	C
Satellite wagering facility	X	X	C	C	X	C	X
Short term rental	X	X	X	X	X	X	X
Short term rental within the Sandbridge Special Service District,* meeting all of the requirements of Section 241.2	P	P	P	P	P	P	P
Short term rental within an STR Overlay District, meeting all of the requirements of Section 241.2 and, where applicable, Section 2303	X	X	X	X	C	C	C
Single room occupancy facility	X	X	X	X	C	C	C
Small wireless facilities meeting the requirements of section 207	P	P	P	P	P	P	P
Specialty shops	C	P	P	P	P	P	P
Storage garages	X	X	P	P	P	X	X
Tattoo parlors	X	X	C	X	X	X	X
Wholesaling and distribution operations, provided that such operations do not involve the use of: (i) more than two thousand (2,000) square feet of floor area for storage of wares to be sold at wholesale or to be distributed, or (ii) any vehicle rated at more than one and one-half (1½) tons, or (iii) a total of more than five (5) delivery vehicles	X	X	P	C	X	X	X
Wildlife rehabilitation centers	C	C	C	X	X	X	X
Wind energy conversion systems, freestanding, except as provided below	P	P	P	X	X	X	X

Wind energy conversion systems, freestanding, in excess of one (1)	C	C	C	X	X	X	X
Wind energy conversion systems, roof-mounted, except as provided below	P	P	P	P	P	P	P
Wind energy conversion systems, roof-mounted, in excess of one (1) per principal structure	C	C	C	C	C	C	C
Wine-tasting rooms, subject to the provisions of section 209.4	X	P	P	P	X	P	C
*Sandbridge Special Service District is defined in City Code section 35.1-3.							

(a2) *Outdoor cafes and outdoor plazas in the B-4K Historic Kempsville Area Mixed Use District.*

- (a) Notwithstanding any contrary provision, outdoor cafes within the B-4K Historic Kempsville Area Mixed Use District shall not occupy more than one thousand (1,000) square feet of area outside of an enclosed building.
- (b) Notwithstanding any contrary provision, outdoor plazas within the B-4K Historic Kempsville Area Mixed Use District shall be subject to the following criteria:
 - (1) Outdoor plazas should be located at the entrance to major buildings and other appropriate areas to provide safe, attractive and accessible public urban open spaces for those who live, work and visit the area. The size and configuration of outdoor plazas and attendant amenities shall be reviewed by the Planning Director to ensure conformance with these and other related objectives as set forth in the Comprehensive Plan and the Historic Kempsville Area Master Plan; and
 - (2) The architectural design shall conform to the purpose and intent of the Historic Kempsville Area Master Plan.

- (b) *Accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including, but not limited to:
 - (1) An accessory activity operated for profit in a residential dwelling unit where there is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently, of the conduct of such business except for one non-illuminated sign not more than one square foot in area mounted flat against the residence; where no traffic is generated, including traffic by commercial delivery vehicles, by such activity in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such activity is met off the street and other than in a required front yard; where the activity is conducted on the premises which is the bona fide residence of the principal practitioner, and no person other than members of the immediate family occupying such dwelling unit is employed in the activity; where such activity is conducted only in the principal structure on the lot; where there are no sales to the general public of products or merchandise from the home; and where the activity is specifically designed or conducted to permit no more than one patron, customer, or pupil to be present on the premises at any one time. The following are specifically prohibited as accessory activities: Convalescent or nursing homes, bars or nightclubs, tourist homes, massage or tattoo parlors, radio or television repair shops, auto repair shops, or similar establishments.
 - (2) Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.

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- (3) Ice vending machine units in the B-2, B-3, and B-4 District at Shopping Center, as defined by the Zoning Ordinance, but not to include those within any Historic and Cultural District or the Historic Kempsville Area Overlay District, subject to the following standards:
- (a) Ice vending machine units shall only be permitted at shopping centers which features no less than sixty thousand (60,000) square feet of existing retail or other commercial establishments.
 - (b) Only one (1) ice vending machine unit shall be permitted per shopping center.
 - (c) Ice vending machine units shall not be more than two hundred fifty (250) square feet in size, nor more than eighteen (18) feet in height.
 - (d) Ice vending machine units shall not be within one hundred (100) feet from any property zoned Residential or Apartment District or within one hundred (100) feet from any property with a residential use.
 - (e) Ice vending machine units shall meet the setback requirements and yard spacing for commercial uses and structures, as prescribed in section 902 of this ordinance.
 - (f) Ice vending machine units shall require two (2) dedicated off-street parking spaces and one (1) loading space.
 - (g) Ice vending machine units shall not be located on or in any parking spaces required for the shopping center.
 - (h) Mechanical equipment outside of the ice vending machine unit shall be located on the roof of the unit and screened from typical street level view using parapets or other opaque means. However, if it is determined that such equipment cannot be located on the roof of the unit, mechanical equipment may be located on the ground and adjacent to the unit, given such equipment is screened by a solid fence or wall.
 - (i) Signage shall only be permitted on two (2) sides of the unit, provided it does not exceed one square foot for each linear foot of the wall on which it is located. However, in no case shall the permitted signage exceed twenty (20) square feet per side.
 - (j) Ingress and egress to and from ice vending machine units shall not impede fire access or pedestrian and vehicular traffic flow.
 - (k) By receipt of permit, the owner shall authorize the City of Virginia Beach the ability to require any ice vending machine unit, upon its abandonment or discontinuation after a period of thirty (30) consecutive days, to be removed by the operator of the unit or the property owner of the shopping center in which it is located.
- (c) *Special restrictions in Accident Potential Zone 1 (APZ-1).* No use or structure shall be permitted on any property located within Accident Potential Zone 1 (APZ-1) or the Clear Zone unless such use is designated as Compatible in APZ-1 or the Clear Zone, as the case may be, in Table 2 ("Air Installations Compatible Use Zones Land Use Compatibility in Accident Potential Zones") of section 1804; provided, however, that any use or structure not designated as Compatible shall be permitted as a replacement of the same use or structure if the replacement use or structure is of equal or lesser density or intensity than the original use or structure.
- (d) *Off-site parking facilities.* Off-site parking facilities shall be permitted as follows:
- (1) *B-3 and B-4C Districts.* Off-site parking facilities for any use within the B-3 or B-4C Districts, shall be permitted on any zoning lot, provided all of the following requirements are met: (1) structures for parking facilities shall conform to the regulations of the district in which located; (2) off-site parking facilities shall be located within one thousand five hundred (1,500) feet from the use they are intended to serve, but in no case shall any such facility be located opposite Virginia Beach Boulevard and Independence Boulevard unless grade-separated pedestrian access is provided; and (3) a written

agreement assuring continued availability of the number of spaces indicated shall be drawn and executed, and a certified copy of such agreement shall be recorded with the clerk of the court. Such agreement shall stipulate that, if such space is not maintained or space acceptable to the planning director substituted, the use or such portion of the use as is deficient in number of parking spaces shall be discontinued. The agreement shall be subject to the approval of the city attorney.

- (2) *B-4K District.* Off-site parking facilities for any use within the B-4K District may be permitted on any zoning lot within the district, provided all of the following requirements are met: (1) structures for parking facilities shall conform to the regulations of the district in which located; (2) off-site parking facilities shall be located within one thousand five hundred (1,500) feet from the use they are intended to serve, but in no case shall any such facility be located opposite Kempsville Road, Princess Anne Road, or South Witchduck Road unless grade-separated pedestrian access is provided; and (3) a written agreement assuring continued availability of the number of spaces indicated shall be drawn and executed, and a certified copy of such agreement shall be recorded with the clerk of the court. Such agreement shall stipulate that, if such space is not maintained or space acceptable to the planning director substituted, the use or such portion of the use as is deficient in number of parking spaces shall be discontinued. The agreement shall be subject to the approval of the city attorney.

(Ord. No. 1811, 10-10-88; Ord. No. 1906, 8-14-89; Ord. No. 1913, 9-11-89; Ord. No. 1937, 12-18-89; Ord. No. 1941, 1-22-90; Ord. No. 2095, 8-27-91; Ord. No. 2100, 9-3-91; Ord. No. 2174, 9-22-92; Ord. No. 2177, 10-22-92; Ord. No. 2261, 2-8-94; Ord. No. 2268, 6-14-94; Ord. No. 2315, 4-11-95; Ord. No. 2359, 11-28-95; Ord. No. 2419, 9-10-96; Ord. No. 2427, 10-29-96; Ord. No. 2460, 10-28-97; Ord. No. 2495, 6-23-98; Ord. No. 2505, 9-8-98; Ord. No. 2513, 10-27-98; Ord. No. 2552, 7-6-99; Ord. No. 2570, 1-4-00; Ord. No. 2597, 6-27-00; Ord. No. 2627, 4-24-01; Ord. No. 2660, 8-28-01; Ord. No. 2693, 5-14-02; Ord. No. 2761, 5-13-03; Ord. No. 2782, 8-26-03; Ord. No. 2843, 10-12-04; Ord. No. 2907, 12-20-05; Ord. No. 2917, 1-24-06; Ord. No. 2922, 2-14-06; Ord. No. 2968, 1-23-07; Ord. No. 2972, 2-27-07; Ord. No. 2976, 4-24-07; Ord. No. 3000, 9-25-07; Ord. No. 3046, 8-26-08; Ord. No. 3050, 9-9-08; Ord. No. 3102, 9-8-09; Ord. No. 3109, 11-10-09; Ord. No. 3167, 4-26-11; Ord. No. 3191, 7-12-11; Ord. No. 3259, 8-28-12; Ord. No. 3294, 6-25-13; Ord. No. 3328, 2-25-14; Ord. No. 3343, 4-22-14; Ord. No. 3378, 10-7-14; Ord. No. 3397, 3-17-15; Ord. No. 3403, 4-21-15; Ord. No. 3412, 5-19-15; Ord. No. 3425, 8-4-15; Ord. No. 3441, 4-19-16; Ord. No. 3442, 4-19-16; Ord. No. 3506, 6-20-17; Ord. No. 3514, 7-11-17; Ord. No. 3527, 12-12-17; Ord. No. 3577, 1-15-19; Ord. No. 3578, 1-15-19; Ord. No. 3609, 1-21-20; Ord. No. 3661, 5-18-21; Ord. No. 3667, 7-13-21; Ord. No. 3719, 2-7-23)

Sec. 1521. Use regulations.

- (a) The following chart lists those uses permitted within the RT-3 Resort Tourist District as either principal uses, as indicated by a "P" or as conditional uses, as indicated by a "C." Conditional uses shall be subject to the provisions of Part C of Article 2 (section 220 et seq.). Except for single-family, duplex, semidetached and attached dwellings, buildings within the RT-3 District may include any principal or conditional uses in combination with any other principal or conditional use. No uses or structures other than those specified shall be permitted. All uses, whether principal or conditional, should to the greatest extent possible adhere to the provisions of the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan.

Use	RT-3
Assembly uses	C
Automobile museums	C
Automobile and small engine repair establishments, provided that all repair work shall be performed within a building	C
Automobile service stations	C
Bars or nightclubs	C

Bed and breakfast inns	C
Boat sales	P
Building-mounted antennas meeting the requirements of section 207	P
Business studios, offices, clinics and medical laboratories	P
Bicycle rental establishments, but only east of Arctic Avenue	C
Commercial parking lots, parking garages, parking structures and storage garages	C
Communication towers standard process	C
Communication towers meeting the requirements of administrative review eligible projects	P
Day-care and child care education centers	P
Dormitories for marine pilots	C
Drive-through facilities of financial institutions, provided the lot on which the use is located is at least one hundred (100) feet from any lot zoned Residential or Apartment	C
Drive-through facilities other than those associated with financial institutions, but not as a principal use within the area south of Winston Salem Avenue and provided that the lot on which the use is located is at least 100 feet from any lot zoned Residential or Apartment	C
Dwellings, additions to single-family, duplex, semi-detached, and attached	P
Dwellings, single-family and duplex, provided that such dwellings should be consistent with the provisions of the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan	P
Dwellings, multi-family within a mixed-use development, on lots contiguous to 17th Street (Virginia Beach Boulevard), provided that said dwellings should be consistent with the provisions of the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan	P
Dwellings, multi-family, except on lots contiguous to 17th Street (Virginia Beach Boulevard), provided that said dwellings should be consistent with the provisions of the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan and may be part of a mixed-use development	P
Eating and drinking establishments	P
Financial institutions	P
Funeral homes	P
Heliports and helistops	C
Home occupations	C
Home sharing meeting the requirements of section 209.6	P
Hospitals and sanitariums	C
Housing for seniors and disabled persons; maternity homes	C
Marinas, including facilities for storage and repair of boats and sale of boating supplies and fuel	C
Mini-warehouses, provided that the yard shall be completely enclosed except for necessary openings for ingress and egress by a fence or wall not less than six (6) feet in height	C
Motels and hotels, on lots with a minimum lot size of twenty thousand (20,000) square feet, which may have in conjunction with them any combination of restaurants, retail	P

commercial use and convention and conference facilities, provided that uses in conjunction with hotels and motels may not occupy more than twenty (20) percent of the floor area of the floor area of all structures (excluding parking) located on the lot, and provided further that the lot on which the use is located is at least one hundred (100) feet from any lot zoned Residential or Apartment	
Museums and art galleries	P
Off-site parking facilities in connection with any permitted or conditional use within the RT-1 or RT-3 Resort Tourist Districts, provided the requirements of section 1524 are met, the off-site parking facility is located at least one hundred (100) feet from any lot zoned Residential or Apartment District, and provided further that all of the following requirements are met: (a) Parking structures for such parking facilities shall be allowed only as a conditional use; (b) Off-site parking facilities shall be located within one thousand (1,000) feet from the use they are intended to serve; (c) A written agreement assuring continued availability of the number of spaces indicated shall be drawn and executed, and a certified copy of such agreement shall be recorded with the clerk of the court. Such agreement shall stipulate that, if such space is not maintained or space acceptable to planning director substituted, the use or such portion of the use as is deficient in number of parking spaces shall be discontinued. The agreement shall be subject to the approval of the city attorney	P
Open-air markets	C
Passenger transportation terminals	C
Passenger vessels permitted by United States Coast Guard regulations to carry more than one hundred forty-nine (149) passengers and used for commercial purposes	C
Personal service establishments including barber and beauty shops, shoe repair shops, cleaning, dyeing, laundry, pressing dressmaking, tailoring and garment repair shops with processing on the premises	P
Personal watercraft rentals, east of Arctic Avenue and south of Winston Salem Avenue, provided the lot on which the use is located is at least one hundred (100) feet from any lot zoned Residential or Apartment	C
Public buildings and grounds	P
Public utilities installations and substations, including offices; provided storage or maintenance facilities shall not be permitted; and provided further that utilities substations, other than individual transformers, shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge five (5) to six (6) feet in height; and provided also, transformer vaults for underground utilities and the like shall require only a landscaped screening hedge, solid except for access opening	P
Public utility storage or maintenance installations provided the lot in which the use is located is at least one hundred (100) feet from any lot zoned Residential or Apartment	C
Radio and television broadcasting stations	C
Recreation facilities other than those of an outdoor nature, with a floor area greater than seven thousand five hundred (7,500) square feet	C
Recreational and amusement facilities of an outdoor nature, which may be partially or temporarily enclosed on a seasonal basis	C
Recreational facilities other than those of an outdoor nature, with a maximum floor area of seven thousand five hundred (7,500) square feet	P

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(Supp. No. 159, Update 1)

Religious uses	C
Retail establishments, provided that adult bookstores shall be prohibited from locating within five hundred (500) feet of any Apartment or Residential zoning district, single- or multiple-family dwelling, church, park, or school	P
Satellite wagering facility	C
Short term rental	X
Short term rental within an STR Overlay District, meeting all of the requirements of section 241.2 and, where applicable, section 2303	C
Small wireless facilities meeting the requirements of section 207	P
Temporary communication towers meeting the requirements of section 207	P
Wind energy conversion systems, roof-mounted, except as provided below	P
Wind energy conversion systems, roof-mounted, in excess of one (1) per principal structure	C

- (b) *Accessory uses and structures:* Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures; provided, however, that drive-through facilities shall not be permitted as an accessory use:
- (1) An accessory activity operated for profit in a residential dwelling unit where there is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently, of the conduct of such business except for one (1) nonilluminated sign not more than one (1) square foot in area mounted flat against the residence; where no traffic is generated, including traffic by commercial delivery vehicles, by such activity in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such activity is met off the street and other than in a required front yard; where the activity is conducted on the premises which is the bona fide residence of the principal practitioner, and no person other than members of the immediate family occupying such dwelling unit is employed in the activity; where such activity is conducted only in the principal structure on the lot; where there are no sales to the general public of products or merchandise from the home; and where the activity is specifically designed or conducted to permit no more than one (1) patron, customer, or pupil to be present on the premises at any one time. The following are specifically prohibited as accessory activities: Convalescent or nursing homes, bars or nightclubs, tourist homes, massage or tattoo parlors, body piercing establishments, radio or television repair shops, auto repair shops, or similar establishments.
 - (2) Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.
- (c) Proposed conditional uses shall be evaluated for consistency with the following criteria regarding general land use, transportation, and aesthetic provisions in order to further the legislative intent of the RT-3 District and the goals of the Comprehensive Plan and Resort Area Strategic Action Plan:
- (1) Any development or redevelopment in this area should contribute to creating an attractive wholesome family resort destination;
 - (2) The use should be consistent with the resort area goal to promote a safe, day and night, year round resort destination;
 - (3) The use and structure should complement resort activity centers and corridors and advance the area's public and private investments;

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- (4) All development and other physical improvements, such as landscaping, signs, lighting, and other similar elements should strive to achieve a high level of design excellence and contribute to a quality image as expressed in the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan;
 - (5) All transportation improvements should be designed to shift the dominant transportation mode in the area from vehicular to pedestrian and transit; and
 - (6) The use should be appropriate for both local residents and visitors to the area.

(Ord. No. 1913, 9-11-89; Ord. No. 2100, 9-3-91; Ord. No. 2176, 9-22-92; Ord. No. 2180, 9-22-92; Ord. No. 2261, 2-8-94; Ord. No. 2315, 4-11-95; Ord. No. 2316, 4-11-95; Ord. No. 2416, 9-3-96; Ord. No. 2427, 10-29-96; Ord. No. 2444, 5-13-97; Ord. No. 2449, 5-27-97; Ord. No. 2460, 10-28-97; Ord. No. 2495, 6-23-98; Ord. No. 2513, 10-27-98; Ord. No. 2524, 3-23-99; Ord. No. 2552, 7-6-99; Ord. No. 2570, 1-4-00; Ord. No. 2627, 4-24-01; Ord. No. 2660, 8-28-01; Ord. No. 2782, 8-26-03; Ord. No. 2914, 12-20-05; Ord. No. 2968, 1-23-07; Ord. No. 3000, 9-25-07; Ord. No. 3046, 8-26-08; Ord. No. 3050, 9-9-08; Ord. No. 3102, 9-8-09; Ord. No. 3167, 4-26-11; Ord. No. 3247, 7-10-12; Ord. No. 3259, 8-28-12; Ord. No. 3403, 4-21-15; Ord. No. 3441, 4-19-16; Ord. No. 3442, 4-19-16; Ord. No. 3514, 7-11-17; Ord. No. 3578, 1-15-19; Ord. No. 3661, 5-18-21; Ord. No. 3667, 7-13-21)

Sec. 2202. Findings.

The City Council finds that:

- (a) In the 2003 Comprehensive Plan, the City established Strategic Growth Areas (SGAs), including the Pembroke SGA, as areas designed to absorb most of the City's anticipated future growth, both residential and non-residential. The SGAs were planned to contain uses that are more intensive than in most other areas of the City but are integrated into compact, yet compatible, mixes of uses, including office, retail, service, hotel and, where appropriate, residential, uses.

The 2003 Comprehensive Plan also set forth five common planning principles applicable to all SGAs:

- (1) Efficient use of land resources;
 - (2) Full use of urban services;
 - (3) A compatible mix of uses;
 - (4) A range of transportation opportunities; and
 - (5) Detailed human-scale design.
- (b) The 2003 Comprehensive Plan also set forth guidance concerning the implementation of the vision embodied in the various SGAs. It stated:

Of equal importance will be how the SGAs develop in regard to the form that they take. The SGAs are intended to be urban in form with a mixture of uses commonly found in urban settings. The areas, however, that are designated as SGAs are largely either undeveloped or developed in the same suburban pattern found throughout the City. How we reshape these undeveloped and suburban areas will be critical if we are to create memorable urban places where people desire to live, work, play, and learn. As the various implementation plans are developed for the SGAs, we must develop design guidelines and new zoning tools, such as Form Based Codes, that provide specific direction to those who own property in the SGAs regarding what the form of those places will be. If the form of the SGAs does not match our vision for the SGAs, we will have lost much. This Plan, therefore, provides fundamental guidance regarding the proper form of urban places and the principles of design that can be used as we move forward to create an active and vibrant urban corridor from Newtown to the Oceanfront.

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- (c) The 2009 Comprehensive Plan retained the strategy and guiding principles set forth hereinabove. That strategy has been refined and expanded by means of separate plans that were specific to each of the eight SGAs within the City and that were adopted only after an extensive public participation in each instance. The plans for all of those SGAs retain the five basic planning principles set forth in subsection (a). In addition, the 2009 Plan noted that the City has identified SGAs as:
- (1) Providing opportunities for continued physical and economic growth;
 - (2) Helping to prevent urban sprawl;
 - (3) Protecting our established residential neighborhoods and rural areas from incompatible development due to growth pressures;
 - (4) Maximizing infrastructure efficiency; and
 - (5) Creating unique and exciting urban destinations.
- (d) Traditional suburban-style development typically lacks significant connectivity to mass transit systems and bicycle or pedestrian-oriented features, instead depending almost exclusively upon automobile traffic. Such dependence upon the automobile results in large expanses of asphalt or other impervious parking surfaces that are rarely, if ever, fully utilized, and has significant undesirable impacts, including, among others:
- (1) Inefficient use of land;
 - (2) Greater adverse impacts on air and water quality, notwithstanding compliance with applicable regulations, than vertically-oriented, mixed-use development;
 - (3) Incompatibility, both functional and architectural, with adjacent communities;
 - (4) Increased traffic congestion; and
 - (5) A lack of uniqueness and "sense of place" differentiating Virginia Beach from other cities.
- (e) As stated in the Pembroke SGA Plan:
- Without an urban core, the City will not be able to attract the kind of employers needed to provide jobs to certain segments of its ever-expanding citizenry. The time has come for the City of Virginia Beach to embrace its urban potential and take steps to create a sustainable city form that better serves its citizens now and long into the future.
- (f) In light of the foregoing findings, it is in the best interests of the City of Virginia Beach that this Article be adopted in order to promote development that advances the City's vision for the Central Business District/Core Area portion of the Pembroke Strategic Growth Area. That vision was finalized only after residents, business owners and other stakeholders participated with City planners and other officials in an extensive public participation process in which a variety of views and opinions were expressed and considered.
- (g) The zoning regulations that currently govern development in the Central Business District/Core Area of the Pembroke SGA should be updated and refined so as to allow more flexible and creative forms of development; accordingly, the regulations set forth in this Article are intended to be flexible and performance-oriented, so as to allow multiple forms of development that advance the goals and objectives of the Pembroke SGA Plan.

(Ord. No. 3327, 2-25-14)

Sec. 2203. Use regulations.

- (a) The following chart lists those uses permitted within the Central Business Core District. Uses and structures shall be allowed either as principal uses, indicated by a "P", or as conditional uses, indicated by a "C." Uses and structures indicated by an "X" shall be prohibited, unless allowed by special exception for Alternative Compliance pursuant to section 2205. No uses or structures other than as specified herein or as allowed pursuant to subsection (b) shall be permitted.

Use	District CBC
Adult book stores, but not within 500 feet of any apartment or residential district, single - or multiple-family dwelling, church, park, or school	X
Animal hospitals, veterinary establishments, pounds, shelters and commercial kennels, provided that all animals shall be kept in soundproofed, air-conditioned buildings	P
Assembly uses	P
Automobile museums, subject to the provisions of section 223.1	C
Automobile repair garages, subject to the provisions of section 224	X
Automobile service stations; subject to the provisions of section 225, and provided that, where there is an adjoining Residential or Apartment district without an intervening street, alley or permanent open space greater than twenty-five (25) feet in width and where lots separated by a district boundary have adjacent front yards, Category VI screening shall separate the automobile service station use from the adjacent Residential or Apartment district and no freestanding sign shall be located within fifty (50) feet of any such Residential or Apartment District	C
Bakeries, confectioneries and delicatessens, provided that products prepared or processed on the premises shall be sold only at retail and only on the premises except that bakeries, confectioneries and delicatessens with 7,500 square feet or less in floor area may prepare products on the premises for retail sale at an off-site location	P
Bars or nightclubs, subject to the provisions of section 225.01	C
Beverage manufacturing shops	P
Bicycle and moped rental establishments and bicycle sharing systems, subject to the provisions of section 226	C
Boat sales	X
Body piercing establishments	X
Building-mounted antennas meeting the requirements of section 207	P
Bulk storage yards and building contractors yards, subject to the provisions of section 228, and provided that no sale or processing of scrap, salvage or second-hand material shall be permitted; and provided further that such storage yards shall be completely enclosed except for necessary openings in ingress and egress by a fence or wall not less than six (6) feet in height	X
Business and vocational schools which do not involve the operation of woodwork shops, machine shops or other similar facilities, with a floor area greater than 7,500 square feet	C
Business and vocational schools which do not involve the operation of woodwork shops, machine shops or other similar facilities, with a maximum floor area of 7,500 square feet	P
Business studios and offices	P
Car wash facilities, subject to the provisions of section 228.1	C
Colleges and universities, public or private	C
Commercial and other surface parking lots, including on-site surface parking, parking garages and storage garages, except as provided below	C

Commercial and other surface parking lots, including on-site parking, located behind a building or otherwise screened from view from a public street	P
Commercial parking structures, which may include car wash, car rental or car detailing services when wholly enclosed within a parking structure and accessory thereto	P
Communication towers meeting the requirements of administrative review eligible project and temporary communication towers meeting the requirements of section 207	P
Communication towers standard process	C
Craft distillery shops	C
Day-care and child care education centers	P
Dwellings, attached/townhouses	X
Dwellings, multiple-family	P
Fiber-optics transmission facilities, subject to the provisions of section 233.15	C
Financial institutions, provided that drive-through facilities shall be located on the block interior or in the ground floor of a parking structure so as not to be visible from a public right-of-way	P
Funeral homes	C
Furniture repair and upholstery; repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying, tile setting, sign shops and other small service businesses within a mixed-use building	P
Furniture repair and upholstery; repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying; tile setting, sign shops and other small service businesses other than within a mixed-use building	X
Greenhouses and plant nurseries in a mixed-use building	C
Grocery stores, carry-out food stores and convenience stores	P
Heliports and helistops	C
Home occupations	C
Home sharing meeting the requirements of section 209.6	P
Housing for seniors and disabled persons, subject to the provisions of section 235; convalescent, nursing or maternity homes	C
Hospitals and sanitariums	C
Hotels	P
Laundry and dry cleaning establishments, retail	P
Liquor stores other than at wholesale	P
Medical and dental offices and clinics	P
Medical laboratories	P
Mini-warehouses	X
Mobile home sales	X
Motor vehicle sales and rentals, subject to the provisions of section 239, except as provided below	X
Motor vehicle sales and rentals, provided that such use and any accessory or other uses in conjunction with the principal use are fully enclosed within a building	P
Museums and art galleries	P
Off-site parking facilities, subject to the provisions of section 2212	P
Pharmacies, provided that drive-through facilities shall be located on the block interior or in the ground floor of a parking structure so as not to be visible from the public right-of-way	P
Printing, publishing and similar uses	P
Personal service establishments	P
Personal watercraft rentals	X

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Public schools	C
Public uses, except public schools	P
Public utilities installations and substations, provided that storage and maintenance facilities shall not be permitted; and provided further, that utilities substations other than individual transformers shall be surrounded by Category IV screening except for entrances and exits; and provided also that transformer vaults for underground utilities shall require only Category I screening, except for access openings	P
Public utilities offices	P
Public utility storage or maintenance installations	X
Radio and television broadcasting stations	C
Recreational or amusement facilities, indoor, with a maximum floor area of 7,500 square feet	P
Recreational or amusement facilities, indoor, with a maximum floor area greater than 7,500 square feet	C
Recreation or amusement facilities, outdoor, other than riding academies and recreational campgrounds, subject to the provisions of section 240.1	C
Religious uses with a floor area greater than 4,000 square feet	C
Religious uses with a maximum floor area of 4,000 square feet	P
Restaurants inside a mixed-use building, except as provided below	P
Restaurants, whether freestanding or in a mixed-use building, with a drive-through window, provided that drive-through facilities shall be located on the block interior or on the ground floor of a parking structure so as not to be visible from a public right-of-way	P
Restaurants, freestanding, without drive-through windows	P
Retail establishments, other than those listed separately, including the incidental manufacturing of goods for sale at retail on the premises; provided that outdoor storage or display of any items for sale shall comply with the provisions of section 2204(c)	P
Storage or processing of salvage, scrap or junk	X
Satellite wagering facilities within a mixed-use building	C
Short term rental	X
Short term rental within an STR Overlay District, meeting all of the requirements of section 241.2 and, where applicable, section 2303	C
Single room occupancy facility	X
Small wireless facilities meeting the requirements of section 207	P
Specialty shops	P
Tattoo parlors and body-piercing establishments	X
Truck and trailer rentals, in accordance with the provisions of section 242.2	X
Wholesaling and distribution operations, provided that such operations do not involve the use of: (i) more than 2,000 square feet of floor area for storage of wares; (ii) any vehicle rated at more than 1½ tons, or (iii) a total of more than five (5) delivery vehicles	X
Wildlife rehabilitation centers	X
Wind energy conversion systems, freestanding	C
Wind energy conversion systems, roof-mounted, except as provided below	P
Wind energy conversion systems, roof-mounted, in excess of one (1) per principal structure	C
Wine-tasting rooms, in accordance with the provisions of section 209.4	P

- (b) If a proposed use is not expressly permitted pursuant to subsection (a), but is similar to a listed use, the Zoning Administrator may categorize the proposed use as a use permitted by this section, either as a

principal or conditional use. In determining whether a proposed use is similar to a listed use, the Zoning Administrator shall consider (1) the actual or projected characteristics of the proposed use in comparison to those of the most similar listed use; and (2) the categorization of the proposed use in the Standard Land Use Coding Manual (First Edition January 1965). Rental of rooms in a dwelling or the entire dwelling thirty (30) consecutive days or more is an accessory use to the dwelling.

- (c) Uses other than those allowed pursuant to subsections (a) or (b) may be allowed pursuant to the Alternative Compliance provisions set forth in section 2205 if such use conforms to the standards set forth therein.

(Ord. No. 3327, 2-25-14; Ord. No. 3403, 4-21-15; Ord. No. 3412, 5-19-15; Ord. No. 3441, 4-19-16; Ord. No. 3514, 7-11-17; Ord. No. 3527, 12-12-17; Ord. No. 3578, 1-15-19; Ord. No. 3661, 5-18-21; Ord. No. 3667, 7-13-21)

Sec. 2204. Development standards.

Uses and structures in the District shall conform to the development standards listed below, unless approved pursuant to the Alternative Compliance (section 2205) or Optional Forms of Development (section 2206) provisions of this Article:

- (a) *Lot Standards (values expressed in feet unless otherwise indicated):*

Standard	District CBC
Lot area (min.)	5,000 square feet
Lot width (min.) ¹	50
Front setback (min.)	0
Side street setback (min.)	0
Side setback (min.)	0 or 5
Rear setback (min.)	0 or 5
Build-to zone ²	0—10
Alley setback (min.)	5
Surface parking setback (min.)	20' (on 70% of street frontage)
Parking structure setback (min.) ³	20' (on 50% of street frontage)
Outdoor amenity space ⁴ (min.)	5% of lot area

Notes:

1. Lot width shall be measured at the front property line. For building sites on which one or more standalone buildings is located on a leased portion of a recorded lot or zoning lot, the lot width shall be determined as if the lease lines were lot lines.
2. The build-to zone is the portion of a lot in which at least the first two (2) stories of a building façade facing a street must occupy no less than the percentage, as designated in subsection (b), of the distance between the lot lines abutting the public street faced by the building façade. The build-to requirements shall apply to all building façades facing a public street.
3. The parking setback must be met in the designated percentage of the street frontage of any portion of the lot or leased area, as the case may be, adjacent to a public street and applies to surface parking and parking structures (ground story only). Where the required setback of a parking structure is met in less than seventy (70) percent of the street frontage, the structure must substantially conform to the applicable Central Business Core District Design Guidelines.

Surface parking on corner lots, including vehicular entrances and exits, shall be set back at least fifteen (15) feet from each point of intersection unless a greater setback is required by the conditional use permit.

4. Outdoor amenity space is an exterior area of an establishment that: (1) serves as an amenity for occupants of the establishment or members of the public and (2) consists of areas such as gardens (including roof gardens), landscaping beds or other vegetated and maintained areas, courtyards, fountains, plazas, parks, cafes, or similar areas. Stormwater management facilities may be included within outdoor amenity spaces, but outdoor display areas and areas consisting solely of grass and lacking other components such as trees, landscaping or hardscape improvements shall not be included as outdoor amenity space. Outdoor amenity space shall be maintained in good condition at all times.

(b) *Building Form Standards (values expressed in feet unless otherwise indicated):*

Standard	District CBC
Height (min.)	25 or 2 stories, whichever is lower
Height (max.) ¹	None, subject to section 202
Ground floor height (min.) ²	12
Build-to zone ³	70%
Transparency (min.) ⁴	30% ground floor; 15% upper floors
Blank wall (max.) ⁵	30
Permitted uses in mixed-use buildings ⁶ (ground floor)	A, B, C, D, E, F ⁷ , G, H
Permitted uses in mixed-use buildings ⁷ (upper floors)	A, B, C, D, E, F, G, H

Key to permitted uses:

A: Retail and service

B: Office

C: Hotel lobby/conference space/accessory uses

D: Restaurants

E: Recreational, assembly or institutional

F: Residential

G: Hotel

H: Commercial parking structures

Notes:

1. Permitted encroachments above the maximum height shall be as set forth in section 202.
2. Measured from finished floor to finished floor.
3. Minimum percentage of street frontage of the lot or leased area occupied by building façade.
4. Minimum percentage of windows and doors that must cover a ground story façade facing a street, as measured between two (2) and eight (8) feet above the adjacent sidewalk. The minimum percentage of windows and doors that must cover an upper floor façade facing a street is measured from the finished floor to the finished floor above. When there is no floor above, upper story transparency is measured from the top of the finished floor to the top of the wall plate. A minimum of thirty percent (30%) of a required entrance must be transparent on a mixed-use or commercial building.
5. "Blank wall" means a portion of the exterior street-facing façade of the building that does not include a substantial material change (paint color is not considered a substantial change); windows, doors, columns, pilasters or other articulation greater than twelve (12) inches in depth. The above requirement applies in both a vertical and horizontal direction and to both ground and upper story street-facing facades.

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6. A mixed-use building is a building containing two (2) or more separate uses, one of which consists of residential dwelling units, that are physically and functionally integrated within the same building on one zoning lot.
7. Residential dwelling units may not occupy more than fifty percent (50%) of the total floor area of the ground floor of the building in which it is located.
- (c) *Outdoor display and storage.*
- (1) Outdoor display is the outdoor display of merchandise available for sale at an establishment.
 - (2) Outdoor display of merchandise is permitted in association with any permitted commercial use in accordance with the following provisions:
 - a. Outdoor displays shall be limited to an area within eight (8) feet of a building façade that contains the principal customer entrance for the building, and shall not be within any area consisting of outdoor amenity space. Outdoor displays shall occupy no more than thirty percent (30%) of the horizontal length of such façade, and the maximum height of any such display shall not exceed six (6) feet;
 - b. Outdoor displays shall be removed and placed inside a fully-enclosed building at the end of each business day; and
 - c. Outdoor displays may not impair the ability of pedestrians to use the sidewalk.
 - (3) Outdoor display of liquefied petroleum (LP) gas storage racks, ice storage bins or similar items, soft drink or other vending machines, or items on pallets, shall not be permitted.
 - (4) Outdoor storage is the overnight storage, outside of a building, of products or materials, including, without limitation, merchandise or material in boxes, in crates, on pallets or in shipping containers; vehicles awaiting repair; recreational vehicles and boats; shopping carts; garden or building supplies; shipping containers; lumber, pipe, steel, junk and other similar items.
 - (5) Outdoor storage shall be allowed only as provided in section 208 or as a condition of a conditional use permit authorizing the use at which outdoor storage occurs.
- (d) *Permitted encroachments.*
- (1) The following encroachments into the area between a building façade and public right-of-way shall be permitted:
 - a. Galleries, awnings, porte cocheres, stoops, porches and balconies;
 - b. Outdoor seating;
 - c. Outdoor display areas, in accordance with subsection (c);
 - d. Signs, as allowed by section 2210;
 - e. Trash receptacles, water features, bicycle racks and bollards;
 - f. Pedestrian lighting;
 - g. Minor structures accessory to utility facilities such as hydrants, manholes, transformers, utility boxes, meters and fire suppression equipment;
 - h. Handicapped ramps to the extent necessary to perform their proper function;
 - i. Building eaves, roof overhangs and light shelves, provided there is at least eight (8) feet in clearance above the sidewalk;

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- j. Cornices, belt courses, sills, buttresses, or other similar architectural features, provided there is at least eight (8) feet in clearance above the sidewalk;
 - k. Bay windows, oriels, vestibules that are less than ten (10) feet wide may extend up to four feet, provided that such extension is at least two (2) feet from the vertical plane of the lot line;
 - l. Chimneys or flues, which may extend up to two (2) feet, provided that such extension is at least two feet from the vertical plane of the lot line;
 - m. Outdoor amenity space components, plant material, landscaping, sidewalks, trees, tree wells, and planters;
 - n. Sculptures and other public art, in accordance with the provisions of section 2207
 - o. Permitted access drives;
 - p. Walls or fences not more than four (4) feet in height; provided, however, that walls or fences providing required screening or used to screen mechanical or similar equipment shall not exceed eight (8) feet in height;
 - q. Subgrade foundations;
 - r. Loading docks and necessary mechanical equipment; and
 - s. Conditional uses allowed by section 2203 if specified in the conditional use permit.
- (2) Encroachments into or over public streets, sidewalks or other public property shall be permitted in accordance with Article VI of Chapter 33 of the City Code, except as otherwise provided in this Article. All encroaching structures and signs shall conform to the applicable Central Business Core District Design Guidelines.

(Ord. No. 3327, 2-25-14; Ord. No. 3464, 10-18-16)

Sec. 2207. Special rules for public art as an optional form of development.

- (a) *Definition.* Public art, as used in this Article, means works of art in any media, whether located on public or private property, that are visible to members of the general public or that have been planned and executed with the specific intention of being sited or staged on or within publicly-owned property.
- (b) *Purpose.* Public art is an investment in the cultural vitality and economic development of a community. Sculptures, murals and other forms of public art can become place-makers, landmarks, and foster culturally dynamic, economically vibrant communities by creating memorable urban places where people desire to live, work, play and learn. For those reasons, the provision of public art in lieu of conformity with one or more of the required forms of development prescribed in this Article accords with the City Council's vision of the Town Center area as a future Arts and Cultural District, the recommendations of the Pembroke SGA Plan, and advances the ultimate goals of the Comprehensive Plan.
- (c) *Applicability.* Public art may be utilized as an Optional Form of Development in place of conformity with one or more of the following provisions regarding a prescribed development standard set forth in section 2204:
 - (1) Build-to zone;
 - (2) Front or side street setbacks;
 - (3) Transparency;
 - (4) Blank wall; or
 - (5) Outdoor amenity space.

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- (d) *Location.* Subject to the provisions of subsection (f), public art shall be located:
- (1) Outdoors so as to be readily visible and accessible to pedestrians, and no further than fifty (50) feet from the nearest point on a public sidewalk, except under exceptional circumstances as approved by the Public Art Committee;
 - (2) Away from signage, transit stop structures or benches, utility boxes, utility poles, mailboxes, bicycle racks or other items, either on or off the property, that may impair the public's view or diminish the aesthetic value of the artwork;
 - (3) In such manner as not to interfere with or impede the flow of pedestrian traffic on a public sidewalk; and
 - (4) On the same zoning lot as the development for which the artwork serves as an Optional Form of Development and, to the extent possible consistent with the foregoing criteria, in such location as to maximize the degree to which the work of art offsets noncompliance with the prescribed development standard.
- (e) *Public art provided as an Optional Form of Development* shall serve as a direct replacement for each prescribed development standard or standards from which the subject development deviates and, if located on the same zoning lot as the subject development, shall serve the same purpose or purposes as the prescribed development standard.
- (f) *Public art located on publicly-owned property.* Public art may be located on publicly-owned property within the Pembroke Strategic Growth Area, including, without limitation, public streets and sidewalks, Town Center gateways, street corners, the Fountain Plaza, the Sandler Center Plaza, public parking garages and future transit stations, with the approval of the City Council, provided that:
- (1) There is no feasible location on the subject property from which the work of art can be plainly and wholly seen by the public;
 - (2) The present or any planned land use of the subject property is such that placement of a work of art, in any media, on the property would be destructive to the work of art due to the activities related to the land use;
 - (3) The property is already fully developed in such a way that there is no location on the site for a work of art, and the work of art is approved as an Optional Form for renovation of the building necessitating use of a blank wall or reduction in transparency; or
 - (4) The location of the work of art cannot physically meet the criteria specified in subsection (d)(1);
- (g) *Approval by Public Art Committee.* Public art, and any alteration or removal thereof, must be approved by the Public Art Committee of the Virginia Beach Arts and Humanities Commission.
- (h) *Ownership, maintenance, contractual provisions.* Except in cases in which public art is dedicated to the City, the ownership of public art works shall be bound in perpetuity by written covenant, approved by the City Attorney, to the property for which they serve as an Optional Form of Development and, unless otherwise approved by the City, shall be maintained by the owner of the property for which it serves as an Optional Form of Development. Where a work of art is to be dedicated to the City, there shall be a written agreement between the City, the owner of the work of art and, if applicable, the artist, which agreement shall include, at a minimum, terms regarding the ownership, maintenance, insurance and intellectual property rights pertaining to the work of art. Such agreement shall be subject to the approval of the City Council.
- (i) *Signage.* No lettering, symbols, or signage shall be permitted upon public art works except as intended by the artist as an integral part of the work. Paintings or murals may be signed by the artist, and the name of the work displayed. For sculptures, the artist shall designate the plaque location, which shall be permanently

installed, using theft-resistant techniques, in a ground location near the sculpture or on the base and list only the sculpture's title, the artist's name the date of installation and the name of the donor, if applicable.

- (j) *Planting/landscaping.* Sculptures and their bases shall be well integrated with the surrounding softscape and hardscape. Long-term maintenance should be considered when selecting plant material. Native and drought-resistant plants are encouraged.
- (k) *Unacceptable art.* Decorative or ornamental pieces that are not conceptualized, designed, and fabricated by a qualified artist, such as "off-the-shelf" decorative items such as garden sculpture; historical markers or bells; bell towers; obelisks; architectural ornamentation or enhancements; art as advertisements or commercial signage mixed with imagery; and busts or statuary memorials, or mass produced reproductions or replicas of original works of art shall not be accepted as an Optional Form of Development.
- (l) *Artists' qualifications.* Artists creating public art, or supervising students creating public art, shall be selected by the property owner or developer, subject to approval by the Public Art Committee, and shall have the following qualifications:
 - (1) Artists shall be recognized by critics and peers as a professional practitioner of the visual arts. To assess the qualifications of an artist the Committee will consider factors such as the artist's body of work, educational background, formal training, past and current large scale outdoor public art commissions, sales of work, exhibition records, publications, and any other factors the Committee reasonably deems relevant;
 - (2) Artists shall also have experience in successfully collaborating with design teams, architects, art consultants, developers, engineers, fabricators, and landscape architects; meeting scheduled deadlines; negotiating and contracting their work responsibly; and conceptualizing, designing, fabricating, and installing large-scale outdoor sculpture similar in scope to the proposed sculpture; and
 - (3) Artists shall have the experience and expertise to create site specific public art after consideration of contextual issues related to the development site, including architectural style, the future use and users of the development project, and community input.
- (m) *Applications.* Applications and supporting materials shall be submitted to the Director of the Office of Cultural Affairs, who shall provide the Arts and Humanities Commission members with copies thereof. The form of such application and requirements for supporting materials shall be determined by the Director.
- (n) *Conflicting provisions.* The procedures set forth in this section shall exclusively govern the selection, placement and other provisions pertaining to public art as an Optional Form of Development, such that in the event of a conflict with any other ordinance, directive, or other provision concerning public art as an Optional Form of Development, the provisions of this section shall control.

(Ord. No. 3327, 2-25-14)