



CITY COUNCIL AGENDA
February 4, 2013

6:00 p.m. – 7:00 p.m.

**Closed session as provided by Section 2.2-3712 of the Virginia Code
(Second Floor Conference Room)**

TYPE OF ITEM

SUBJECT

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

**AWARDS/RECOGNITIONS
ANNOUNCEMENTS** VCU Energy & Sustainability Award

MATTERS BY THE PUBLIC Public comment will be permitted for the first 12 speakers to sign up in advance of the meeting (limit of 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

COUNCIL RESPONSES TO MATTERS BY THE PUBLIC

- 1. CONSENT AGENDA*** (Items removed from the consent agenda will be considered at the end of the regular agenda.)
- a. Minutes for January 22
 - b. APPROPRIATION: Contribution for Urban Forest Improvements and Invasive Species Removal in Riverview Park - \$4,000 (1st of 2 readings)
 - c. APPROPRIATION: Contribution from the American Heritage Foundation for the Charlottesville Fire Department Wellness and Fitness Program - \$5,000 (1st of 2 readings)
 - d. APPROPRIATION: Appropriation of CACVB Fund Balance - \$100,000 (1st of 2 readings)
 - e. ORDINANCE: ECC Cost Allocation Agreement between City and County (1st of 2 readings)
- 2. PUBLIC HEARING /
ORDINANCE*** Human Rights Commission (1st of 2 readings)
- 3. PUBLIC HEARING /
APPROPRIATION*** Route 250 Bypass Interchange at McIntire Road – Appropriate \$2,598,762.81 and Transfer \$71,090.07 (1st of 2 readings)
- 4. REPORT / ORDINANCE*** Stormwater Utility (1st of 2 readings)
- 5. REPORT / RESOLUTION*** Anti-Drone Resolution (1st of 1 reading)
- 6. REPORT / ORDINANCE*** Davis Field Lease Agreement (2nd of 2 readings)
- 7. REPORT / RESOLUTION*** Section 3 Position (1st of 1 reading)
- 8. REPORT / ORDINANCE*** Towing Advisory Board (2nd of 2 readings)

**OTHER BUSINESS
MATTERS BY THE PUBLIC**

*ACTION NEEDED

RESOLUTION
Calling on the General Assembly of Virginia to Limit the Use of
Domestic Drones Equipped with Anti-Personnel Devices

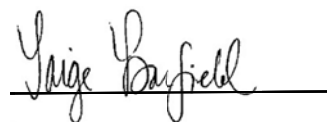
WHEREAS, the rapid implementation of drone technology throughout the United States poses a serious threat to the privacy and constitutional rights of the American people, including the residents of Charlottesville; and

WHEREAS, the federal government and the Commonwealth of Virginia have thus far failed to provide reasonable legal restrictions on the use of drones within the United States; and

WHEREAS, police departments throughout the country have begun implementing drone technology absent any guidance or guidelines from law makers;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Charlottesville, Virginia, endorses the proposal for a two year moratorium on drones in the state of Virginia; and calls on the United States Congress and the General Assembly of the Commonwealth of Virginia to adopt legislation prohibiting information obtained from the domestic use of drones from being introduced into a Federal or State court, and precluding the domestic use of drones equipped with anti-personnel devices, meaning any projectile, chemical, electrical, directed-energy (visible or invisible), or other device designed to harm, incapacitate, or otherwise negatively impact a human being; and pledges to abstain from similar uses with city-owned, leased, or borrowed drones.

Approved by Council
February 4, 2013

A handwritten signature in cursive script, reading "Paige Bayfield", is written over a horizontal line.

Clerk of Council

**AN ORDINANCE AUTHORIZING THE LEASING OF REAL PROPERTY WITHIN
THE CITY OF CHARLOTTESVILLE, COMMONWEALTH OF VIRGINIA, KNOWN
AS DAVIS FIELD, LOCATED ON MARSHALL STREET AND IDENTIFIED AS A
PORTION OF PARCEL NO. 50.1 ON CITY TAX MAP NO. 47**

WHEREAS, the City of Charlottesville seeks to lease City-owned property off Marshall Street, identified as a portion of Parcel 50.1 on City Tax Map 47, and shown on the attached plat dated February 28, 2012, revised March 1, 2012, by Lincoln Surveying, for the purpose of creating additional athletic field space maintained and operated by a private athletic organization for a ten (10) year term; and

WHEREAS, Council for the City of Charlottesville finds that such lease is in the best interest of the City, as the maintenance and operation of additional athletic fields shall provide the Charlottesville community with additional athletic fields for recreational use; and

WHEREAS, in accordance with Virginia Code Sections 15.2-2100, *et seq.*, this ordinance was duly advertised for the purpose of receiving bids; and

WHEREAS, in accordance with Virginia Code Section 15.2-2102, a bid has been selected (bid from Soccer Organization of Charlottesville-Albemarle); and

WHEREAS, in accordance with Virginia Code Section 15.2-1800(B), a public hearing was held on December 17, 2012 to give the public the opportunity to comment on the proposed lease of the above City-owned land to a third party;

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that the City Manager is hereby authorized to execute a lease agreement, in substantially the same form as attached hereto, with Soccer Organization of Charlottesville-Albemarle (SOCA) for the leasing of a portion of City owned property (Davis Field) off Marshall Street, identified as a portion of Parcel 50.1 on City Tax Map 47, as described in the attached lease agreement. Said lease agreement shall be approved as to form by the City Attorney prior to execution by the City Manager.

AGREEMENT OF LEASE

THIS LEASE AGREEMENT is made as of the ____ day of _____, 2013, by and between the CITY OF CHARLOTTESVILLE ("the City"), a municipal corporation ("City"), and _____, a charitable non-profit organization authorized to do business in the Commonwealth of Virginia ("Lessee").

WITNESSETH:

- 1. Leased Property.** The City, as the title holder of the subject property, in consideration of the rents and covenants to be paid and performed by Lessee, leases to the Lessee and the Lessee leases "the Leased Property", a 1.343 1.844 acre portion of City parkland commonly known as Davis Field in the City of Charlottesville, being more particularly described on Exhibit A as the "Proposed Lease Area", attached hereto and incorporated herein by reference.
- 2. Condition of Leased Property.** The Leased Property is currently used as ~~passive~~-public recreational areas under the supervision of the City Department of Parks and Recreation. The City makes no representation or warranty as to the condition or suitability of the Leased Property for the intended purpose of this Lease prior to or at the time of the execution of this Lease. Lessee accepts the Leased Property "as is" on the effective date hereof.
- 3. Term.** The initial term of this Lease shall be for a period of Ten (10) years, which shall begin on the ____ day of _____, 2012 and continuing thereafter throughout the ____ day of _____, 20 _____. ~~Upon completion of this initial ten (10) year lease term, the Lessee shall have the right of first renewal of this lease for an additional period, the length of which shall be mutually agreed upon.~~
- 4. Rent.** The Lessee shall pay to the City rent at the rate of \$10,000 per year, ~~payable in _____ equal installments of _____ due on the _____ day of each month. The first rent payment of \$5,000 shall be due to the City thirty (30) days after execution of the lease. The second rent payment of \$5,000 shall be due five (5) months after the first payment. Thereafter each subsequent payment of \$5,000 shall be due in two equal installments of \$5,000.00 on the first day of February and July respectively, at six month intervals for the duration of the lease.~~
- 5. Use.** Subject to the Lessee's compliance with all applicable laws, the City hereby grants permission to the Lessee to occupy the Leased Property for the purposes of conducting youth recreational sports activities. Use of the Leased Property shall occur during the following hours: 7 am – 9 pm during Eastern Daylight Time; 7am – 6pm during Eastern Standard Time. There shall be no parking of vehicles within the Leased Property or vehicular access to or within the Leased Property. The Lessee shall not promote commercial businesses or corporations in outside signage on the Leased Premises or in advertising circulated to the general public, except with prior written consent of the City. Lessee shall not use the Leased

Property for the purpose of conducting business or raising funds, except with prior written consent of the City.

6. **Purpose.** Unless otherwise agreed by the parties, the use of the Leased Property shall be for the purpose of conducting youth recreational sports activities and shall benefit the youth of the community.
7. **Public Admittance and Access.** No admission fee to the Leased Property shall be charged to any members of the public desiring to participate in or observe youth sporting activities. When not in active use by the Lessee, members of the public shall have the right to walk across the Leased Property and use the Leased Property for recreational purposes. The City agrees that Lessee has exclusive right to formal use of the leased property and the City shall not allocate this athletic field for formal use by athletic organizations other than the Lessee, whose use of this property is defined in this lease. Lessee agrees to make the facility Leased Property available for limited City sponsored recreational events, only after coordination and written agreement with City Parks and Recreation staff, and such events may not conflict with regular programming conducted by the Lessee. Lessee will be solely responsible for making field closure decisions due to weather and field conditions, and will be responsible to determine its own uses of the facility within the Lessee's mission.
8. **City approvals.** The City and the Lessee acknowledge that the Lessee's intended use of the Leased Property may require a rezoning or special use permit. By its execution of this Lease the City hereby evidences its written consent for Lessee to apply for and seek any and all land use and zoning approvals necessary for the future intended use of the property. The City's consent shall not be construed as a representation that it will grant or approve any particular application submitted by Lessee, which is otherwise within the City's discretion to approve or deny.
9. **Maintenance/Operational Expenses.**
 - a. The Lessee shall, at its own cost and expense during the term of this Lease, maintain and keep the Leased Property in a reasonably clean, attractive condition, and not commit or allow any waste or damage to be committed on or to any portion of the Leased Property. This includes but is not limited to placing trash in approved receptacles at the conclusion of each day's activities and removing trash from the site on at least a weekly basis. The Lessee shall be responsible for all costs associated with the ongoing maintenance, operation and repair of the Leased Property. Lessee is also responsible for maintenance of and all turf and forested areas on the Leased Property, including but not limited to landscaping and cutting of turf on at least a weekly basis year-round, during the growing season. Lessee further agrees to abide by any duly adopted City policies, present or future, governing the use of pesticides, cleaners, fertilizers or other products at the Leased Property. Lessee agrees to coordinate with City Parks and Recreation staff on the Lessee's turfgrass management program, including preparation of an annual work plan for City review and comment. City reserves the right to make recommendations to Lessee regarding turf management practices and Lessee shall provide to the City copies

of all contractor's Pesticide Applicator's Licenses prior to the application of any pesticides on the Leased Property.

- b. As part of its maintenance responsibilities, Lessee agrees to comply fully with any applicable governmental laws, regulations and ordinances limiting or regulating the use, occupancy or enjoyment of the Leased Property, and to comply with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code, as supplemented and modified by duly enacted ordinances of the City of Charlottesville.

10. Taxes and Assessments. Real property taxes shall not be imposed against the leasehold interest of Lessee if Lessee is exempt from the payment of real property taxes pursuant to Chapter 36 of Title 58.1 of the Code of Virginia; provided, however, that real estate taxes on the Lessee's leasehold interest shall become due and payable at any time that Lessee is no longer entitled to a tax exemption under the laws of the Commonwealth of Virginia.

11. Adequate Supervision. The Lessee shall be responsible for the well-being and safety of its employees and members while participating in events, programs and activities sponsored by Lessee while on the Leased Property and on Northeast Park grounds generally, and shall, at all times, provide reasonable and customary supervision. ~~This shall include the locking of the gate at the Davis Avenue access upon completion of the day's activities and events.~~

12. Development, Improvements and Signage.

- a. No improvements of any kind, including roadways and parking areas, shall be made to the Leased Premises except with the City's prior written consent both as to the improvements and as to the contractors and subcontractors performing the work.
- b. No improvements shall be undertaken on the Leased Premises unless and until the Lessee shall have obtained any and all local, state and federal governmental approvals and permits, and all such improvement shall be undertaken in strict compliance with all City, state and federal rules, regulations and laws.
- c. Upon the expiration or sooner termination of this Lease, the City shall have the option (exercisable upon sixty (60) days' notice to the Lessee except in the case of a termination of this Lease due to a default by the Lessee, in which case no such notice shall be required) to require the Lessee to remove, at Lessee's sole cost and expense, any and all improvements made by the Lessee to the Leased Premises which have not been made with the City's consent or approval, or to elect to keep such improvements as the City's property. In the event the Lessee is required to remove any improvements, (i) the Lessee shall be responsible for the restoration of the Leased Premises to their prior condition, and (ii) if the Lessee fails to properly restore the Leased Premises, the City may perform the same at the Lessee's cost and expense.
- d. The Lessee shall permit no mechanic's liens, materialmen's liens or other statutory liens to attach to the Leased Premises as a result of any alterations, improvements, additions or repairs performed by the Lessee or at the Lessee's direction. If any such lien or notice of

lien rights shall be filed with respect to the Leased Premises, the Lessee shall immediately take such steps as may be necessary to have such lien released, and shall permit no further work to be performed at the Leased Premises until such release has been accomplished.

- e. The Lessee shall have the right to place signs on the Leased Premises only in conformity with all local regulations and with the prior written approval of the City. Signs in existence on the date of this Lease are approved.
- f. Within sixty (60) days of the execution of this lease, the City shall remove the existing football goals and scoreboard from the leased property.
- g. Within sixty (60) days of the execution of this lease, the City and Lessee shall agree upon revisions to the structure and operation of the entrance gate to for the property located adjacent to Marshall street that will allow for proper maintenance and pedestrian access to the leased property. The City and Lessee shall mutually agree on the future operation of the entrance gate. Upon mutual agreement, language regarding the operation of the gate will be added to the lease as an addendum.

13. Insurance.

- a. Liability Insurance of Lessee. Lessee covenants and agrees that it will, at all times during the term of this Lease, keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises and the operations of the Lessee on the Leased Premises in which the limits of public liability for bodily injury and property damage shall not be less than One Million and 00/100 Dollars (\$1,000,000.00) per accident, combined single limit. The policy shall name the City as an additional insured. The policy shall provide that the insurance thereunder shall not be canceled without thirty (30) days written notice thereof to the City. The Lessee shall also obtain a tenant's property insurance policy insuring the Lessee's personal and business property on the Leased Premises.
- b. Fire and Extended Coverages. The Lessee shall maintain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage", as the same may exist from time to time.
- c. Proof of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by the Lessee shall be delivered by the Lessee to the City, upon the issuance of such insurance and thereafter no later than January 31 of each year.

14. Default. Each of the following occurrences relative to the Lessee shall constitute default:

- a. Failure by the Lessee in the performance or compliance with any of the terms, covenants, or conditions provided in this Lease, which failure continues uncured for a period of sixty

(60) days after written notice from the City to the Lessee specifying the items in default; provided, however, if such failure is of a type that is not reasonably capable of being cured within such sixty (60) day period, such sixty (60) day period shall be extended for so long as the Lessee is making diligent efforts to cure such default;

- b. Failure or refusal by the Lessee to make the timely payment of rent or other charges due under this Lease when the same shall become due and payable, provided the City has given the Lessee fifteen (15) days written notice of the same;
- c. An incompatible change in the operation, charter, or ownership of the Lessee (including, but not limited to, loss of Internal Revenue Code 501(c)(3) tax-exempt status).

15. Damage or Destruction of the Leased Property. The Lessee shall be responsible for any damage caused to the facilities or the property of the City resulting from the action of any employee or volunteer, or member, guest or invitee of the Lessee, while participating in Lessee sponsored events, programs or activities, beyond normal wear and tear.

16. Storage and Installation of Property and Equipment. The Lessee agrees that all property of every kind and description kept, stored or placed in the Facility shall be at the Lessee's sole risk and hazard and that the City shall not be responsible for any loss or damage to any such property. All equipment shall be stored in a safe manner, and shall be installed and properly anchored per ASTM standards.

17. Indemnification. The Lessee shall indemnify, defend and hold the City and its officials, officers and employees harmless from and against any and all liability, loss, claim, suit, damage, charge or expense suffered, sustained, incurred or in any way be subjected to, on account of death of or injury to any person and for damage to, loss of and destruction of any property whatsoever, which arises out of, results from, or is in any way connected with actions taken in the performance of the Lessee's obligations under this Lease, or which occurs as a consequence of any negligence, omission or misconduct of the Lessee and any contractors, subcontractors, agents or employees in the performance of the Lessee's obligations under this Lease.

18. Assignment. The Lessee shall have no right to assign, in any manner or fashion, any of the rights, privileges or interests accruing to it under this Lease to any other individual or entity.

19. Sublease. Sublease is prohibited.

20. Surrender. Upon termination of the Lease, the Lessee shall quit and surrender to the City the Leased Property in good order and condition, except for ordinary wear and tear, provided that the Lessee shall remove from the premises any personal property belonging to the Lessee or third parties, and at its cost and expense shall repair any damage caused by such removal. Personal property not so removed shall become the property of the City, which may thereafter remove the property and dispose of it. On the termination of this Lease, the City may without further notice enter on, reenter, possess and repossess the Leased Property by any necessary means.

21. **Right of Entry.** At any time during the term of the Lease, the City shall have the right, upon prior notice to the Lessee (except in the event of an emergency), to enter the Leased Property at all reasonable times for the purposes of inspecting the Leased Property to ensure compliance with the terms of this Lease. Notwithstanding the City's right to inspect the Leased Property, the City shall have no obligation to inspect the same. The City's failure to detect any violation or to notify the Lessee of any violation shall not relieve the Lessee of obligations under the terms of this Lease.
22. **Waiver.** The waiver by the City or the Lessee of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant or condition contained herein. The subsequent acceptance of rent hereunder by the City shall not be deemed to be a waiver of any breach by the Lessee or the City of any term, covenant or condition of this Lease regardless of knowledge of such breach at the time of acceptance or payment of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Lessee or the City unless the waiver be in writing signed by the party to be charged thereby.
23. **Entire Agreement.** This Lease, and the exhibits attached hereto and forming a part of hereof, set forth all the covenants, promises, agreements, conditions and understandings, between the City and the Lessee concerning the Leased Premises and there are no covenants, promises, agreements conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the City or the Lessee unless reduced in writing and signed by them.
24. **Headings.** The section headings in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.
25. **Severability.** If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.
26. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
27. **Notices.** Any notice, demand, request, or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, return receipt requested, postage prepaid, and shall be addressed as follows:

If to the City:

S. Craig Brown, City Attorney
605 East Main Street
Charlottesville, VA 22902

If to the Lessee:

or at such other address as designated by written notice of a party.

IN WITNESS WHEREOF, the City and the Lessee have signed and sealed this Lease as of the date first above written.

CITY OF CHARLOTTESVILLE

By: _____

The Lessee:

{Lessee's corporate name}

By: _____



RESOLUTION

Be It Resolved by the City Council of the City of Charlottesville that the Section 3 Coordinator position in Neighborhood Development Services be changed from a Full Time Temporary position to a Regular Full Time position, effective July 1, 2013

Approved the 4th day of February, 2013.

**AN ORDINANCE
ADDING A NEW ARTICLE IX TO CHAPTER 15
(MOTOR VEHICLES AND TRAFFIC) OF THE CODE OF
THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
TO REGULATE TOWING OF VEHICLES FROM PRIVATE PROPERTY AND
CREATE A TOWING ADVISORY BOARD.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that there is hereby added to the Code of the City of Charlottesville, 1990, as amended, a new article numbered Article IX to Chapter 15 of the Charlottesville City Code, to read as follows:

CHAPTER 15. MOTOR VEHICLES AND TRAFFIC

**ARTICLE IX. REMOVAL, IMMOBILIZATION, AND DISPOSITION OF VEHICLES
UNLAWFULLY PARKED ON PRIVATE PROPERTY**

Division 1. Generally

Sec. 15-400. Definitions.

The following words, terms and phrases used in this Article shall have the meanings set forth below:

Advisory Board means the Charlottesville Towing Advisory Board;

City means the City of Charlottesville, Virginia.

Council means the Charlottesville City Council.

Department or *CPD* means the Charlottesville Police Department.

DCJS means the Virginia Department of Criminal Justice Services.

Driver means a person who drives or is in actual physical control of a tow truck.

Drop Fee means a fee that is charged a vehicle owner for disconnecting a vehicle from a tow truck prior to leaving private property.

Equipment means any tow truck, vehicle or related machinery or tools used to provide towing.

Immobilize means to prevent a vehicle from moving using a procedure or piece of equipment, such as a boot. Immobilization does not include attachment to a tow truck.

Law Enforcement Officer means any officer authorized by law to direct or regulate traffic or to make arrests for violations of the Code of Virginia or local ordinances.

Operator or Towing and Recovery Operator means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck.

Personal Property means any property in a vehicle which is not attached to or considered to be necessary for the proper operation of the vehicle.

Property Owner means the owner, operator, authorized agent, or lessee of any land, space, or area used for parking or authorized agent of the person having control of such premises.

Storage Site means a location where vehicles are taken until the owner reclaims the vehicle or it is sold, including any office or parking areas.

Show Up Fee means a fee that is charged a vehicle owner for initiating a tow but prior to and in lieu of engaging a vehicle by a physical or mechanical means to a tow truck prior to leaving private property.

Tow or Towed means when the tow truck has engaged a vehicle by a physical or mechanical means that can remove a vehicle from private property.

Tow Truck or Truck means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. *Tow truck* also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

Towing Coordinator means the person appointed by the City Manager to administer and enforce the regulations herein.

Vehicle means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

Vehicle Owner means the owner, operator, authorized agent, or lessee of a vehicle.

Sec. 15-401. Applicability.

(a) This article shall apply to all private property upon which vehicle parking is commercially provided within the boundaries of the City of Charlottesville, and to all towing and recovery operators conducting business within the boundaries of the City of Charlottesville.

(b) This article shall not apply to:

(1) Federal, state, or local public service vehicles.

(2) Vehicle repossession activities.

(3) Vehicles towed, moved, or stored at the request of a law enforcement officer.

(c) The provisions of this section shall not be construed to prohibit vehicles from being towed when such towing is otherwise permitted by law.

Sec. 15-402. Violations.

It shall be unlawful for any person to violate any of the provisions of this article, or any regulation adopted pursuant to this article. Unless otherwise stated, each violation shall constitute a traffic infraction punishable by a fine of not more than that provided for a Class 4 misdemeanor.

Sec. 15-403. Property owners may authorize towing.

A property owner may have a vehicle towed to a storage site or immobilized without the permission of the vehicle owner if the vehicle is occupying the private property without permission of the property owner, and if all conditions set forth in this article are met.

Secs. 15-404—15-410. Reserved.

Division 2. Towing Advisory Board

Sec. 15-411. Definitions.

The following words, terms and phrases used in this Article shall have the meanings set forth below.

Citizen Member means a member who has no direct or indirect interest, other than as a consumer, in or relating to the towing and recovery industry.

Law Enforcement Member means a member who is a Charlottesville police officer and appointed to the Towing Advisory Board.

Member means a person appointed to the Towing Advisory Board.

Towing Member means an individual who, prior to appointment, and throughout the appointment term, shall be an operator of a towing business in Charlottesville.

Sec. 15-412. Composition of board.

(a) There shall be a Towing Advisory Board ("Advisory Board"). The Advisory Board shall be composed of six (6) members, two (2) of whom shall represent the towing industry, two (2) of whom shall represent local law enforcement agencies, one (1) of whom shall be a citizen member, representing the community at large, and one (1) of whom shall be an alternate citizen

member. Members of the Advisory Board shall be appointed or confirmed by the City Council for terms of three (3) years each. The terms shall be staggered with no more than two (2) terms and no less than one (1) term to commence in any one year. Vacancies shall be filled by the City Council as they arise. A Chairperson shall be elected by the Advisory Board from among the members of the Advisory Board. The Advisory Board may adopt bylaws, rules and regulations governing its responsibilities and duties hereunder.

(b) The Advisory Board shall meet at the call of the Chairperson, or two members of the Advisory Board after notice to all members, or upon request of the City Council. The Advisory Board shall meet at least once per year. The staff of the Advisory Board shall be from the Charlottesville Police Department. The Chief of Police, or his or her designee, shall attend all meetings of the Advisory Board.

(c) A quorum will consist of a towing member, a law enforcement member and a citizen member.

(d) The Advisory Board shall advise the City Council and provide recommendation(s) as necessary for proposed changes to this article.

Sec. 15-413. Duties of the Towing Coordinator.

The Towing Coordinator shall have the following duties:

- (1) Receive, investigate, record, and attempt to resolve towing complaints.
- (2) Forward complaints that cannot be successfully mediated to the Office of the Attorney General.
- (3) Refer suspected violations of law to the proper enforcing agency.
- (4) Maintain records of towing complaints and their disposition.
- (5) Develop programs of towing education and information and disseminate such information.
- (6) Provide advice and information on towing matters to judicial, legislative, administrative, and other public and private bodies.
- (7) Analyze the nature of towing problems in Charlottesville and recommend to the City Council legislative and administrative changes.
- (8) Receive and process annual operator registrations.
- (9) Conduct reviews, inspections, and investigations of towing storage facilities and operations.

Secs. 15-414—15-419. Reserved.

Division 3. Requirements

Sec. 15-420. Registration by Operators.

(a) All operators engaged in immobilizing or towing vehicles without the consent of the vehicle owner shall register with the City of Charlottesville prior to the initiation of any such operations and during January of each subsequent year. To obtain a registration certificate, the following information and documents must be provided to the Department:

- (1) Name, address and telephone number of the business engaged in immobilizing or towing;
- (2) Name and telephone number of the business owner and/or manager;
- (3) Copy of the operator's business license issued pursuant to City Code Sec. 14-19(d)(39);
- (4) Address and telephone number of each storage site to which vehicles will be towed; and
- (5) Proof of business insurance and tow truck insurance.

(b) Any change to information provided at registration shall be provided to the Department within thirty (30) calendar days of the change.

(c) Each tow truck, while towing, shall have in the vehicle a copy of the City-issued registration certificate.

(d) A tow truck driver shall have obtained an authorization document issued by the Virginia Department of Criminal Justice Services in order to operate a tow truck while providing towing services.

Sec. 15-421. Signs.

(a) The owner of any parking area subject to this ordinance shall post permanent signs at all entrances, clearly visible during daytime and nighttime hours, that conspicuously disclose that any unauthorized vehicles will be towed or immobilized.

(b) Such signs, at a minimum, shall (all measurements are approximate):

- (1) Be made of metal, PVC or a comparably sturdy and permanent material.
- (2) Be 18 inches high and 12 inches wide.

- (3) Contain reflective letters and reflective graphics;
- (4) Contain the international towing symbol that is at least 3 inches high by 6 inches wide as found in the Federal Highway Administration, *"Manual on Uniform Traffic Control Devices"*;
- (5) Use Series B or Clearview lettering found in the Federal Highway Administration, *"Manual on Uniform Traffic Control Devices"*;
- (6) Contain "Towing Enforced" in a font size of 2 inch letters;
- (7) Contain "If Towed Call (434) 970-3280" in a font size of 1 inch letters, which is the Charlottesville Police Department's non-emergency telephone number; and
- (8) Contain the name, address and contact information of the company which is authorized to tow vehicles from the parking area.
- (9) Contain "No Change Given" in a font size of 2 inch letters if parking meter machines do not dispense change to patrons.

(c) Signs that exist prior to adoption of this ordinance that, in the sole opinion of the towing coordinator, substantially conform to the above requirements, may remain in place in lieu of replacement.

Sec. 15-422. Records.

An operator shall maintain written and electronic records for each towed or immobilized vehicle for a period of three (3) years after such tow or immobilization, and they shall be produced at any time, upon reasonable notice, to the Towing Coordinator or his or her designee. Records to be retained shall include:

- (1) The information required to be provided to the Charlottesville Police Department and other local law enforcement agencies;
- (2) A legible copy of the receipt provided to vehicle owner; and
- (3) Photographs and any other documentation supporting the tow.

Sec. 15-423. Operational Requirements.

(a) All tow trucks must display evidence of being in compliance with state safety inspection requirements. All tow truck safety devices must be operational and used, in compliance with local, state, and federal laws and regulations.

(b) All tow trucks shall have the following identifying markings of a contrasting color to the truck body on both sides of each tow truck:

(i) The operator's business name as registered with the City in a font not less than three inches in height.

(ii) The operator's telephone number in a font not less than three inches in height.

(c) Each immobilization device will have a label, clearly visible while the device is in position immobilizing a vehicle that lists the operator's name and telephone number, immobilization fee, and the operator's telephone number.

(d) The Charlottesville Police Department shall be notified by the operator no later than fifteen (15) minutes after initiating the immobilization or towing of a vehicle. Such notification shall include:

- (1) Operator name and identification of the employee who towed or immobilized the vehicle;
- (2) Make, model, color, year and vehicle identification number of the towed or immobilized vehicle;
- (3) License plate type (such as passenger car, truck, dealer, taxi, disabled), number and state of the towed or immobilized vehicle;
- (4) Address where the vehicle was towed from or immobilized;
- (5) Reason for the tow or immobilization;
- (6) Time such tow or immobilization was initiated; and
- (7) Storage site address where the vehicle is located and the operator's telephone number.

(e) It shall be unlawful to fail to report a tow or immobilization as required by subsection (d) above. Violation of the reporting requirements of this section shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100), and limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one (1) day of storage and safekeeping.

(f) An operator must tow each vehicle directly to a storage site in the City and identified by the operator pursuant to subsection 15-420(a)(4). The vehicle must remain in that lot for at least thirty (30) calendar days if the owner fails to claim the vehicle.

(g) Photographic evidence clearly substantiating the vehicle's condition, location, and reason for the vehicle's tow or immobilization must be made prior to connecting the tow truck to the vehicle, and retained in accordance with section 15-422.

(h) Once an operator connects to a vehicle and tows a vehicle from private property, the vehicle must be taken directly to a storage site registered with the Department. Changing the towing vehicle is not permitted unless the original tow truck becomes non-operational.

(i) While being towed, vehicles shall be properly secured in accordance with all laws, regulations, and tow truck manufacturer recommendations.

(j) Nothing in this article shall release the operator from liability for failure to use reasonable care to prevent damage to the towed vehicle or its contents.

Sec. 15-424. Storage Site Requirements.

(a) A storage site shall be lighted during the hours of darkness to afford clear visibility to all portions of the storage site.

(b) A towed vehicle shall not be stored more than a reasonable walking distance from the area where towing and storage fee payments are received.

(c) The operator shall exercise reasonable care to keep the towed vehicle and its contents safe and secure at all times, which shall include appropriate permanent fencing.

(d) No operator may take a vehicle to a storage site which does not meet the following standards and comply with all other applicable ordinances and regulations:

- (1) A clearly visible sign must be posted at the entrance of the storage site that provides the operator's contact information, instructions and a local telephone number for obtaining release of a vehicle;
- (2) A clearly visible sign with a list of the operator's fees for immobilization, towing and storage services;
- (3) A clearly visible sign listing the Charlottesville Police Department's web site, office address, and telephone number.

Sec. 15-425. Personal property in towed vehicle.

(a) Nothing shall be removed from the vehicle by the operator without the express consent of the vehicle owner.

(b) Personal property in the towed vehicle shall be made available for release within one (1) hour of a request of the vehicle owner without charge. It shall be the duty of the operator to return such personal property to the vehicle owner if the vehicle owner claims the items prior to auction. Any lien created under this article shall not extend to any personal property.

Sec. 15-426. Vehicle release.

(a) If a tow truck arrives at the private property for the purpose of initiating a tow pursuant to these regulations, the vehicle shall not be towed upon request of the vehicle owner if the vehicle owner removes the vehicle from the private property or corrects the violation before the vehicle is engaged by a physical or mechanical means to a tow truck. The vehicle owner shall be liable for a show up fee, as set forth in this article, in lieu of towing.

(b) If the vehicle has been connected to the tow truck and has not yet left the private property, the vehicle shall not be towed upon request of the vehicle owner. The vehicle owner shall be liable for a drop fee, as defined in this article, in lieu of towing, provided that the vehicle owner removes the vehicle from the property or corrects the violation.

(b) A vehicle moved to a storage site shall be made available for release within one (1) hour of request of the vehicle owner.

(c) The operator or operator's agent will be available to be contacted by telephone twenty four (24) hours a day, seven (7) days per week, unless there are no immobilized cars under the operator's control.

(d) The operator shall accept the following forms of payment for any services: (i) cash; (ii) three (3) major national credit cards; (iii) MasterCard or Visa debit cards.

(e) In all cases when a vehicle is immobilized, towed, and/or fees are charged, the operator will provide the vehicle owner with a receipt that bears the: (i) complete name, address, and telephone number of the operator that towed the vehicle; (ii) date and time the vehicle was towed; (iii) address from which the vehicle was towed; (iv) person authorizing the tow; (v) reason for the tow; (vi) driver identification; (vii) time the vehicle was released; (viii) an itemized list of all fees assessed in the immobilization, towing, storage, and/or release of the vehicle; and (ix) the printed name of the person to whom the vehicle was released. Upon request of the vehicle owner, the operator shall provide photographic evidence and any other documentation substantiating the vehicle's condition, location, and reason for the vehicle's tow or immobilization within five (5) business days of such request.

(f) If any requirements of this section are not met for such immobilization or tow, no fee shall be charged.

Sec. 15-427. Compliance.

(a) The operator will provide to the vehicle owner, upon request, a copy of supporting documentation for the tow, including photographs and written materials required by Sec. 15-423(g).

(b) Whenever it is necessary for purposes of enforcement of this article, the duly authorized agent of the Towing Coordinator may enter any towing business, business establishment, or storage site to obtain information, conduct surveys, audits, compliance reviews, or investigations.

Secs. 15-428—15-434. Reserved.

Division 4. Rates and Charges

Sec. 15-435. Rates and Charges.

(a) It shall be unlawful for an operator to charge any fees exceeding the fees set forth in this section.

(b) *Immobilization.* An operator may charge a vehicle owner a maximum fee of \$25.00 for the release of a vehicle when it is immobilized. No other fee of any type may be charged.

(c) *Show-Up Fee.* If an operator is summoned by the property owner or the property owner's agent to a location to tow a specific vehicle, and the vehicle owner is present and removes the vehicle from the private property or corrects the violation before the vehicle is connected to the tow truck, a fee of \$25 may be charged the vehicle owner by the operator, provided that the operator obtains the authorization to initiate the tow of that specific vehicle from the owner of the property from which the vehicle is towed, or agent of the owner, in writing or by electronic means, including, but not limited to, e-mail, text message or facsimile. Such authorization shall be in addition to any written contract between the towing and recovery operator and the owner of the property or agent of the owner. For the 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.

(d) *Drop Fee.* An operator may charge a vehicle owner a maximum fee of \$50.00 for the release of a vehicle prior to towing the vehicle from private property, if it has been hooked up to tow truck. No other fee of any type may be charged.

(e) *Hookup and initial towing fee* shall not exceed:

\$125.00 for vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less.

\$250.00 for vehicles with a GVWR of 10,001 pounds through 26,000 pounds.

\$500.00 for vehicles with a GVWR greater than 26,001 pounds.

For the initiation of a tow of a vehicle on weekdays between 7:00 p.m. and 8:00 a.m. or on any Saturday, Sunday, or national holiday, a maximum additional fee of \$25 per tow may be charged; however, in no event shall more than one such fee be charged for towing any such vehicle.

(f) *Storage fee* for the safekeeping of vehicles:

(i) No charge shall be made for storage and safekeeping of a vehicle for the first 24 hours that the vehicle is held at the storage site.

- (ii) After the vehicle is held at the storage site for more than 24 hours, a storage fee may be charged for each subsequent 24-hour period, or any portion thereof, at a rate not to exceed fifty dollars (\$50.00) for any vehicle 22 feet long or less and an additional five dollars (\$5.00) per foot for any vehicle over 22 feet in length.

(g) If a fee for notification of lien holder, owner, agent or other interested party is charged, it shall not exceed \$150.00. This fee may only apply after the vehicle is held at the storage site over three (3) full business days. If any such fee is charged, a copy of the Virginia Department of Motor Vehicles report will be attached to the receipt given to the vehicle owner.

(h) No administrative fees or any other charges may be collected unless expressly set forth herein.

(i) An operator may not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the vehicle as a condition of the owner retrieving the vehicle.

Sec. 15-436. Changes to Maximum Rates and Charges.

(a) The Towing Coordinator shall conduct a review of towing rates every three (3) years.

(b) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board, which meeting shall be open to the public and be scheduled as soon as analysis, investigation, and administration permit. All recommendations of the Advisory Board and the Towing Coordinator shall be conveyed to the City Council for its consideration, determination and potential adoption.

(c) Whenever the Towing Coordinator or Advisory Board determines a rate change is warranted, all registered operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

*Notice of Proposed Rate Change
(Insert the name of the operator)*

*A proposed change in towing rates is under consideration by the City of
Charlottesville. The proposed rates are: (Insert description of the proposed changes).*

*The proposed towing rate change will be considered by the Towing Advisory Board.
The date, time and location of the meeting may be obtained by calling the Office of the
City Manager. Any interested person may appear before the Advisory Board to be
heard on this proposed change.*

(d) Notices with respect to a proposed rate change shall be posted within (10) ten days of provision of a staff report for such change by the Towing Coordinator, and shall remain posted until the proposed change in rates is denied or becomes effective.

Secs. 15-437—15-444. Reserved.

Approved by Council
February 4, 2013

A handwritten signature in dark ink, appearing to read "Judge Bayfield", is written over a horizontal line.

Clerk of Council