



CITY COUNCIL AGENDA
April 21, 2014

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 (11th St. real property acquisition for public purposes)

CALL TO ORDER 7:00 p.m. *Council Chambers*
PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS ANNOUNCEMENTS Arbor Day; Engineering Excellence Merit Award

MATTERS BY THE PUBLIC Public comment will be permitted for the first 12 speakers who 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 RESPONSE 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 April 7
 - b. APPROPRIATION: Greenstone on 5th Corporation Sponsorship Agreement - \$84,194 (2nd of 2 readings)
 - c. APPROPRIATION: Domestic Violence Services Coordinator Grant – \$44,836 (2nd of 2 readings)
 - d. APPROPRIATION: Department of Public Works/ Division of Public Service Reimbursements – \$80,204 (1st of 2 readings)
 - e. APPROPRIATION: Excess Sale Proceeds – \$33,957 (1st of 2 readings)
 - f. APPROPRIATION: Police Department Miscellaneous Revenue and Insurance Recovery - \$26,000 (1st of 2 readings)
 - g. RESOLUTION: Changes to Design for Life Standards (1st of 1 reading)
- 2. PUBLIC HEARING / RESOLUTION*** \$16 Million Bond Issue (maximum amount) – New Debt; \$3 Million Refunding Bond Issue (maximum amount) (1st of 1 reading)
- 3. PUBLIC HEARING*** Curbside Recycling Options
- 4. ORDINANCE*** Amend Chapter 10 of the City Code (Water Protection) to Establish a Local Virginia Stormwater Management Program (“VSMP”) (1st of 2 reading)
- 5. RESOLUTION*** Downtown Mall Crossings Repair – \$120,000 (1st of 1 reading)
- 6. APPROPRIATION*** Approval and Appropriation of CDBG & HOME Funds for FY 2014-2015 (2nd of 2 readings)
- 7. ORDINANCE*** Sale of Kenwood Property (2 readings)
- 8. RESOLUTION*** Transportation Enhancement Grant - \$300,000 Cash Flow Loan to Thomas Jefferson Planning District Commission (TJPDC) (1st of 1 reading)

OTHER BUSINESS
MATTERS BY THE PUBLIC

*ACTION NEEDED

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	April 7, 2014
Action Required:	Approve Appropriation
Presenter:	Lieutenant Cheryl Sandridge, Charlottesville Police Department
Staff Contacts:	Lieutenant Cheryl Sandridge, Charlottesville Police Department
Title:	Greenstone on 5th Corporation Sponsorship Agreement - \$84,194

Background: Greenstone on 5th Corporation would like to enter into a Sponsorship Agreement whereby a donation will be made to the Charlottesville Police Department for \$84,194 to support enhanced police coverage within and adjacent to Greenstone on 5th Apartments.

Discussion: Enhanced coverage involves police officers being assigned to public patrol duties in the sponsored coverage area in addition to those officers who could be assigned within normal budgetary constraints. Acceptance of the donation under this arrangement will not require officers to be pulled away from other areas of coverage within the City. Even in these circumstances the Chief will have full authority to deploy the officers elsewhere to meet operational necessities.

Community Engagement: Added security creates a safer environment for people in our community.

Alignment with City Council's Vision and Priority Areas: Approval of this agenda item aligns directly with Council's vision for Charlottesville to be **America's Healthiest City** by providing a safer environment in this area while causing no impact on regular Police resources.

Budgetary Impact: This Sponsorship agreement is a donation that will cover all costs associated with the added security, with no cost to the City.

Recommendation: Staff recommends approval and appropriation of donated funds.

Alternatives: The alternative is not to approve this appropriation, which would result in the inability to provide enhanced coverage to the sponsored coverage area.

Attachments: none

APPROPRIATION.
Greenstone on 5th Sponsorship Agreement.
\$84,194.

WHEREAS, the City of Charlottesville has received a donation from Greenstone on 5th Corporation to fund enhanced police coverage for the area of Greenstone on 5th Apartments, including salary, equipment, technology and related administrative expenses associated with provisions of such enhanced coverage.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$84,194, to be received as a donation from Greenstone on 5th Corporation.

Revenues

\$84,194	Fund: 105	Internal Order: 2000113	G/L Account: 451999
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Expenditures - \$84,194

\$75,775	Fund: 105	Internal Order: 2000113	G/L Account: 510060
\$8,419	Fund: 105	Internal Order: 2000113	G/L Account: 599999

**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	April 7, 2014
Action Required:	Approval and Appropriation
Presenter:	Areshini Pather, Commonwealth Attorney's Office
Staff Contacts:	Areshini Pather, Commonwealth Attorney's Office Leslie Beauregard, Budget Manager
Title:	Domestic Violence Services Coordinator Grant - \$44,836

Background: The City of Charlottesville has been awarded \$38,336 from the Department of Criminal Justice Services for the Charlottesville/Albemarle Domestic Violence Community Services Coordinator in the City's Commonwealth's Attorney's Office. There is a local match requirement, which will be met by a combination of \$6,500 cash and \$8,161 in-kind match, for a total of \$14,661 match.

Discussion: The Domestic Violence Coordinator position assists in the efficient delivery of services and access to the court process for the victims of domestic violence in both Charlottesville and Albemarle County by helping in the preparation of domestic violence cases for prosecution and by assisting victims in obtaining protective orders. The Coordinator serves as a case manager on behalf of victims in relation to their interactions with community agencies that deliver needed services such as shelter, civil legal assistance, and counseling. No other person in local government fills this specific function on behalf of victims of domestic violence.

Community Engagement: The Domestic Violence Coordinator is a direct service provider and is engaged daily with victims of domestic violence and stalking who access services through referrals from police, court services, social services and other allied agencies. The Coordinator serves on several coordinating councils, such as KidsWatch, the Albemarle/Charlottesville Domestic Violence Council, the Monticello Area Domestic Violence Fatality Review Team, and the Charlottesville/Albemarle Evidence Based Decision Making Policy Team.

Alignment with City Council's Vision and Priority Areas:

Approval of this agenda item aligns directly with Council's vision for Charlottesville to be **America's Healthiest City** and contributes to their 2012-2014 priority to: *Provide a comprehensive support system for children.* The Domestic Violence Coordinator contributes to the health and safety of the community by connecting victims of domestic violence and their children to service providers for emergency shelter, medical and mental health services, housing resources, legal assistance and other services.

Budgetary Impact: This grant requires a minimum local match of \$14,661. The City's Commonwealth Attorney's Office will provide \$500 cash match, and an in-kind match of \$4,161 for time donated to the program and office expenses. Albemarle County is to contribute \$6,000

cash as part of their match, and an in-kind match of \$4,000 for time donated to the program. The total anticipated cash and in-kind match of \$14,661 is sufficient to meet the minimum requirement.

Recommendation: Approval and appropriation.

Alternatives: In the event that the grant is not funded or that the funds are not appropriated, this position will cease to exist, as there are no other funds to support it.

APPROPRIATION.

Domestic Violence Services Coordinator Grant.

\$44,836.

WHEREAS, The City of Charlottesville, through the Commonwealth Attorney's Office, has received the Domestic Violence Services Coordinator Grant from the Virginia Department of Criminal Justice Services in the amount of \$38,336 in Federal pass-thru funds, Albemarle County is to contribute an additional \$6,000 in local cash match, and the City Commonwealth Attorney's Office will contribute up to \$500 cash match, as needed to meet salary and benefit expenses.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$44,836 is hereby appropriated in the following manner:

Revenues

\$38,336	Fund: 209	Cost Center: 1414002000	G/L Account: 430120
\$ 6,000	Fund: 209	Cost Center: 1414002000	G/L Account: 432030
\$ 500	Fund: 209	Cost Center: 1414002000	G/L Account: 498010

Expenditures

\$44,836	Fund: 209	Cost Center: 1414002000	G/L Account: 519999
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Transfer

\$ 500	Fund: 105	Cost Center: 1401001000	G/L Account: 561209
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BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$38,336 from the Virginia Department of Criminal Justice Services, and \$6,000 from the County of Albemarle, Virginia.

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Appropriation of Funds
Presenter:	Steve Lawson, Public Service Manager
Staff Contacts:	Steve Lawson, Public Service Manager Leslie Beauregard, Director, Budget and Performance Management
Title:	Department of Public Works/ Division of Public Service Reimbursements - \$80,204

Background: The Public Service division of Public Works has received additional unbudgeted revenue as reimbursement for damages to City property and for work performed for the University of Virginia. Insurance reimbursements have been received for the traffic signal upright and controller box at the intersection of Monticello Avenue and Ridge St that was demolished on 10/31/13 by a privately owned truck and for the portion of guardrail at the intersection of 250 and 29 which was damaged by a private vehicle on 10/10/13. Additionally, a City crew painted 197 V - sabres on city streets at the request of the University of Virginia in August of 2013. Public Service would like to request that those funds be appropriated back into the traffic and streets budgets to off-set the unbudgeted expenses that were incurred relating to these incidences.

Discussion: The traffic signal and controller were replaced at a total cost of \$42,000. The replacement costs were paid using funds from the Traffic budget. Repairs to the damaged section of the guardrail totaled \$8,543 and were paid from the Streets Operation budget. Given that these repair expenses were not part of the original budget, it is requested that the insurance reimbursement for these damages be appropriated back to the traffic and streets budgets respectively.

In August of 2013, the University of Virginia requested the painting of V - sabres on city streets. The City received reimbursement for the cost of overtime and materials in the amount of \$29,661. Given that these costs were not part of the original budget, it is requested that the reimbursement of \$29,661 be appropriated into the Streets Operation budget.

Community Engagement: N/A

Alignment with City Council's Vision and Priority Areas: Appropriation of this item aligns with Council's vision of being a connected community by replacing safety related infrastructure on city streets.

Budgetary Impact: Since the funds being appropriated have been paid to the City from outside sources, there is no budgetary impact.

Recommendation: The recommendation is that funds be appropriated back into the accounts from which the expenses were made: Traffic Operations (2471001000) - \$42,000; and Streets Operations (2443001000) - \$29,661.

Alternatives: N/A

Attachments: N/A

APPROPRIATION
Department of Public Works/Division of Public Service Reimbursements
\$80,204

WHEREAS, the City of Charlottesville, through the Public Service Division of Public Works, has received an Insurance Settlement in the amount of \$42,000 to Traffic Operations for replacement of damaged traffic signal, an additional Insurance Settlement of \$8,543 to Streets and Sidewalks for replacement of damaged guardrail, and payment from the University of Virginia of \$29,661 for expenses related to the painting of V-sabres;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville is hereby appropriated in the following manner:

Revenue

\$ 42,000	Fund: 105	Cost Center: 2471001000	G/L Account: 451110
\$ 8,543	Fund 105	Cost Center: 2443001000	G/L Account 451110
\$ 29,661	Fund 105	Cost Center: 2443001000	G/L Account 432155

Expenditures

\$42,000	Fund: 105	Cost Center: 2471001000	G/L Account: 541040
\$ 8,543	Fund 105	Cost Center: 2443001000	G/L Account 530200
\$ 29,661	Fund 105	Cost Center: 2443001000	G/L Account 520400

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Appropriation of Funds
Presenter:	Jason Vandever, City Treasurer
Staff Contacts:	Jason Vandever, City Treasurer Todd Divers, Commissioner of the Revenue Karen Parker, Director of Information Technology
Title:	Excess Sale Proceeds- \$33,957

Background:

As part of the City's delinquent tax collection process, certain properties with extensive delinquencies are sold by the City when no other collection methods are available. Two such properties were sold in 2011, and as of November 17th, 2013, no claim had been made by any beneficiary for the excess proceeds of the sale, totaling \$33,957 after attorney fees.

In accordance with State Code 58.1-3967, after a two year waiting period, the Clerk of Circuit Court has distributed these funds to the City Treasurer for deposit.

The City has a history of using these one-time proceeds for projects that directly benefit City residents. In 2007, judicial sale proceeds were used to upgrade payment processing technology in the Treasurer's Office, which greatly increased efficiency and reduced payment exception processing time. We are proposing that these new funds be applied to our current CIP project, the installation of a new tax system.

Discussion:

Currently \$600,000 has been budgeted for the installation of a new Integrated Tax System, and the bids we have received from vendors are right at that threshold. It was previously assumed that the Cashiering System provided by City Department of Information Technology (I.T.) would remain a separate system. To do so, it will have to be re-written to conform to current development standards and work with the new Integrated Tax System.

Based on current project estimates, an investment of \$33,957 would help the City purchase an extra vendor module to allow the Integrated Tax System to handle cashiering as well. This addition would benefit the City and its customers by:

- Improving Operational Efficiency: Information would not have to be entered into two separate systems and month end processing would be consolidated.
- Improving Customer Service: Instead of having to wait until the payment is entered

into the Integrated Tax System, the customer's account would immediately reflect their payment.

- Optimizing City I.T. Resources: Re-writing the cashiering system is estimated to take 9 months. By purchasing this functionality, City I.T. software development resources could be assigned to other City projects.

Community Engagement:

The original budget allocation for this project was approved through the City's C.I.P. process in prior fiscal years, and went through the standard public hearing sessions.

Alignment with City Council's Vision and Priority Areas:

Appropriation of this item aligns with the City Council Vision Statements of a Smart, Citizen, Focused Government and Economic Sustainability.

Budgetary Impact:

There is no budget impact since these funds are one-time revenue, and not previously budgeted. The revenue received fully covers the appropriation.

Recommendation:

Staff recommends these funds be appropriated into the capital account for the Integrated Tax System.

Alternatives:

Another alternative would be to seek these funds from the C.I.P. contingency fund. If no funding became available, City I.T. staff would re-write the current Cashiering System, which may delay the implementation of the new Integrated Tax System.

Attachments:

Appropriation

APPROPRIATION

Excess Sale Proceeds- \$33,957

Whereas, the City of Charlottesville, through the City Treasurer's Office, has received excess sale proceeds in the amount of \$33,957 through the judicial sale of a delinquent tax parcels

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, funding is hereby appropriated in the following manner:

Transfer From

\$33,957 Fund: 105 Cost Center: 9803030000 G/L Account: 561426

Transfer To

\$33,957 Fund: 426 W.B.S. Element: P-00719 G/L Account: 599999
\$33,957 Fund: 426 W.B.S. Element: P-00719 G/L Account: 498010.

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**CITY OF CHARLOTTESVILLE, VIRGINIA.
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Appropriation of Funds
Presenter:	Lieutenant C. S. Sandridge, Charlottesville Police Department
Staff Contacts:	Lieutenant C. S. Sandridge, Charlottesville Police Department Leslie Beauregard, Director, Budget and Performance Management
Title:	Police Department Miscellaneous Revenue and Insurance Recovery - \$26,000

Background:

The City of Charlottesville's Police Department has generated \$26,000 in additional revenue that was not budgeted in F.Y. 2014. This revenue is proposed to be appropriated in order to cover operational expenditure needs.

Discussion:

During F.Y. 2014, the Police Department has generated and collected additional revenue that was not included in the department's original F.Y. 2014 budget. The revenue has been received for items such as reimbursement for insurance recovery, and for fees charged for reports and other services provided to the public and other agencies

The department would like to have these appropriated back into its operating budget to supplement the operating budget and offset the costs associated with the activities that generated the revenue.

Community Engagement:

N/A

Alignment with City Council's Vision and Priority Areas:

Appropriation of this item aligns with Council's visions by replacing revenue in our budget to aid the Police Department in delivering optimal services to our City as a Smart, Citizen-Focused Government.

Budgetary Impact:

The funds will be appropriated to the Police Department budget in the General Fund.

Recommendation:

Appropriate funds

Alternatives: N/A

Attachments: N/A

APPROPRIATION.
Police Department Misc. Revenue and Insurance Recovery.
\$26,000

WHEREAS, the City of Charlottesville Police Department has received revenue, in excess of budgeted revenue, totaling \$26,000; and

WHEREAS, this revenue \$26,000 is proposed to cover operational expenses of the Police specified below for the remainder of the fiscal year.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$26,000 which has been received is hereby appropriated as follows:

Revenue

	Fund	Cost Center	G/L Account
\$13,300	105	3101001000	451999
\$12,700	105	3101001000	451110

Expenditures

	Fund	Cost Center	G/L Account
\$26,000	105	3101001000	599999

CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date:	April 21, 2014
Action Required:	Approval of Resolution
Presenter:	Margot Elton-Ratliff, Planning Technician Kathy McHugh, Housing Development Specialist
Staff Contacts:	James E. Tolbert, AICP, Director of NDS Kathy McHugh, Housing Development Specialist Margot Elton-Ratliff, Planning Technician
Title:	Revised Policy & Requirements – Design for Life C’ville & Universal Design Standards

Background:

On April 21, 2008, Council approved a resolution which required all new residential construction projects that use City funding or in-kind services to be built to incorporate, at a minimum, the Bronze level Universal Design Features, as outlined by the Center for Universal Design at North Carolina State University. The purpose of this resolution was to ensure that projects undertaken using City funding were designed to allow residents the ability to age in place and improve the accessibility of City-funded affordable residential properties.

Council previously allowed for an exception to the exterior accessibility requirements, when a steep slope would not allow for compliance. As approved, the City Engineer has the authority to waive external requirements in such cases. This should be retained moving forward, as there will be sites which will prohibit full external accessibility from being achieved due to site/lot constraints.

In addition to the policy requiring accessibility when the City provides assistance, Charlottesville has further supported universal design through the Design for Life C’ville program, which allows for home builders to make units accessible at two levels – visit-ability and live-ability – in exchange for varying levels of rebate on their building permits.

Recently, staff reviewed the guidelines for Bronze level Universal Design Features and the Design for Life C’ville program and discovered some inconsistencies. Further, Design for Life C’ville has been marketed in concert with the Virginia Livable Home Tax Credit (LHTC), but upon comparison of requirements for these programs, staff found inconsistencies as well.

Discussion:

To achieve consistency between these City programs, to minimize confusion for users, to improve overall accessibility, and to further the objective of enabling City residents to age in place, staff proposes an update and modification of these policies based on a single standard. After examining all three program guidelines, staff recommends that Council adopt updated Design for Life C'ville guidelines as the City's accessibility standard and to require Live-ability standards in place of the current Bronze level Universal Design Features for all projects built using City funding. Since the City cannot change the other documents, this is the only approach that allows discretionary changes to be made, allowing us to integrate and modify the combined features into a single standardized document.

In order to proceed, the Design for Life C'ville guidelines need to be updated. Initially, staff intended to carry out this update by modifying the Design for Life C'ville guidelines to include accessibility and design elements present in both the Bronze level Universal Design Features and the Virginia LHTC standards. Upon internal review by the NDS Deputy Code Official, it was recommended that a combination of the ANSI A117.1-2009 Code (the International Code Council's standards for Accessible and Usable Buildings and Facilities) and the HUD Fair Housing Design Requirements be used as the basic standard for Design for Life C'ville instead. It was thought that this change would allow for the guidelines to be both comprehensive and flexible, allowing for maximum variation in design while still resulting in units that would be visit-able and/or live-able for persons with physical disabilities. To that end, the first step of this process has been to update the Design for Life C'ville guidelines to utilize elements of the ANSI A117.1-2009 Code and the HUD Fair Housing Design Requirements. While this update does reflect a substantial change from the previous guidelines visually and textually, the intent of the guidelines remains the same – to provide for greater accessibility in City housing.

Following this update, the Design for Life C'ville Live-ability guidelines can be substituted in place of the Bronze level Universal Design Policies as previously adopted in the 2008 resolution. Further, efforts to obtain the Virginia LHTC credit will be greatly simplified, as our standards will facilitate compliance for this program as well.

Issues that are updated in the revised version of the Design for Life C'ville guidelines (attached to this memo) include:

- **Inclusion of ANSI A117.1-2009 Standard:** The updated guidelines require that accessible routes and entryways meet the standards laid out in ANSI A117.1-2009, the International Code Council's standards for Accessible and Usable Buildings and Facilities. This ensures that loopholes in the previous guidelines are closed and all required accessible pathways, interior and exterior, as well as one entryway to all accessible units, are truly accessible.

- **Inclusion of HUD Fair Housing Design Regulations:** The updated guidelines utilizes

guidelines and examples from the HUD Fair Housing Design Requirements for the design of accessible bathrooms and powder rooms, kitchens, and the placement of accessible controls and switches, where necessitated by the visit-able and live-able requirements. These examples and guidelines provide the greatest amount of flexibility possible while still ensuring that all required facilities will be usable by persons in wheelchairs or with other physical disabilities.

- **Switches and Controls:** Placement heights for switches and controls were present in the Bronze level Universal Design Features document, but not in the Design for Life C'ville requirements. The updated guidelines include requirements for accessibly located switches and controls on accessible routes and in required accessible rooms for the live-able level. There are no switch and control requirements for the visit-able level.
- **Kitchen:** The updated guidelines increase required clearance between countertops from 36" minimum to 40" minimum and provide examples of possible kitchen layouts for reference. There are no kitchen requirements for the visit-able level.
- **General:** Overall, language has been reviewed and reworded to eliminate loopholes, and the document has been error-checked.

Community Engagement:

The updated Design for Life guidelines, along with the proposal to adopt these updated guidelines in place of the current Bronze level Universal Design Features, were discussed with the Housing Advisory Committee on March 19th, 2014. In this meeting, the group expressed concern that these guidelines would be applied to rehab projects using City funding. After notification from staff that the 2008 resolution specifies that the requirements apply only to new construction projects, there were no objections to moving forward. One member of the Committee expressed a desire to see a more flexible requirement in place of the current, text-heavy version; this request is reflected in the modification of the guidelines.

Alignment with City Council's Vision and Priority Areas:

Approval of this agenda items aligns directly with Council's vision for Charlottesville to provide Quality Housing Opportunities for All. The proposed project supports various goals/objectives of the Comprehensive Plan, as follows:

Goal 2, Objective 2.4: Support the promotion of the Design for Life C'ville program that provides a rebate of permit fees for incorporation of standards that address visit-ability and live-ability.

Goal 7, Objective 7.2: Encourage the use of the Design for Life C'ville program to promote and expand visit-ability/live-ability features and market inclusion.

Budgetary Impact:

Passage of this resolution will have no budgetary impact upon the City. It will, however, act to eliminate undue expense and hardship upon users currently trying to comply with one or more of the existing standards and encountering unexpected conflicting requirements.

Recommendation:

Staff recommends that Council approve the attached resolution.

Alternatives:

Council could opt to take no action, or to adopt the current Design for Life C'ville guidelines in place of the Bronze level Universal Design Features without the proposed updates. Both of these options would leave existing inconsistencies and would not address the identified problems of inconsistent requirements.

Attachments:

- Resolution
- Updated Design for Life C'ville Guidelines

RESOLUTION
Design for Life C'ville & Universal Design Standards

WHEREAS, by Resolution approved April 21, 2008, City Council adopted a policy placing certain requirements on new housing construction which utilized City funds or in-kind services; and

WHEREAS, the requirements included building such new housing to Energy Star program standards or a comparable energy efficiency standard, and incorporating at least a Bronze Level of Universal Design standards in new housing construction plans; and

WHEREAS, the NDS Design for Life C'ville guidelines, adopted by Council on June 4, 2012, incorporates many of the Universal Design standards, and offers incentives for construction and renovation of housing that provides increased accessibility and live-ability; and

WHEREAS, City staff recommends that the City Council adopt a single accessibility standard by revising the Design for Life C'ville guidelines to provide accessibility and design elements present in the ANSI A117.1-2009 Code and the HUD Fair Housing Design Requirements; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville that the above-referenced policy adopted on April 21, 2008 ("2008 Policy") is hereby revised to replace the Bronze Universal Design standard for all new housing using City assisted funding with the "Live-ability" level of the revised Design for Life C'ville program guidelines, as attached hereto. All other requirements in the 2008 Policy will remain in effect.

BE IT FURTHER RESOLVED that the Design for Life C'ville guidelines, as set forth in the attached document, are hereby approved.

DESIGN FOR LIFE C'VILLE



PROGRAM GUIDELINES AND PROCEDURES

VOLUNTARY CERTIFICATION PROGRAM FOR VISIT-ABILITY AND LIVE-ABILITY IN
SINGLE FAMILY ATTACHED AND DETACHED HOME NEW CONSTRUCTION AND RENOVATION

APPROVED: JUNE 4, 2012

REVISED: APRIL 21, 2014



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INTRODUCTION AND PURPOSE

Design for Life C'ville is a voluntary certification and incentive program in Charlottesville for Visit-Ability and Live-Ability in single family attached and detached homes located in Charlottesville. Its guidelines apply to both new construction and renovation of existing homes*. Whether you are a first time homebuyer, young family, career professional, active adult, or person living with a temporary or permanent disability, your home will be enhanced by these additional design features which will meet your needs throughout your life.

Unique features of the Design for Life C'ville Program:

1. One program with two optional standards of accessibility.
2. Voluntary: follows National Association of Homebuilder's guidelines that support voluntary programs.
3. Targets new construction and renovation of existing homes*.
4. Successful informal partnership of city, building/business community and advocates.
5. Administered by the City as part of the regular permitting process, not a special process:
 - A checkbox for review and certification is on the standard application for permit.
 - There are no additional permitting costs, beyond the standard fees.
6. Applicants who construct to the standards outlined below will have permit fees on the unit refunded upon certification as follows¹:

Visit-Ability	-	25% of all Fees
Live-Ability	-	50% of all Fees

Features included in the Design for Life C'ville program are intended to provide basic access under the visit-ability standard, while increasing access and quality of life under the live-able standard. This unique program was specifically designed to meet basic standards and to encourage construction and renovation of houses within the City to provide improved accessibility. It is not intended to meet the requirements of any federal or other existing building accessibility standards.

**Please note: Homes built before the program was initiated can apply to NDS for a Building Permit to schedule an inspection to qualify the Design for Life Level. For a minimal fee (\$50.00) the home will be inspected by permitting staff for meeting the program requirements, and the owner will be issued a certificate for meeting the standards.*

BENEFITS TO THE HOMEOWNER/HOMEBUYER:

Welcome to all visitors

Easier to live in and maneuver

Provides home for life

BENEFITS TO THE BUILDER:

Targets new emerging markets

Offers cutting edge features

Recognition of attention to buyer needs

Rebate of permit fees

BENEFITS TO THE COMMUNITY INCLUDE:

Increased neighborhood continuity

Promotes inclusion of all population segments

¹ **Note: This does not apply to utility tap fees.**

ADMINISTRATION PROCEDURES

1. Applicant must indicate on the permit application that the building design includes
 Visit-Ability or Live-Ability per Guidelines
2. Applicant must include within the building plans for permit issuance two sets of drawings showing the accessible features and routes.
3. After final permit inspection, NDS will issue Design for Life C'ville Certificate for Visit-Ability or Live-Ability.
4. Submit the Certificate to Neighborhood Development Services for the refund described.

1. Design for Life Cville is a Two-Tiered Certification Program:

Level I – Visit-Ability is a residence that has the following two features:

1. At least one building entrance on an accessible route; and
2. An accessible interior route connecting to at least one powder room or bathroom

Level II – Live-Ability is a residence that has the following five features:

1. At least one building entrance on an accessible route;
2. An accessible interior route connecting to at least one bedroom;
3. An accessible interior route connecting to at least one full bath;
4. An accessible interior route connecting to an accessible kitchen; and
5. Accessible controls and switches in all accessible interior routes and required usable spaces.

Alternative Design: Nothing in this guideline is intended to prevent the use of designs, products, or technologies as alternatives to those presented by this document, provided they result in equivalent or greater accessibility and such equivalency is approved by the administrative authority.

DEFINITIONS

Accessible

When used with respect to single and two - family homes, “accessible,” means that the house can be approached, entered, and used by individuals with physical disabilities. The phrase “readily accessible to and usable by” is synonymous with "accessible."

Accessible route

A continuous and unobstructed path connecting accessible elements and spaces in a house or within a site that can be negotiated by a person with a severe disability using a wheelchair, and that is also safe for and usable by people with other disabilities. Interior accessible routes may include hallways, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walkways, ramps, and lifts. For the purposes of these guidelines, accessible routes must comply with the appropriate requirements of ANSI A117.1-2009 and the applicable provision of the Virginia Uniform Statewide Building Code (USBC).

Approved

Acceptable to the jurisdictional body that adopts or enforces regulations and standards for the design, and construction of buildings and facilities.

Controls and switches

A component of an element used to insert or withdraw objects, or to activate, deactivate, or adjust the element. Items covered are light switches for controlling all room lights; electrical outlets; environmental controls (i.e. thermostats and controls for other heating, air-conditioning, and ventilations); operable windows in accessible bedrooms. Items not covered are circuit breakers; appliance controls; outlets dedicated for specific appliances and equipment; windows in kitchens and bathrooms.

Bathroom

A facility which includes a water closet (toilet), lavatory (sink), and bathtub or shower. It does not include single-fixture facilities or those with only a water closet and lavatory. It does include a compartmented bathroom. A compartmented bathroom is one in which the fixtures are distributed among interconnected rooms. A compartmented bathroom is considered a single unit and is subject to these guideline requirements for bathrooms.

Building entrance on an accessible route

An accessible entrance to a building that is connected by an accessible route to public transportation stops, to parking or passenger loading zones, or to public streets or sidewalks, if available. For the purposes of these guidelines, accessible building entrances must comply with ANSI A117.1 -2009.

Powder room

A room containing a water closet (toilet) and a lavatory (sink).

Undefined Terms

The meaning of terms not specifically defined in this guideline or in a referenced document shall be as defined by collegiate dictionaries in the sense that the context implies.

ACCESSIBLE ROUTES

GUIDELINES

Accessible routes must comply with the Definition listed in this document, and, by extension, with ANSI A117.1-2009.

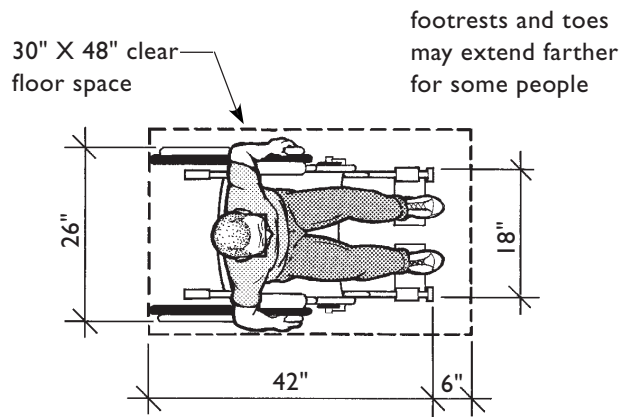
EXPLANATION

Design for Life C'ville understands the importance of ensuring that accessible routes connect all required usable spaces for both Visit-able and Live-able units. The following description and graphics depict clear and turning spaces required for maneuvering through an accessible route in a wheelchair.

Level I (Visit-able) units are required to have an interior accessible route that allows for access to a usable powder room or bathroom. Level II (Live-able) units are required to have interior accessible routes that allow for access to a bedroom, usable bathroom, and usable kitchen.

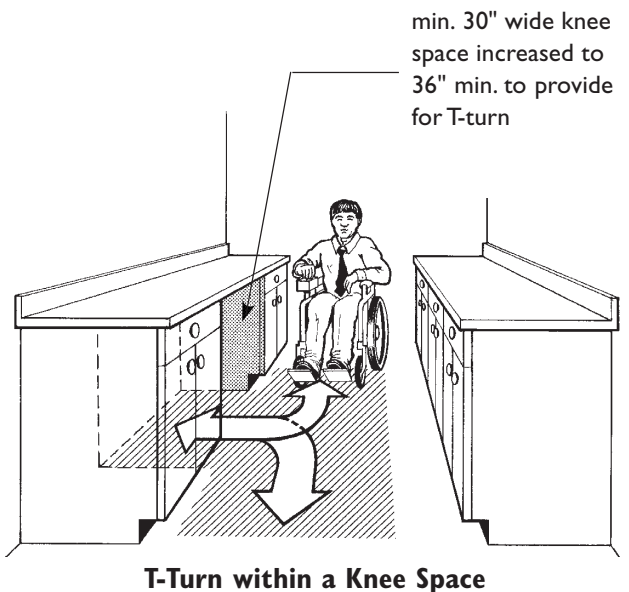
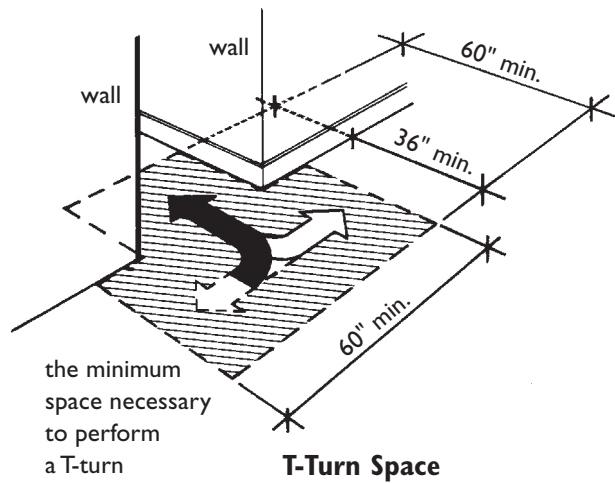
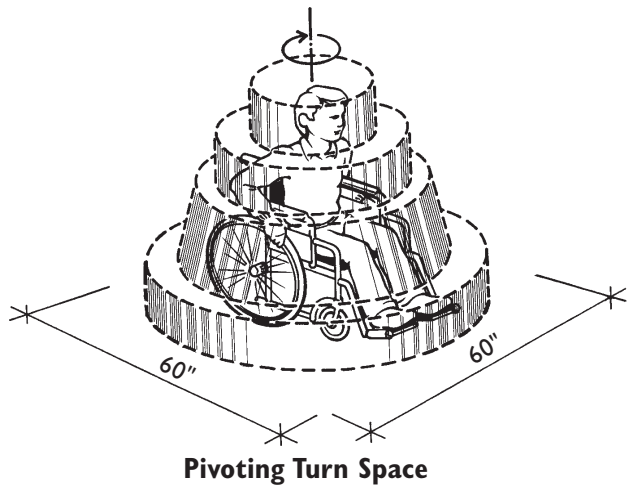
EXAMPLES

Clear Floor Space: The minimum clear floor space required to accommodate a single, stationary wheelchair is 30 inches by 48 inches. For an approach to an object, counter, or control, depending upon the object, the user may position his or her chair either parallel or perpendicular to the object.



Space Allowances and Approximate Dimensions of Adult-Sized Wheelchairs

Turning Spaces: The space required for a person using a wheelchair to make a 180-degree turn is a circle with a diameter of 60 inches. Alternatively, a person can make a T-shaped turn, similar to a three-point turn in a car, at the intersection of a hall or in a room where some of the space necessary to perform the turn may be under a desk, table, or countertop.



BATHROOMS AND POWDER ROOMS

GUIDELINES

Usable powder rooms shall contain the following:

1. Clear Floor Space: 30"x48" is the approved sized space available for people to be able to position themselves to use fixtures and facilities. Clear Floor Space is the position adjacent to fixtures; switches and controls to be accessible. Doors are permitted to swing into the clear floor space provided the required clear floor space is beyond the arc of the door swing
2. Clear Floor Space for sinks, lavatory and toilets shall be centered on the fixture
3. Reinforcement at the toilet to allow for future installation of grab bars.

Usable bathrooms shall contain all of the above elements as well as the following:

1. Clear floor space centered on the bathtub or a 36"x36" shower
2. Reinforcement at the bathtub or shower with installed grab bars. Level I (visit-able) units opting to include a bathroom in lieu of a powder room may comply by installing reinforcements only to allow for future installation of grab bars.
3. Installed grab bars at the toilet. Level I (visit-able) units opting to include a bathroom in lieu of a powder room may comply by installing reinforcements only to allow for future installation of grab bars.

EXPLANATION

The plans presented on the following pages are examples of "usable" bathrooms and powder rooms that comply with the Design for Life C'ville guidelines. Level I (Visit-able) units are required to have an accessible powder room, while Level II (Live-able) units are required to have an accessible full bathroom with bathtub or shower. The accessible powder room in Level I can, however, be substituted for an accessible full bathroom with bathtub or shower if so desired. These plans are only a sampling of possible layouts that would conform to the specifications and are not intended to limit designers' options; certainly other layouts are feasible. The plans are neither required nor even suggested as ideal examples. They are included to illustrate typical applications of interpretations of specific requirements of the guidelines under various circumstances.

The toilet used measures 29" from the back wall to the front edge of the bowl. Doors are shown as 34" wide to provide the required nominal 32" clear opening. These plans may need to be adjusted if fixtures and/or doorways used are different in size from those shown in the examples.

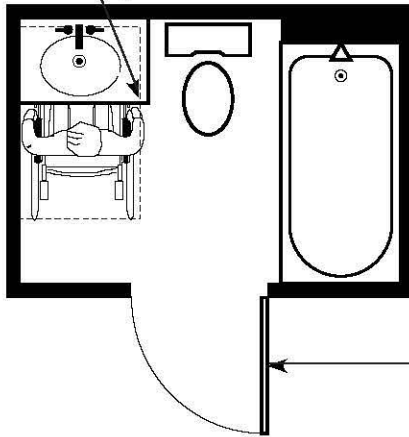
Some of the plans are more usable than others by people with disabilities and comments are included to describe where improvements could be made. The plans are divided according to bathing fixture type: bathtub/showers, showers, and multiple bathing fixtures. The plans are presented in pairs, with the first showing the overall room shape while the dimensioned plan describes the clear floor spaces at fixtures and indicates minimum wall and/or floor areas to be reinforced as applicable.

Text and notes presented in *italic* type are comments or recommendations and are not required.

EXAMPLES

Bathroom with Bathtub

no leg or support should be present on right outside corner so user can pull in under the lavatory



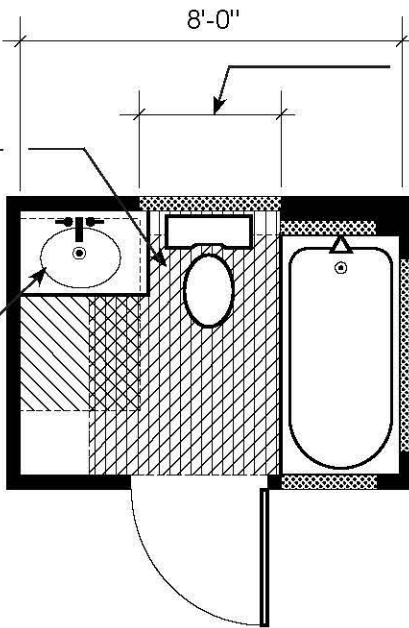
since parallel approach centered on basin not possible, cabinet below lavatory must be removable

where a removable cabinet is provided below a countertop less than 32" in width, care must be taken to prevent support method or brackets from encroaching upon required kneespace

door must swing out (see note below)

reinforcing may be required in floor depending on type of grab bars planned for

countertop lavatory with knee space below to allow forward approach to fixture

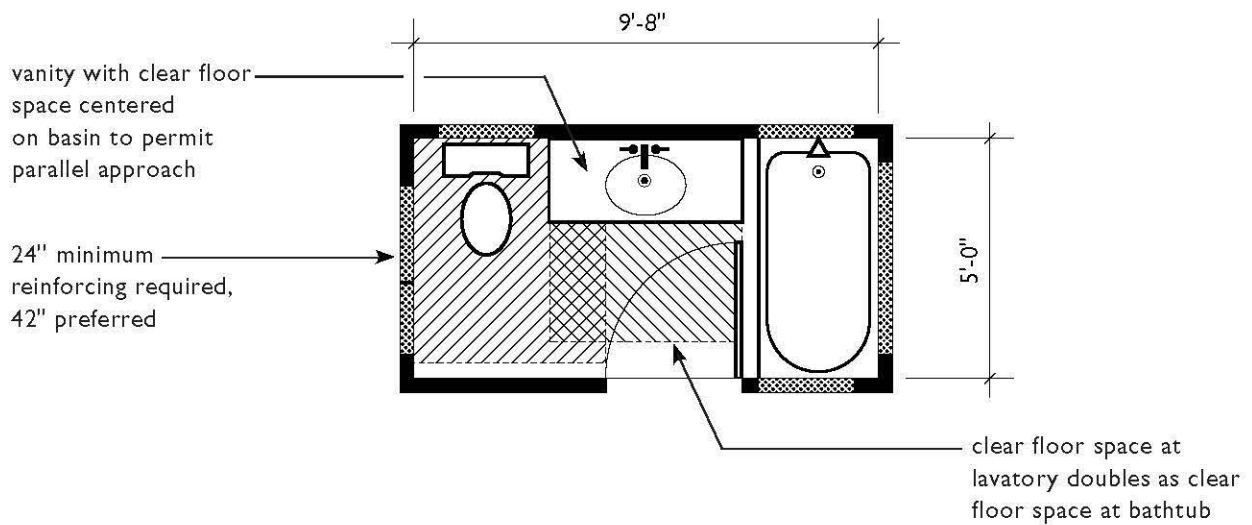
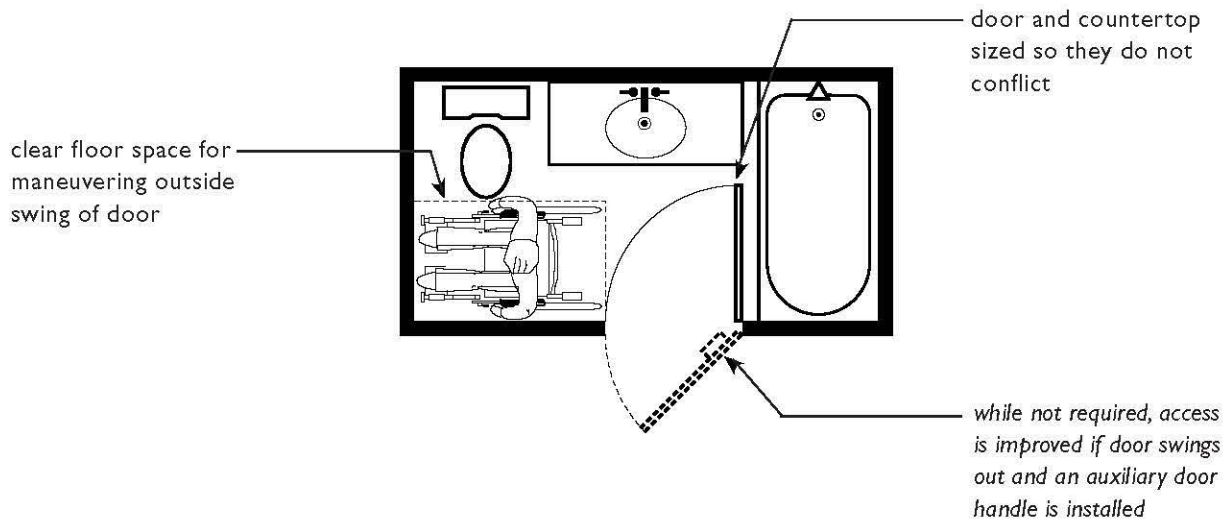




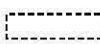
reinforcing must be located in this area to provide support for a drop-down grab bar or a floor-mounted bar similar to those shown on page 6.6; the bar must swing out of the way so access to the tub and controls is available

A person using a wheelchair would back into the room to use the bathtub but must be able to close the door and have an unblocked forward approach to the bathtub; therefore, to comply, the door must swing out.

Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Bathroom with Bathtub

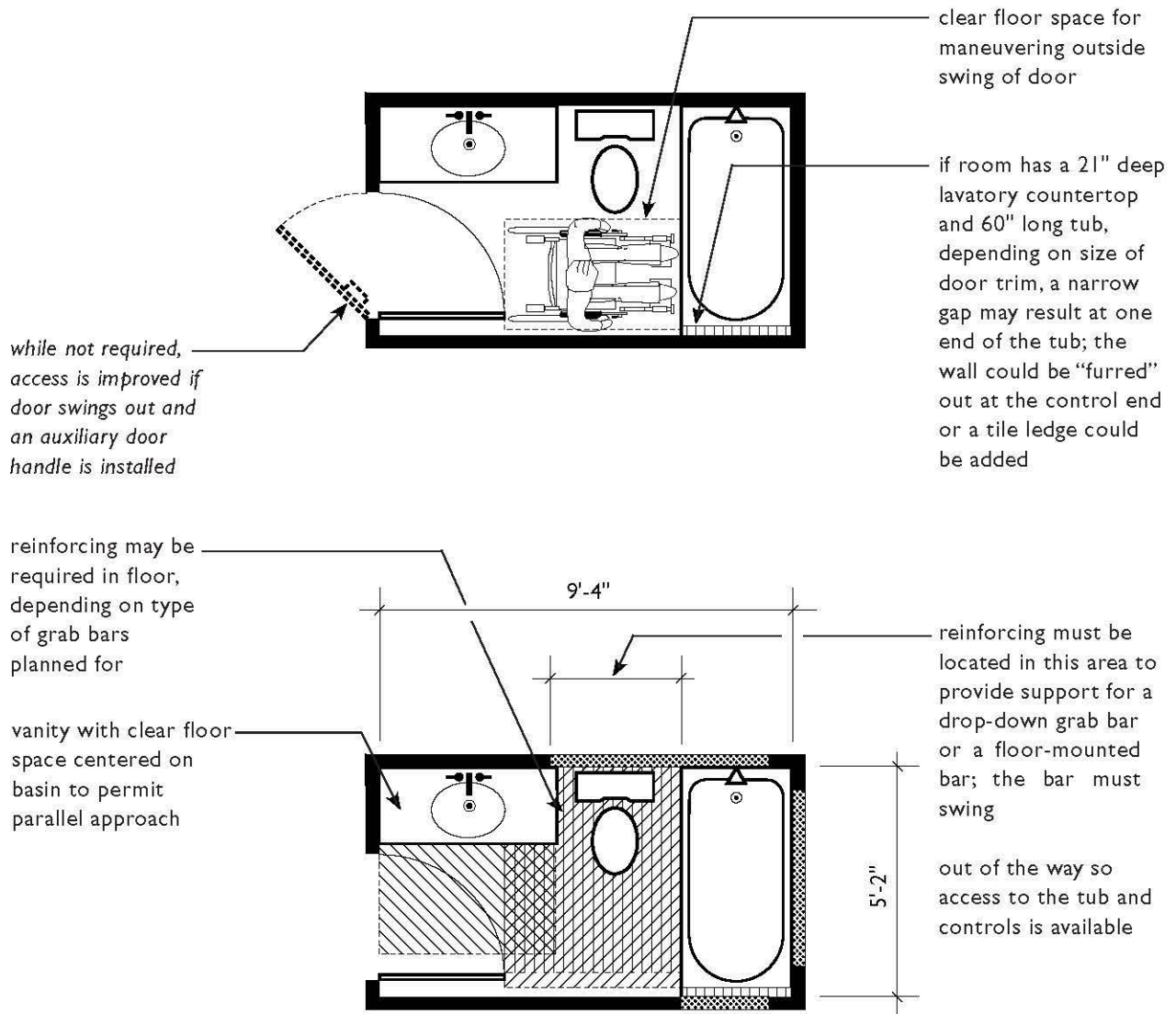





Legend:	 reinforcing in walls or floors for grab bars	 min. clear floor space at each fixture	 min. clear floor space outside swing of door
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Bathroom with Bathtub

The guidelines do not require space for a five-foot turn or a T-turn in bathrooms. In this bathroom, most persons using a wheelchair will not be able to turn around and may have to back into or out of the room. This, combined with the lack of space

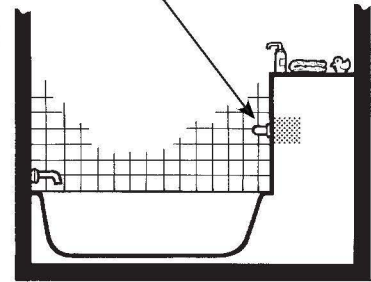
to the latch side of the door, makes this room difficult to use by many people. Therefore, it is recommended that the 5'-2" dimension be increased and/or that knee space be provided under the lavatory.



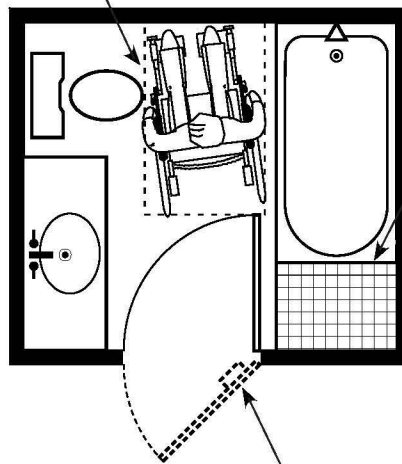
Legend:	 reinforcing in walls or floors for grab bars	 min. clear floor space at each fixture	 min. clear floor space outside swing of door
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Bathroom with Bathtub

if tile area is a shelf, reinforcing should be located in the vertical wall to support future grab bar mounted 33" to 36" above the floor



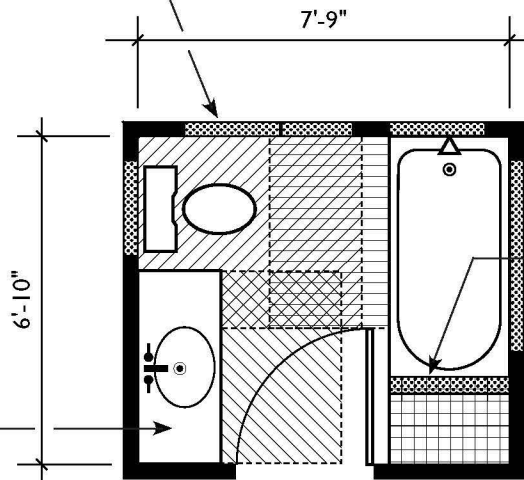
clear floor space for maneuvering outside swing of door



tile area could be either a seat or a shelf

while not required, access is improved if door swings out and an auxiliary door handle is installed




24" minimum reinforcing required, 42" preferred



if tile area is a seat at back of bathtub, reinforcing at least 6" to 8" wide must be located here

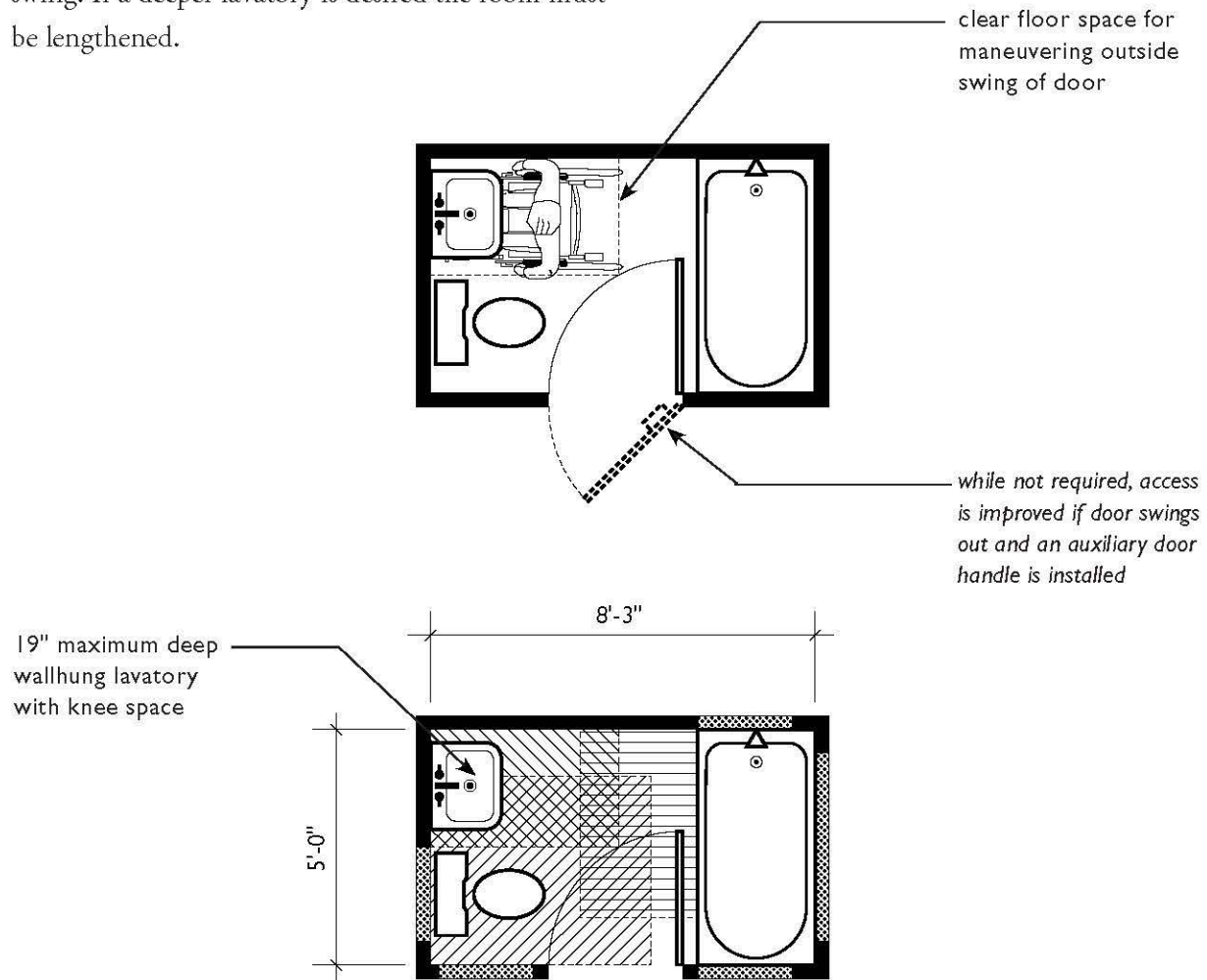
vanity with clear floor space centered on basin to permit parallel approach




no reinforcing required in this wall

Legend:	 reinforcing in walls or floors for grab bars	 min. clear floor space at each fixture	 min. clear floor space outside swing of door
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Bathroom with Bathtub

Only 19 inches of the required 30-inch x 48-inch clear floor space can go under a lavatory. A deeper lavatory would require that the clear floor space be positioned away from the plumbing wall and closer to the tub, causing it to overlap with the door swing. If a deeper lavatory is desired the room must be lengthened.



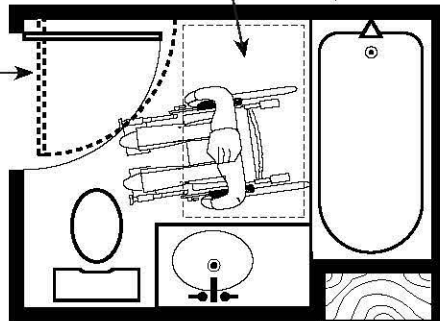
Legend:	 reinforcing in walls or floors for grab bars	 min. clear floor space at each fixture	 min. clear floor space outside swing of door
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Bathroom with Bathtub

because lavatory has no knee space below, to comply, bathtub controls must be located on this wall

clear floor space for maneuvering outside swing of door

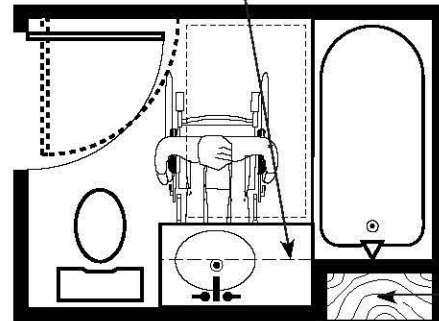
alternate door location



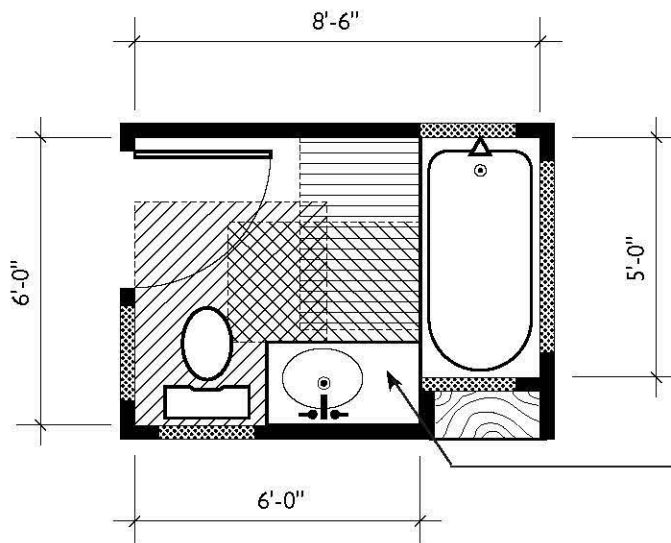
Option 1:
Plumbing on Opposite Walls
 Lavatory With Base Cabinet Below
 (No Knee Space)

end of knee space flush with bathtub control wall permits access to controls; because knee space is not the full depth, user must still be able to execute a parallel approach to lavatory

if lavatory has knee space below, bathtub controls can be located on a common plumbing wall



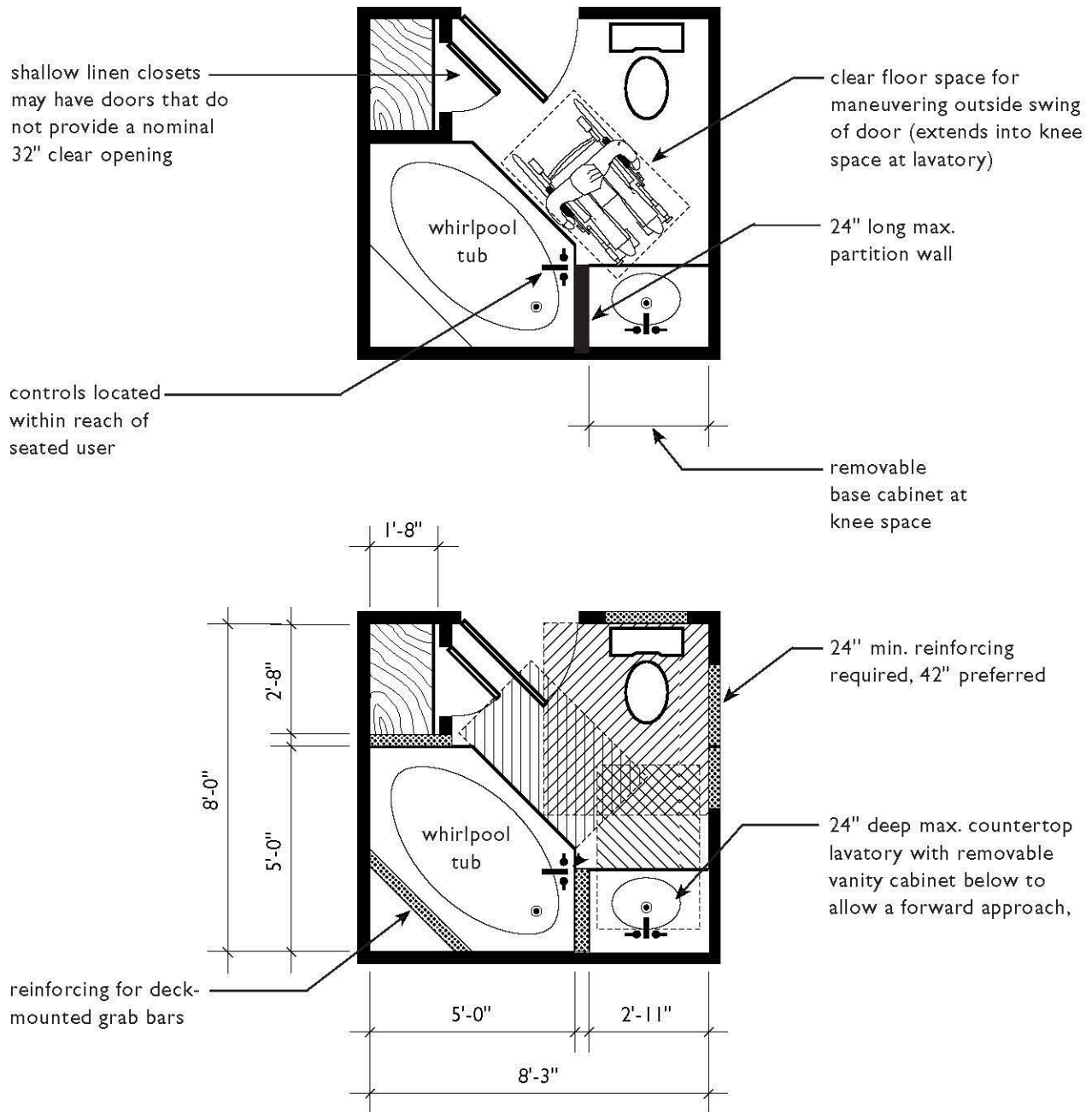
Option 2:
Plumbing on Common Wall
 Lavatory With Shallow Knee Space






36" wide vanity with offset basin to permit parallel approach centered on basin

Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Bathroom with Bathtub

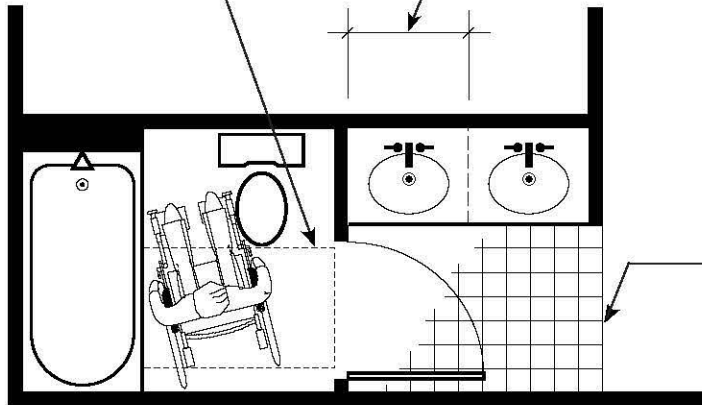


Legend:	 reinforcing in walls or floors for grab bars	 min. clear floor space at each fixture	 min. clear floor space outside swing of door
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Compartmentalized Bathroom with Bathtub

clear floor space for maneuvering within tub/toilet area

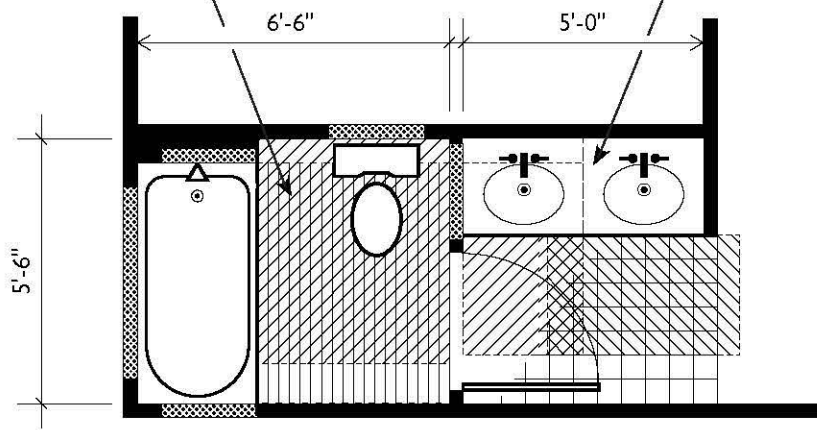
removable base cabinet at knee space



open to bedroom

if 6" of space were added between bathtub and toilet, bathroom also could be a "B" bathroom

24" deep vanity with clear floor space for parallel approach to right basin plus knee space below left basin for a forward approach



in "A" bathrooms all fixtures, including both lavatories, must be usable

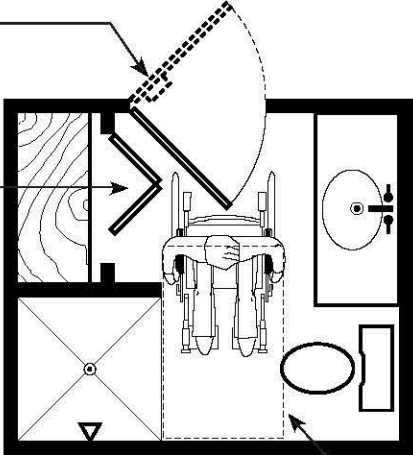
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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BATHROOMS WITH SHOWER BATHING FIXTURE

“A” and “B” Bathroom with Shower

while not required, access is improved if door swings out and an auxiliary door handle is installed

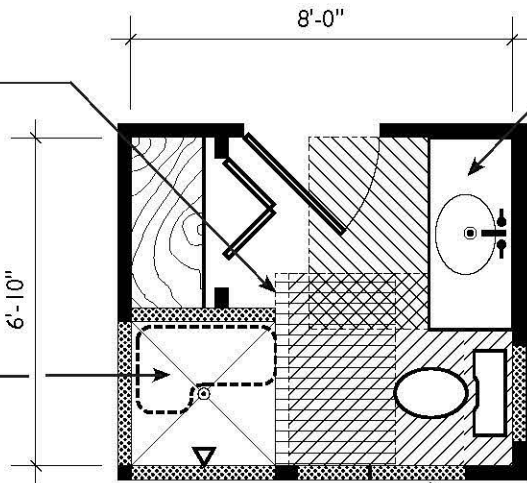
linen closets may have doors that do not provide a nominal 32" clear width if they do not require the user to pass through the door to reach the contents



clear floor space for maneuvering outside swing of door

36" x 36" min. shower with clear floor space offset to provide access to optional seat

optional shower seat



vanity with clear floor space centered on basin to permit parallel approach

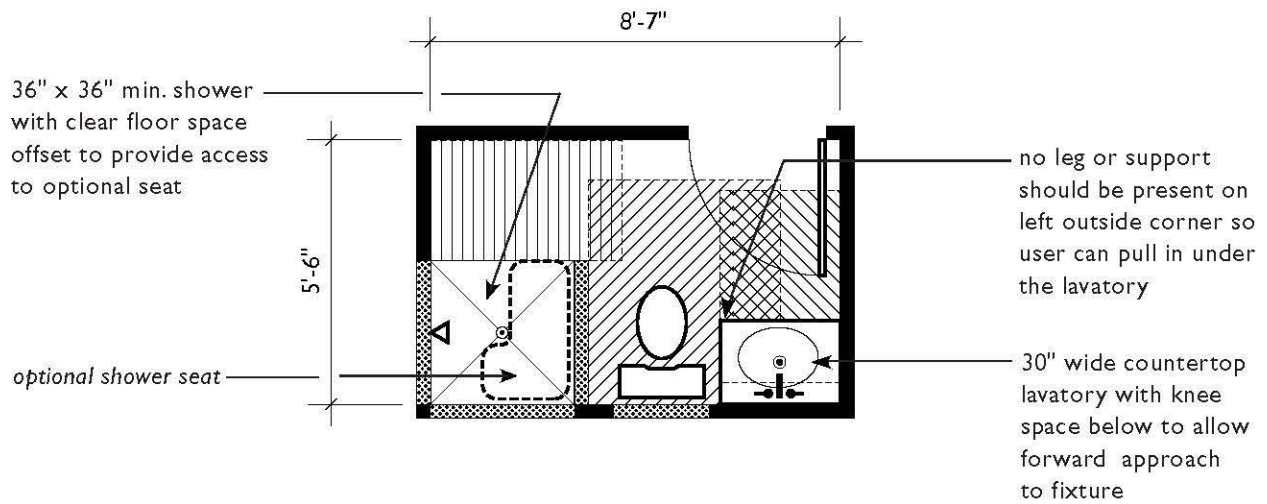
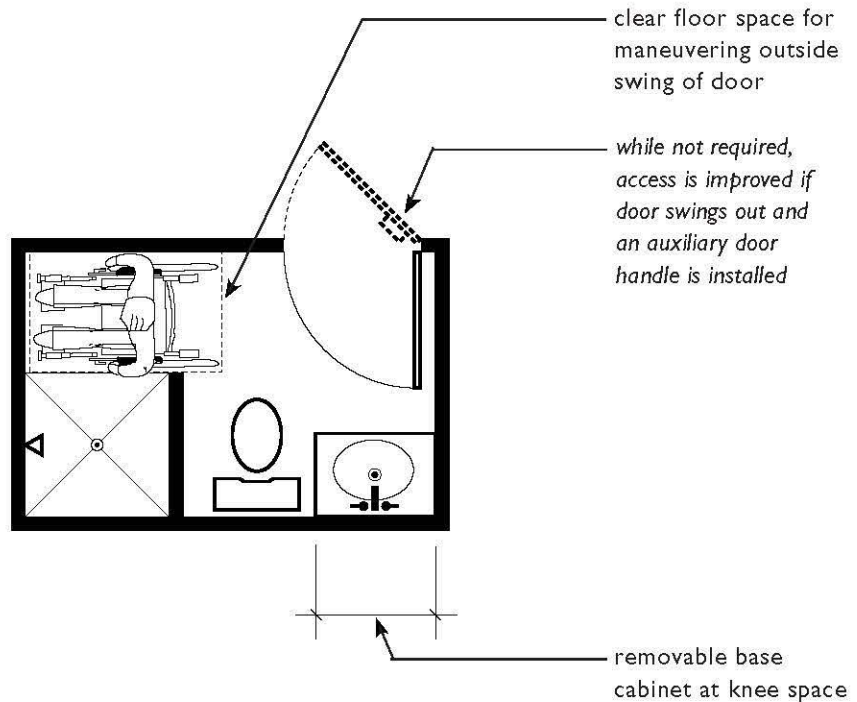
24" min. reinforcing required, 42" preferred

transferring onto toilet may be difficult for some people, recommend increasing this dimension 6"

Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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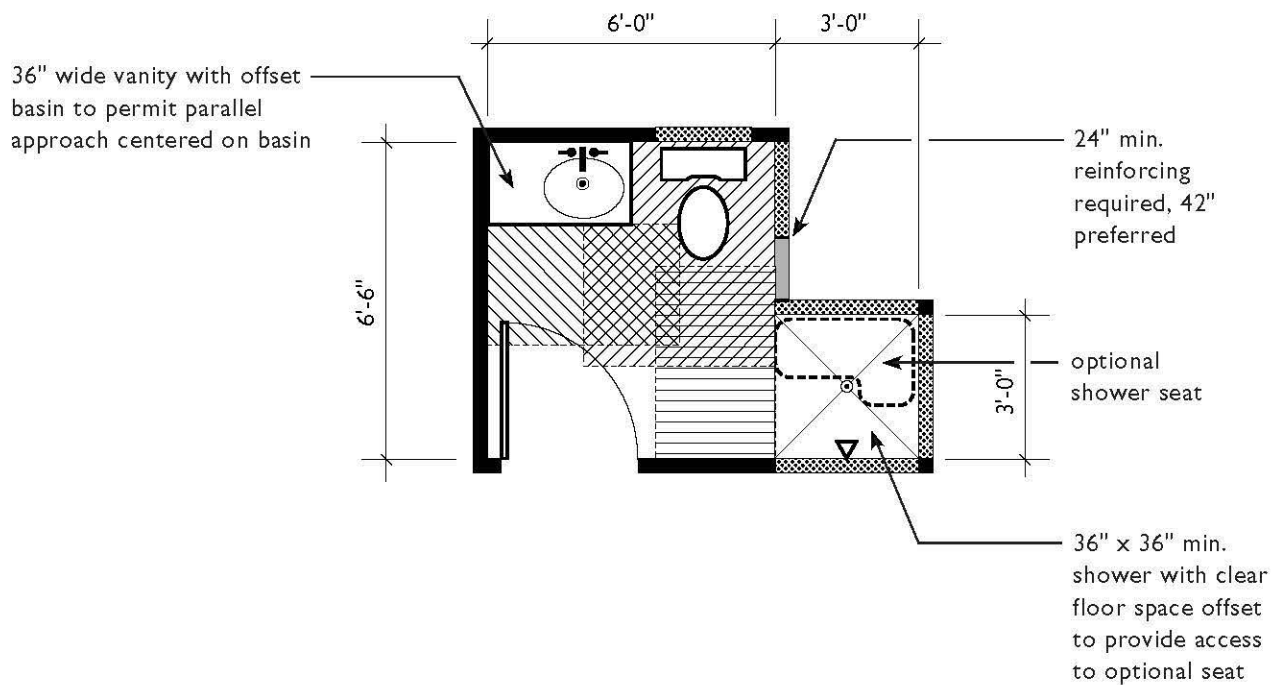
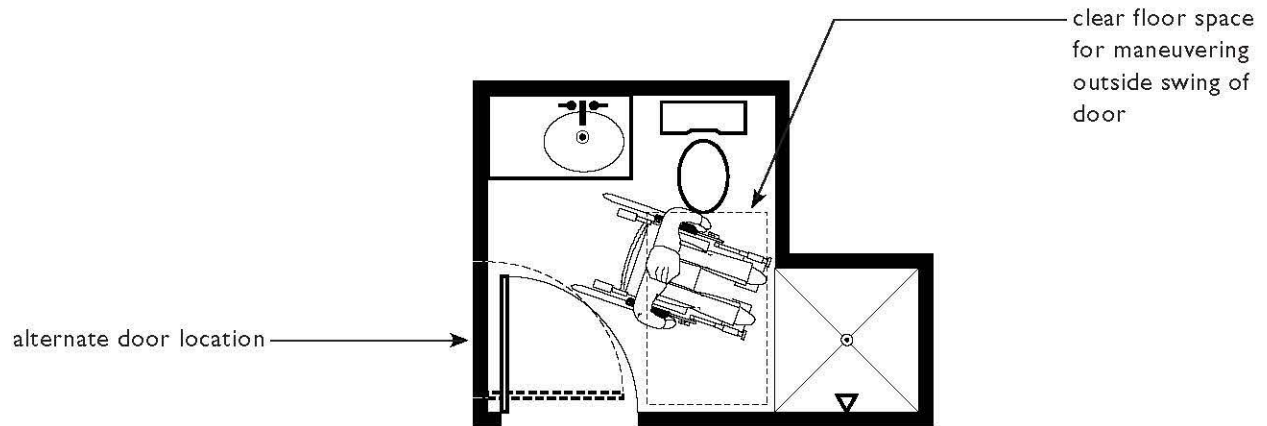
Bathroom with Shower

where a removable cabinet is provided below a countertop less than 32" in width, care must be taken to prevent support method or brackets from encroaching upon required knee space



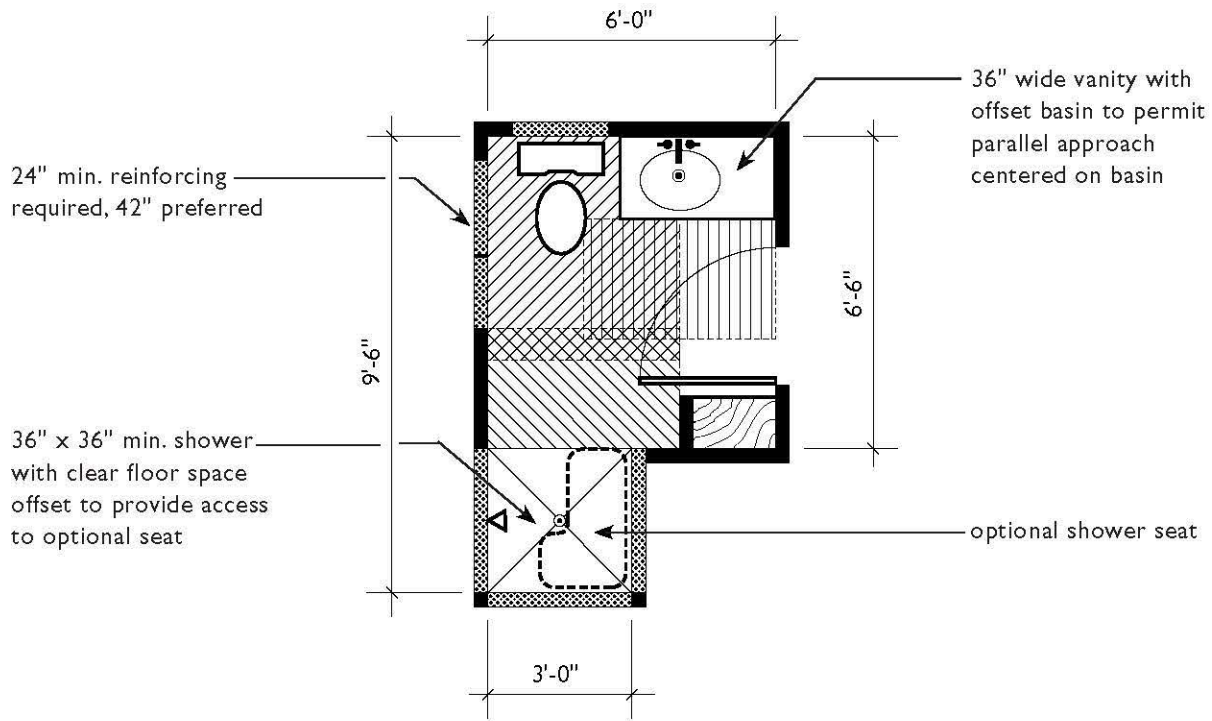
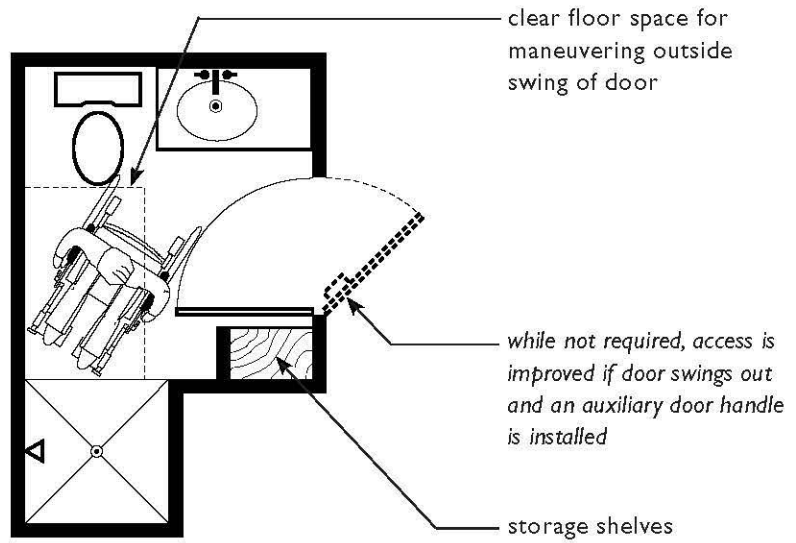
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Bathroom with Shower



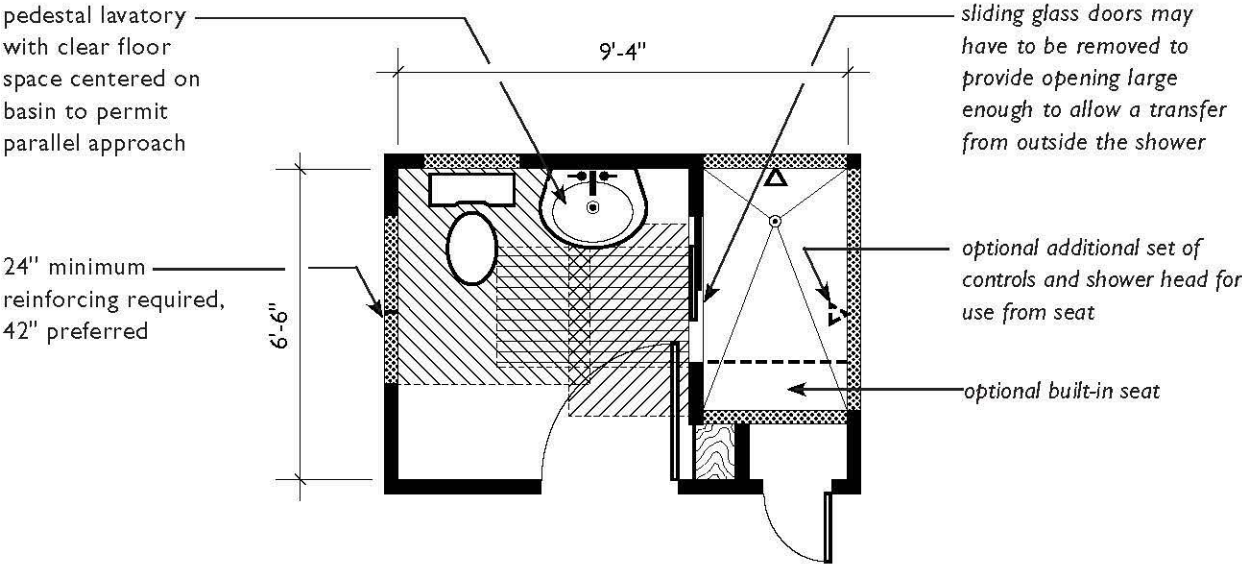
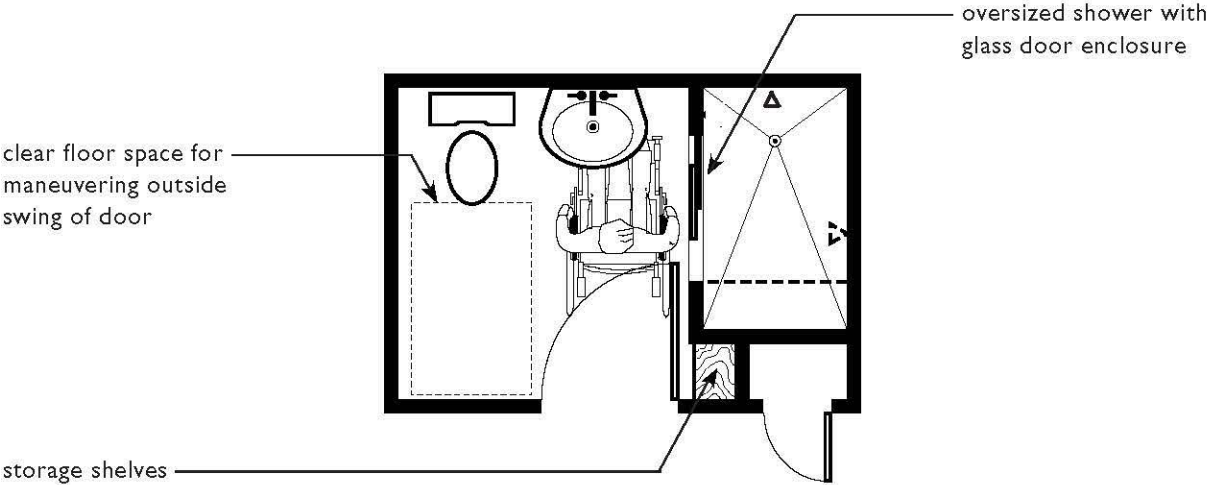
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Bathroom with Shower



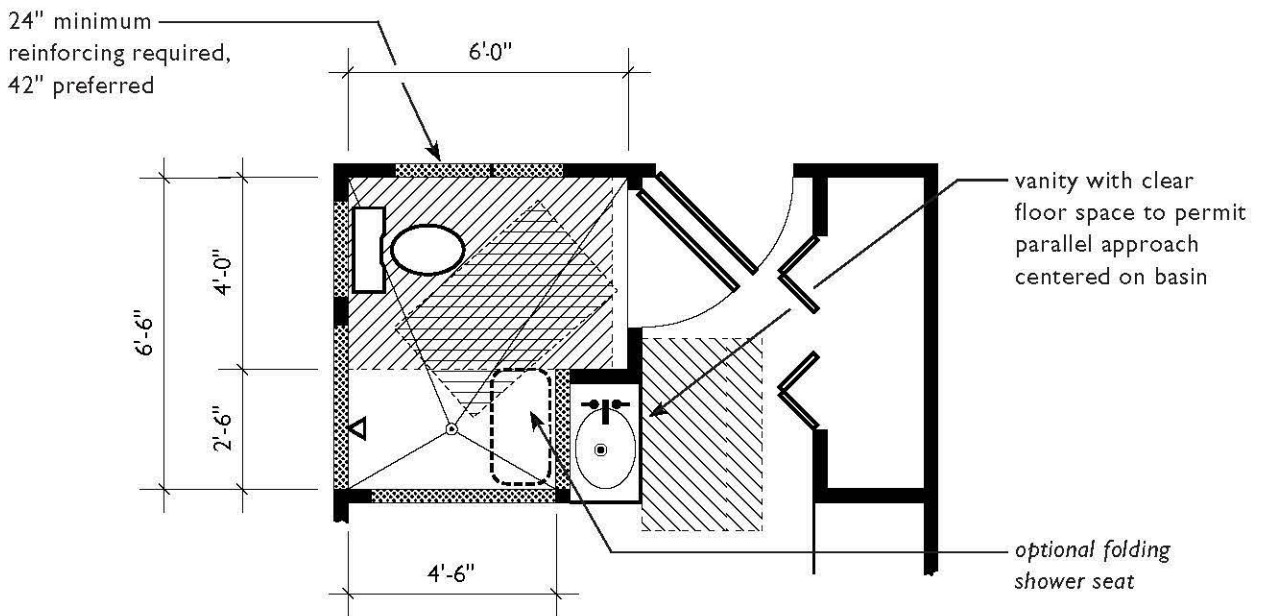
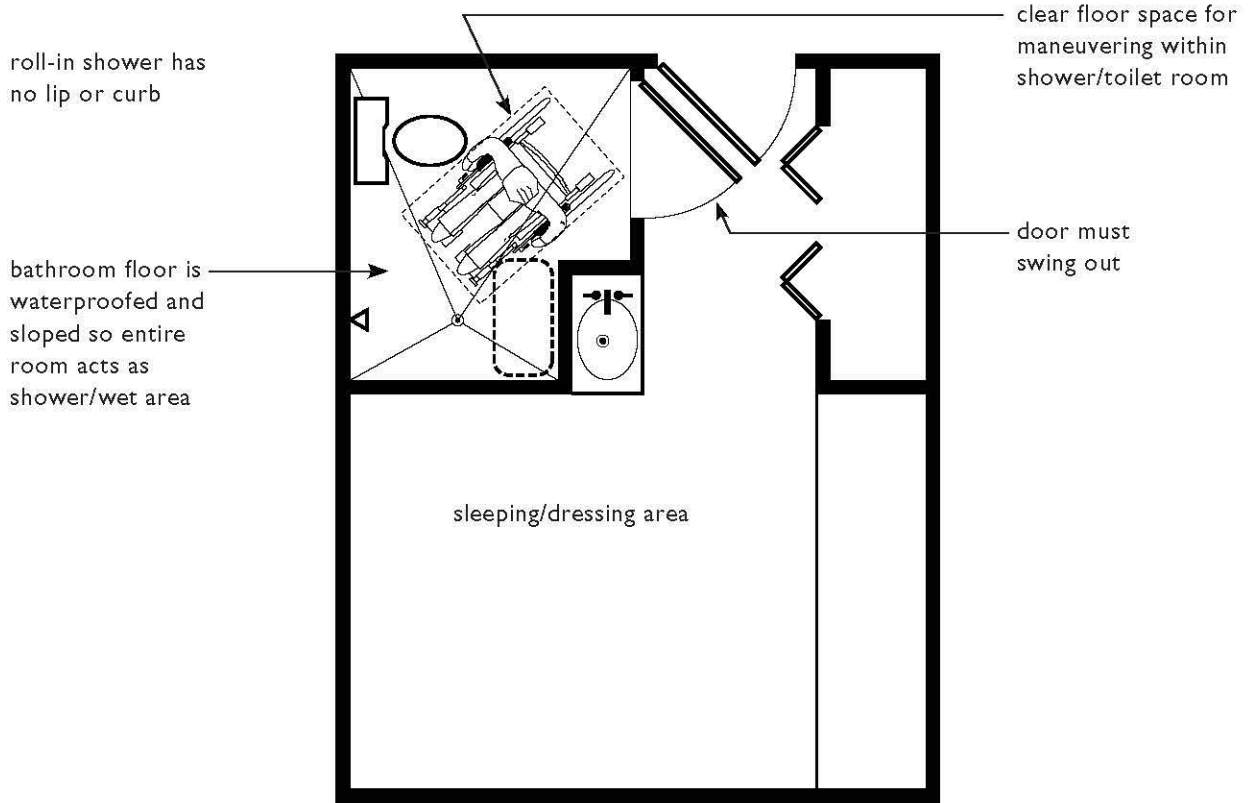
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Bathroom with Large Shower



Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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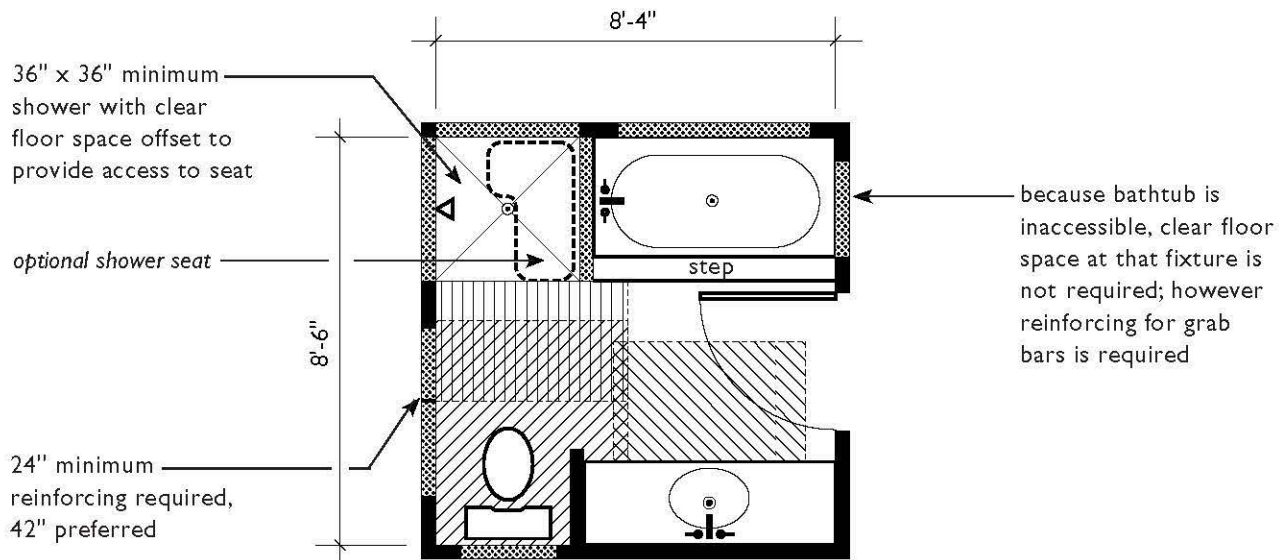
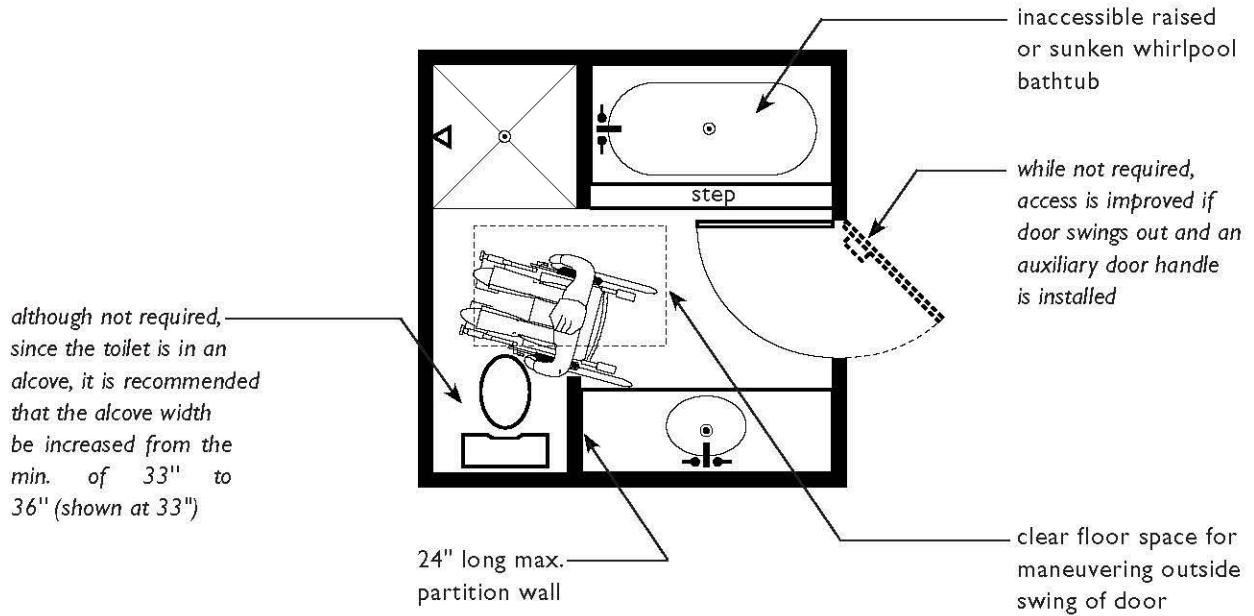
Single Room Occupancy Unit with Roll-In Shower



Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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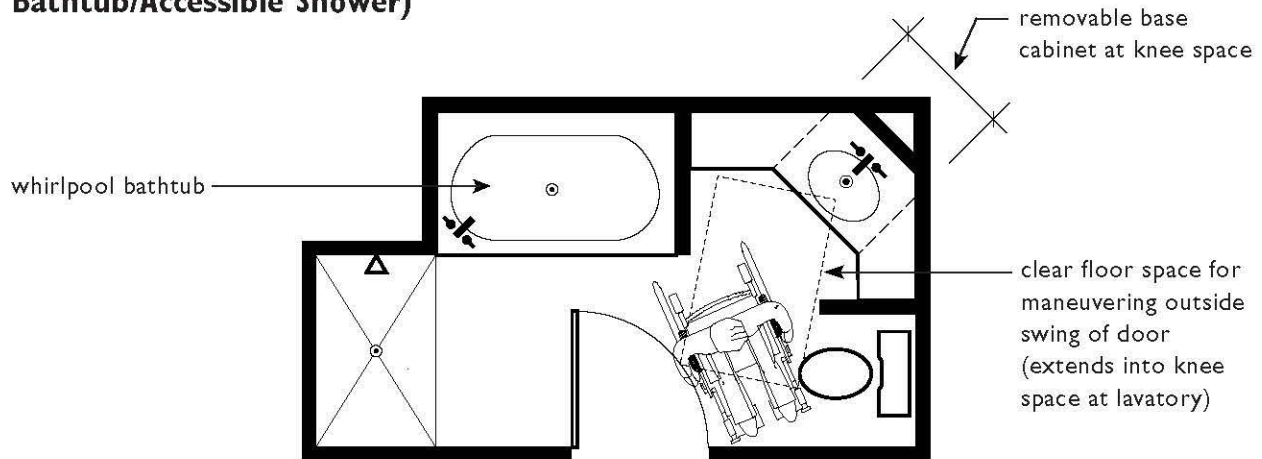
BATHROOMS WITH TWO BATHING FIXTURES

Bathroom with Two Bathing Fixtures (Accessible Shower/Inaccessible Bathtub)



Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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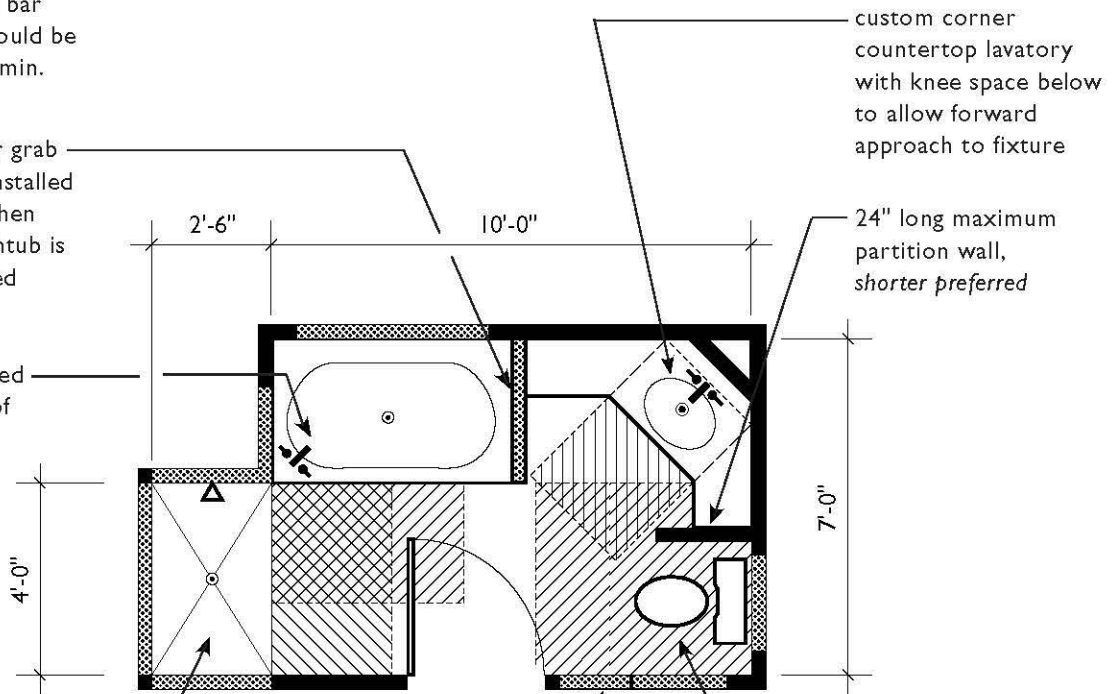
Bathroom with Two Bathing Fixtures (Accessible Bathtub/Accessible Shower)



deck or floor-mounted grab bar reinforcing should be 6" to 8" wide min.

reinforcing for grab bars may be installed in the floor when whirlpool bathtub is not surrounded by walls

controls located within reach of seated user



30" x 48" shower with clear floor space

24" minimum reinforcing required, 42" preferred

although not required, since the toilet is in an alcove, it is recommended that the alcove width be increased from the min. of 33" to 36" (shown at 33")

Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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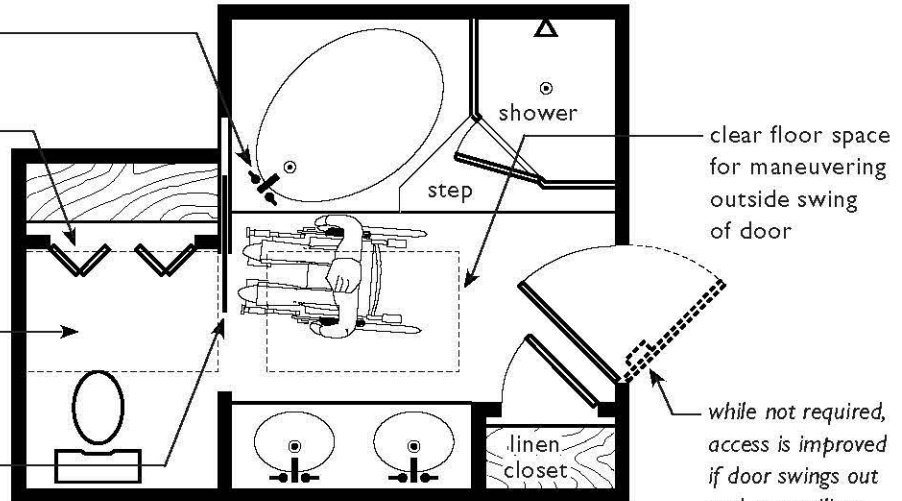
Bathroom with Two Bathing Fixtures (Accessible Bathtub/Inaccessible Shower)

controls located within reach of seated user

linen closet doors may be less than 32" nominal clear width if user is not required to pass through the door to reach the contents

this room could be improved by omitting the closet to allow additional maneuvering space

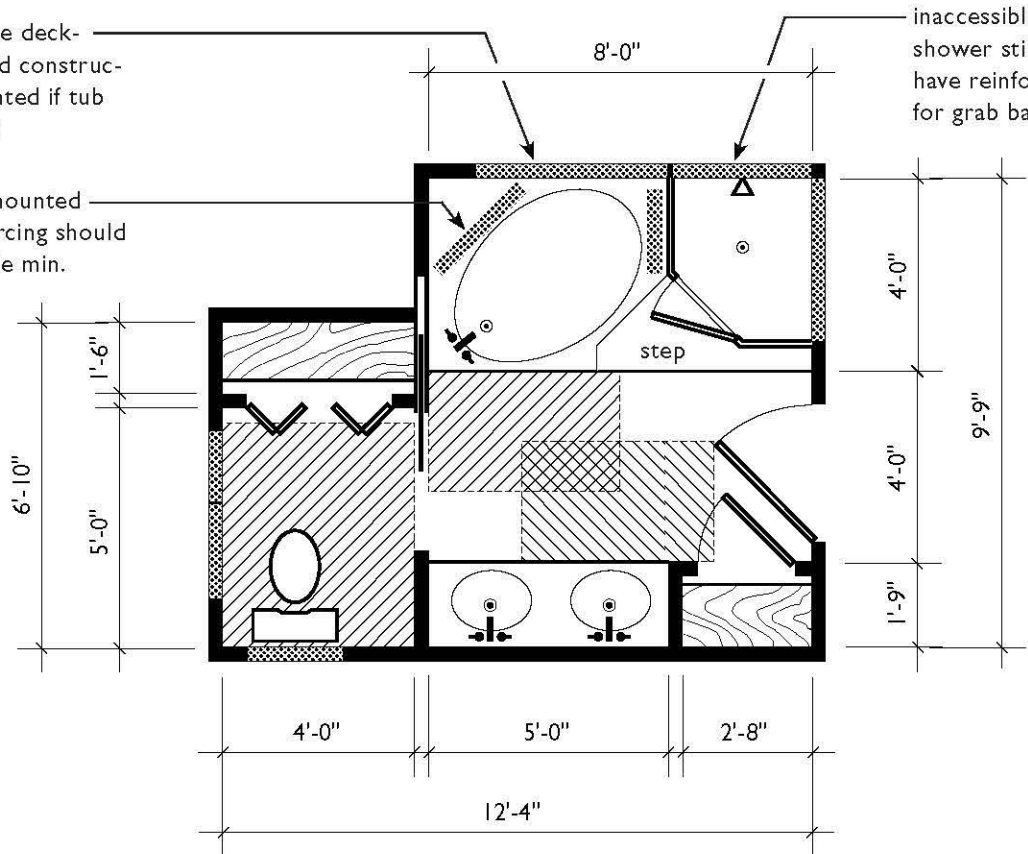
some people using wheelchairs will have to leave the sliding door open in order to position their chair to make a transfer onto toilet



grab bars can be deck-mounted if solid construction, wall-mounted if tub is prefabricated

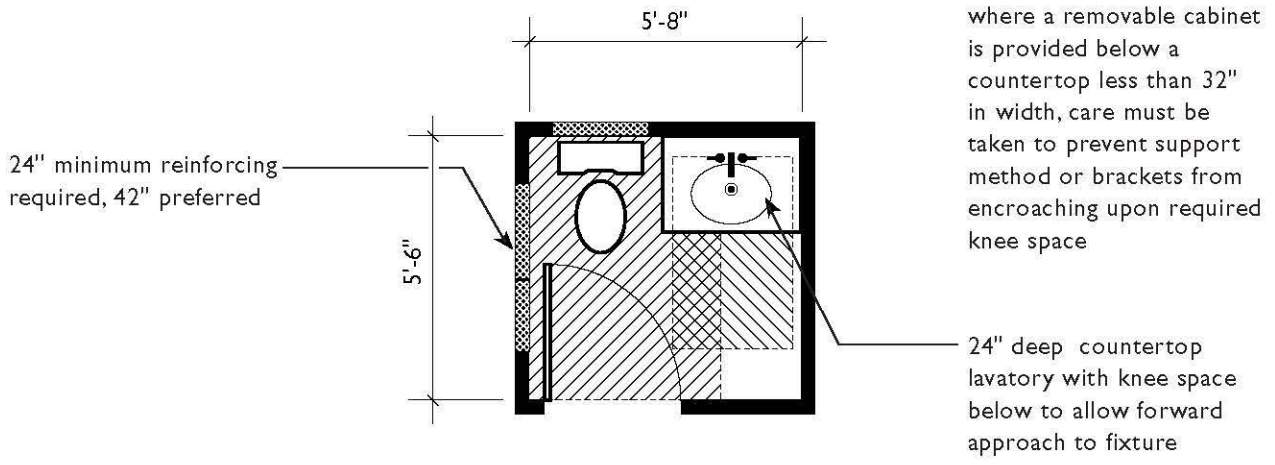
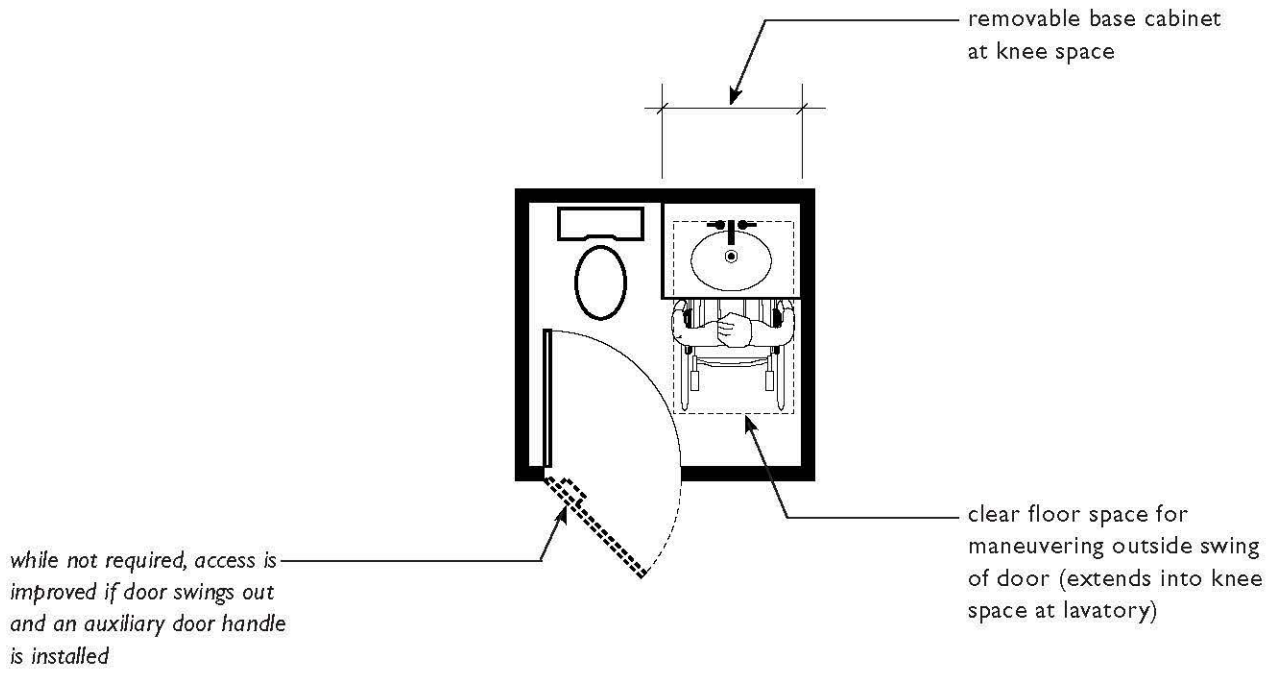
deck or floor-mounted grab bar reinforcing should be 6" to 8" wide min.

inaccessible shower still must have reinforcing for grab bars



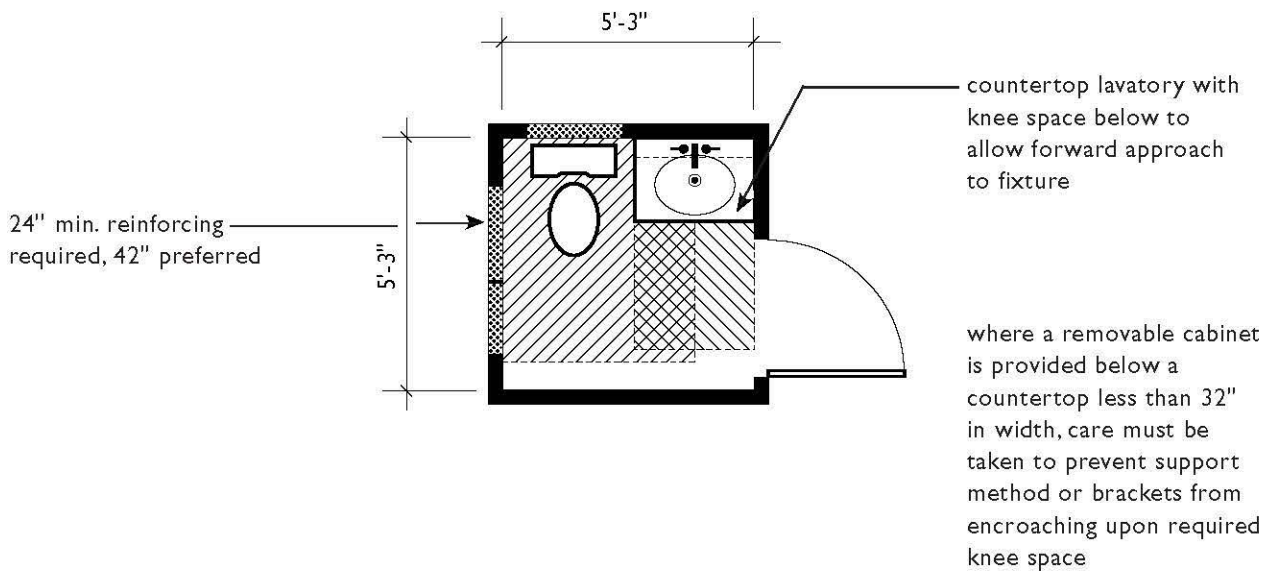
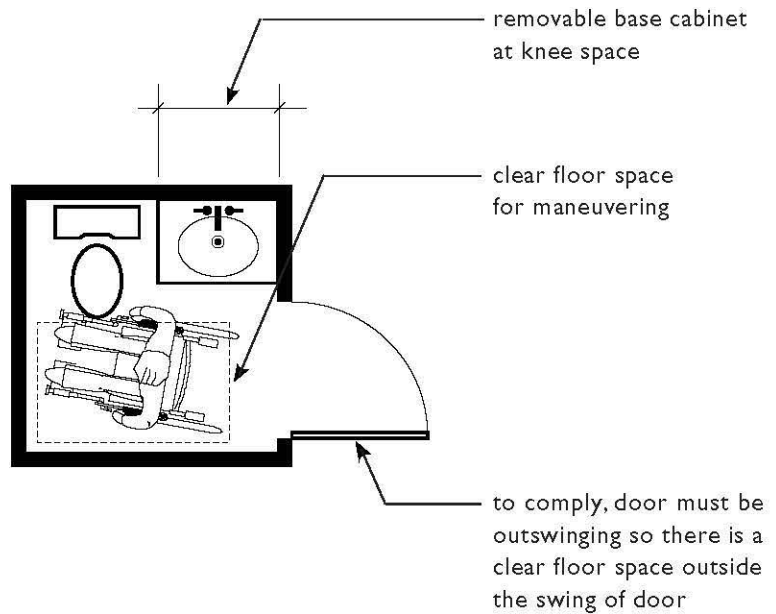
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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POWDER ROOMS



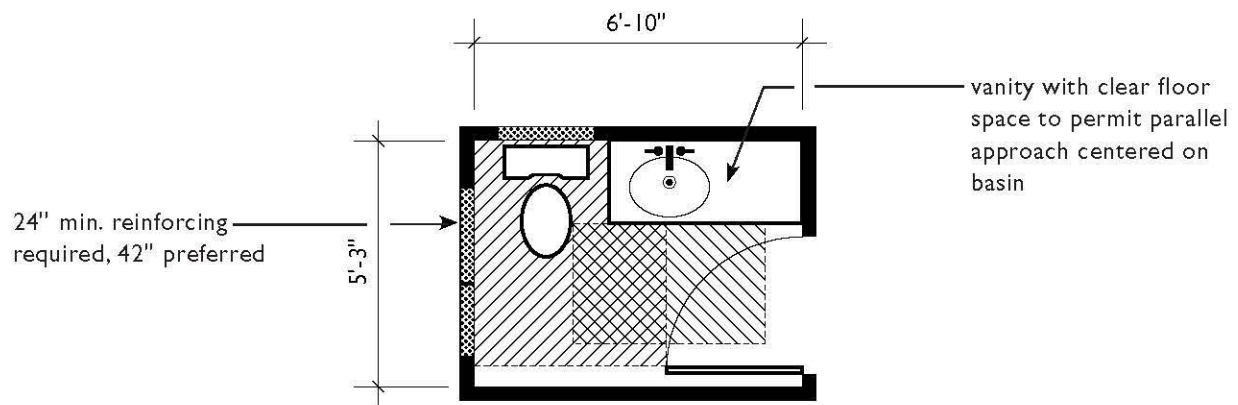
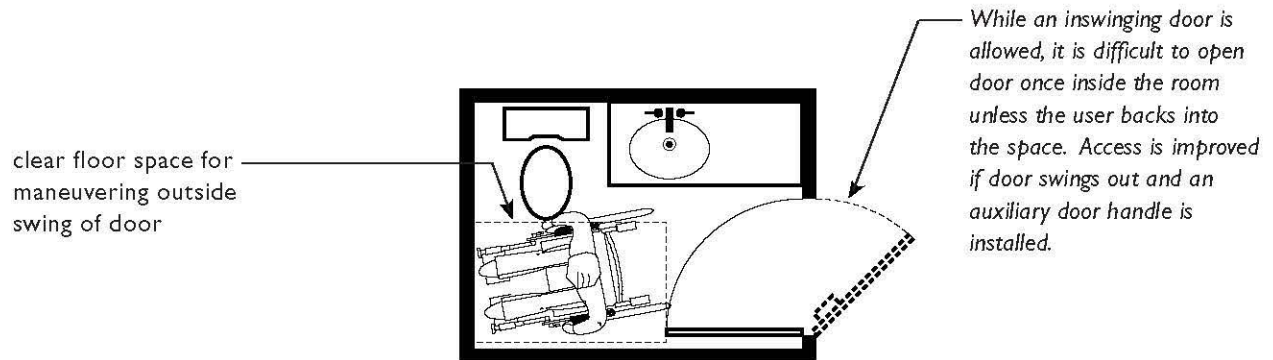
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Powder Room



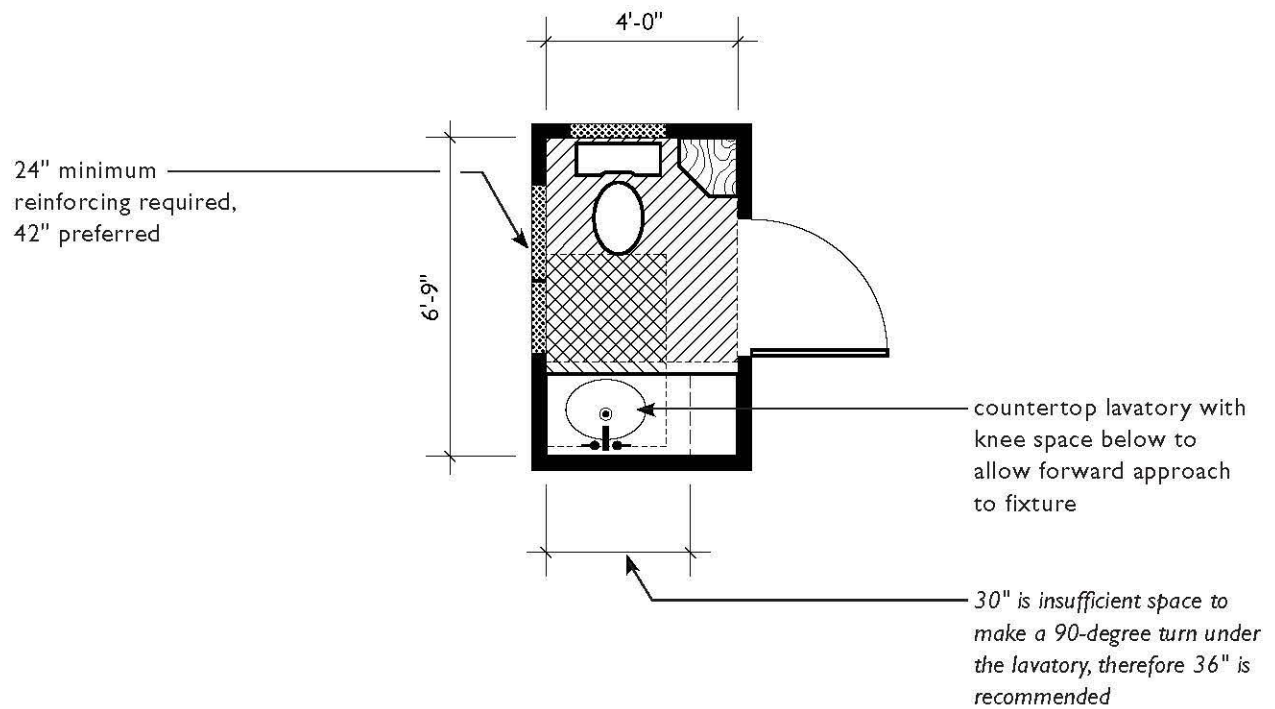
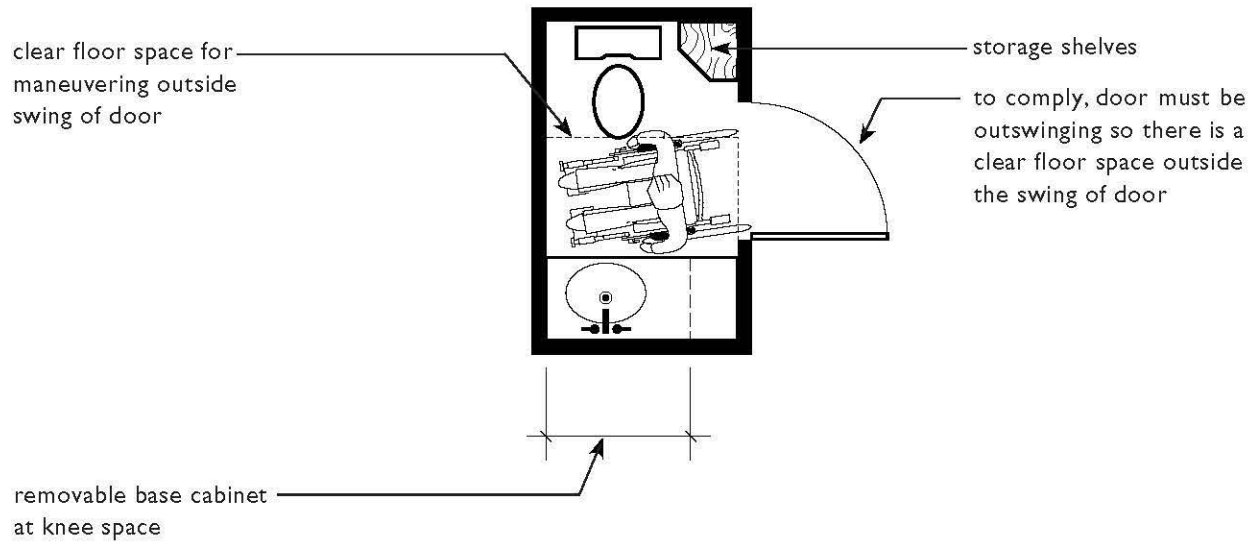
Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Powder Room



Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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Powder Room



Legend:	reinforcing in walls or floors for grab bars	min. clear floor space at each fixture	min. clear floor space outside swing of door
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KITCHENS

GUIDELINES

Kitchens require a 40-inch clear passageway between cabinetry and appliances. It is recommended that U-shaped kitchens provide a 60-inch clear floor space between the faces of opposing cabinets and appliances to make all sides usable.

EXPLANATION

The design of kitchens usable by a person with a disability demands careful consideration and thoughtful planning. Careful location of appliances, plumbing fixtures and cabinetry is essential to achieve the required maneuvering clearances and clear floor spaces that are required in the necessary functions in an accessible and functional kitchen. Attentive design will produce a kitchen that provides an accessible and functionally efficient kitchen that is easily usable by a person with a disability or mobility impairment, as well as an able-bodied person.

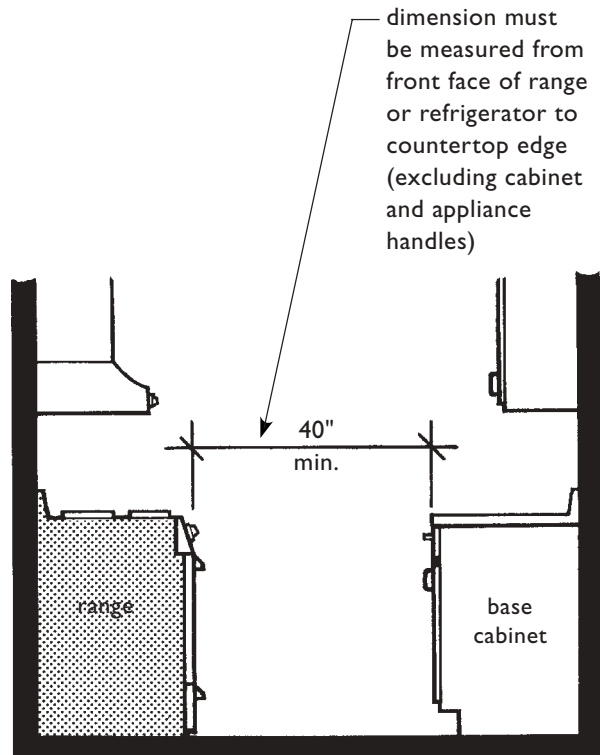
The plans presented on the following pages are examples of “usable” kitchens that comply with the Design for Life C’ville guidelines. These plans are only a sampling of possible layouts that would conform to the specifications and are not intended to limit designers’ options; certainly other layouts are feasible. The plans are neither required nor even suggested as ideal examples. They are included to illustrate typical applications of interpretations of specific requirements of the guidelines under various circumstances.

Level II (live-able) units are required to have a usable kitchen. There is no requirement for a useable kitchen for Level I (visit-able) units.

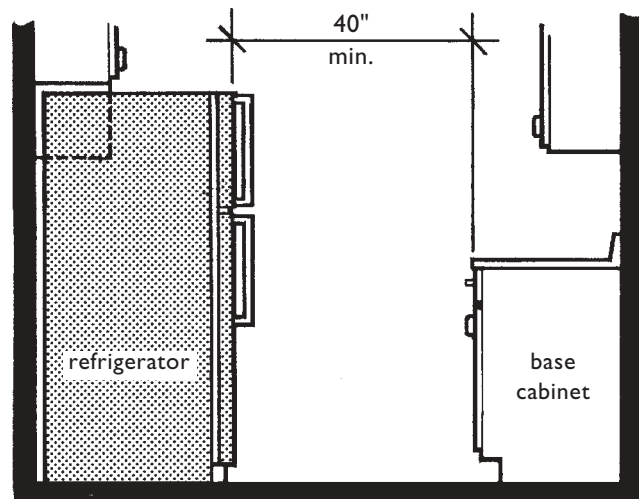
EXAMPLES

The Guidelines require a clearance of at least 40 inches between all opposing base cabinets, countertops, appliances, and walls. The 40-inch clearance is measured from any countertop or the face of any appliance (excluding handles and controls) that projects into the kitchen to the opposing cabinet, countertop, appliance, or wall.

Refrigerators vary greatly in depth and may extend up to eight inches beyond cabinet faces. Standard free-standing and drop-in ranges may project up to three inches. Appliance depths (excluding door handles) must be included when calculating the 40-inch clearances.

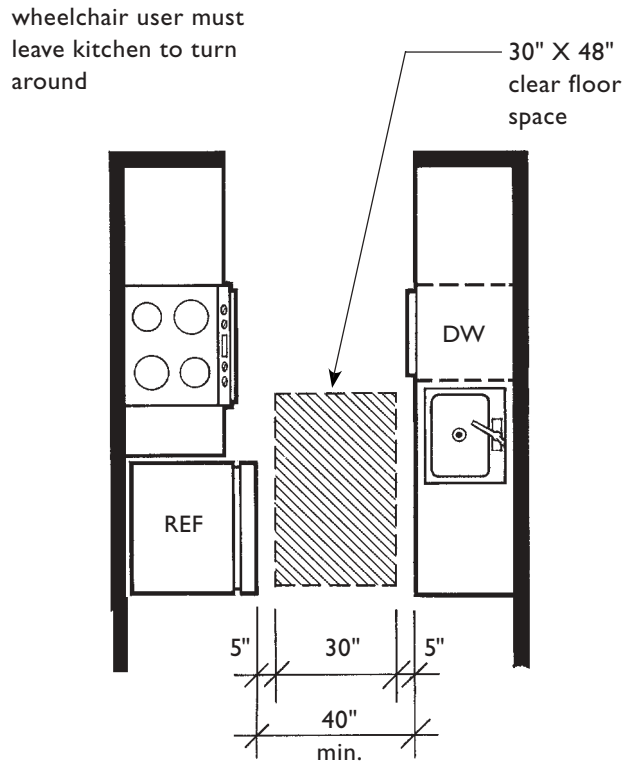


Minimum Clearance between Range and Opposing Base Cabinet



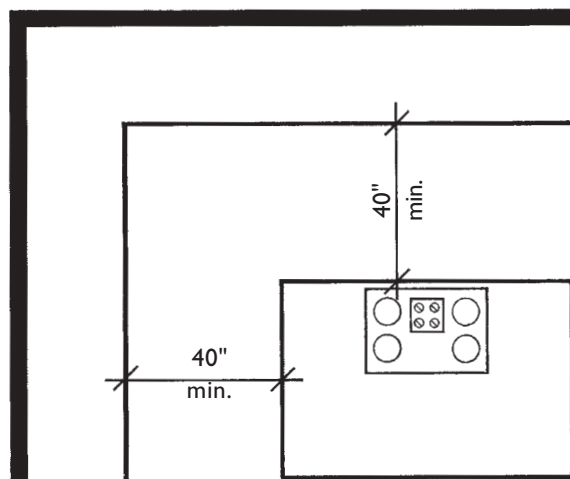
Minimum Clearance between Refrigerator and Opposing Base Cabinet

In a narrow kitchen the 40-inch minimum clearance provides an additional five inches on either side of the required clear floor space of 30 inches x 48 inches at each fixture or appliance, so a user in a wheelchair can maneuver as close as possible to appliances or fixtures. A narrow kitchen such as the one shown to the right meets the guidelines and is usable, but may be difficult for many people using wheelchairs. Its narrow corridor design requires a user in a wheelchair to exit the kitchen to turn around.



40" Minimum Clearance Between all Counters, Base Cabinets, Appliances, and Walls

In more elaborate kitchens where an island is planned, the 40-inch clearance must be maintained between the face of the island and all opposing features. Even though an accessible route for a 90-degree turn around an obstruction is 36 inches, to ensure sufficient space for maneuvering within the kitchen, the guidelines require that the minimum clearance of 40 inches be maintained.



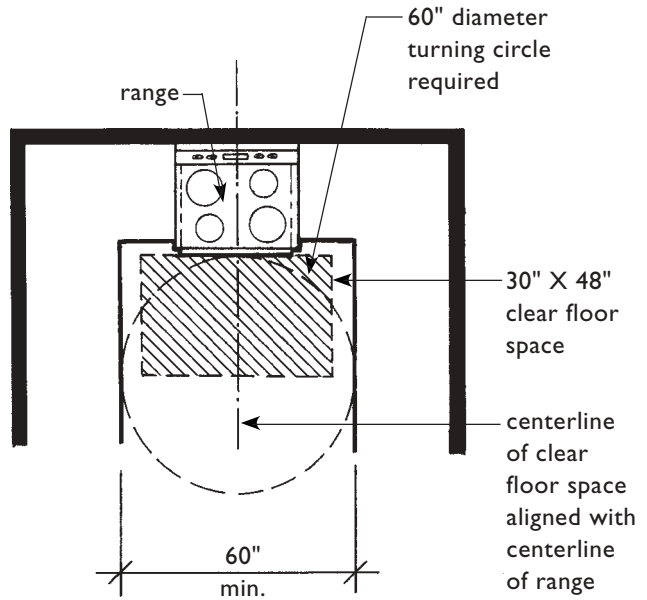
40" Must Be Maintained Between Island and all Opposing Features



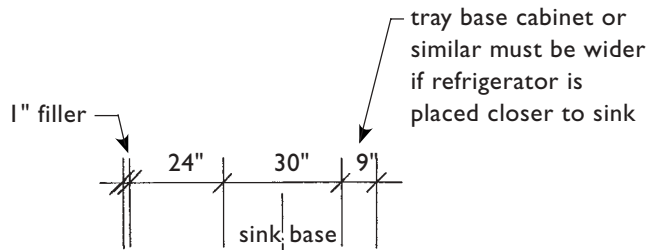
A 60-inch diameter turning circle is required in a U-shaped kitchen that has a sink, range, or cooktop at its base. This turning diameter is necessary to provide adequate maneuvering space for a person using a wheelchair to approach and position themselves parallel to the appliance or fixture at the base of the U. Any appliances, such as refrigerators and ranges (excluding door handles), that project beyond countertops and cabinets must not encroach upon this 60-inch diameter turning space.

In addition to the turning space, the kitchen must be arranged so there is a 30-inch x 48-inch clear floor space for a parallel approach centered on the sink, range, or cooktop. The centerline of the fixture or appliance must be aligned with the centerline of the clear floor space.

When a sink, even a standard single basin sink, is at the bottom of the U and a dishwashing machine is planned to be included adjacent to the sink, the distance between the legs of the U must be greater than 60 inches to allow for a full centered approach at the sink. See the lower plan in the right column.



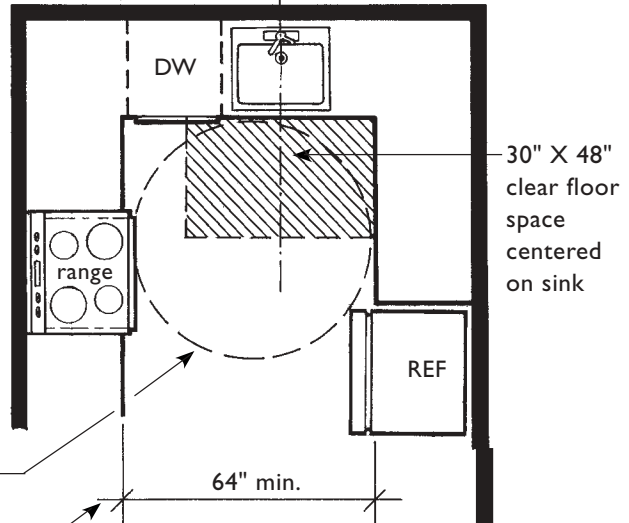
60" Diameter Turning Circle when Sink (Only), Cooktop, or Range is at Bottom of U-Shaped Kitchen



refrigerator must be selected and positioned so it does not encroach upon the 60" diameter turning circle or the clear floor space at the sink

60" diameter turning circle

this dimension may need to be increased slightly for a double basin sink if wider than 30"



Sink and Dishwasher at Bottom of U-Shaped Kitchen Increases Room Width

CONTROLS AND SWITCHES

GUIDELINES

The requirements for accessible controls and switches are outlined in pages 32-35 of this document.

EXPLANATION

Design for Life C'ville acknowledges that accessible design of controls and switches is a critical component of ensuring a unit is fully usable for a person with a physical disability. To that end, the guidelines for accessible controls and switches are required for Level II compliance (Live-able), but are not required for Level I compliance (Visit-able).

The following provides explanation and guidance on locating controls and switches for approaches from the front and side, with varying levels of obstruction.

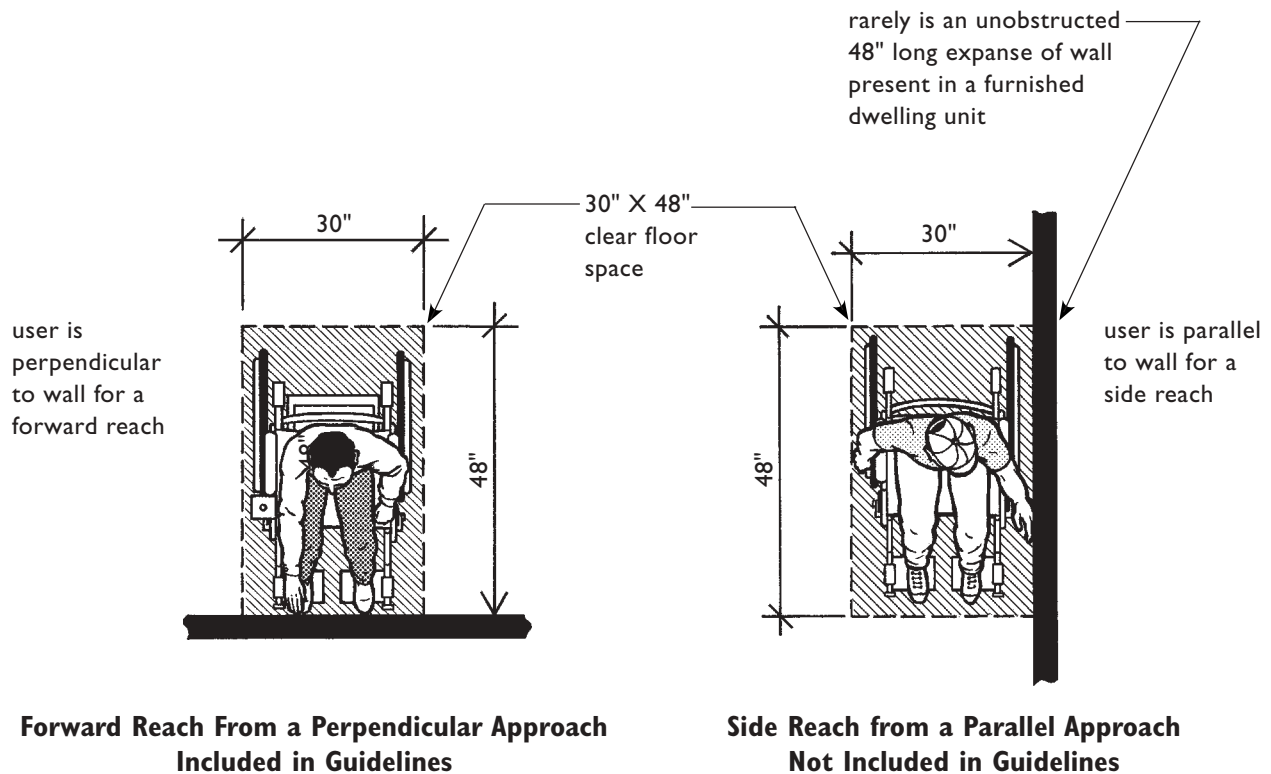
EXAMPLES

ACCESSIBLE LOCATIONS

Height specifications for wall-mounted controls and outlets are based upon the reach ranges of seated people given in the ANSI Standard. Typically ANSI and other accessibility standards present reach ranges for both forward and side reaches: **1.** where the user must reach over an obstruction, and **2.** where the user's approach is not restricted by an obstruction. One of these positions, a side reach from a parallel position without an obstruction, requires a 48-inch long clear floor space parallel and close to the wall so a user can get close enough to reach controls and

switches. Once a dwelling unit is furnished, sufficient room to execute such a parallel approach usually is not available; thus this specification is not required.

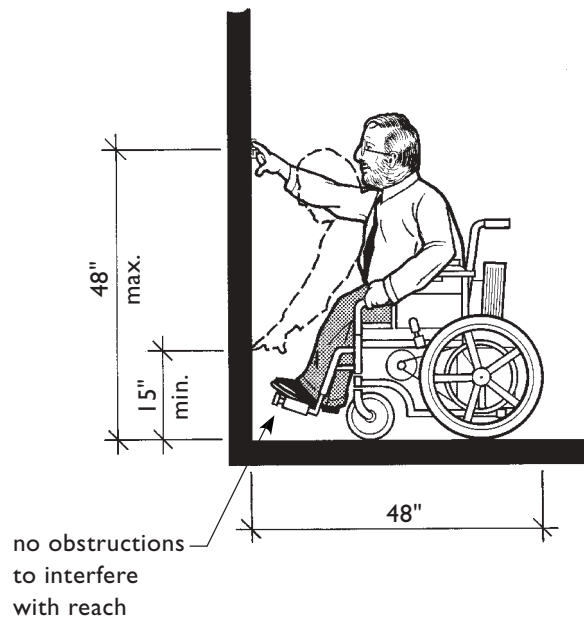
To accommodate all users in situations where there may or may not be a built-in counter, base cabinet, or other obstruction to interfere with reach, there are specific requirements for mounting controls and switches so a person using a wheelchair can execute: **1.** a forward reach with no obstruction, **2.** a forward reach over an obstruction, and **3.** a side reach over an obstruction.



FORWARD REACH WITH NO OBSTRUCTION

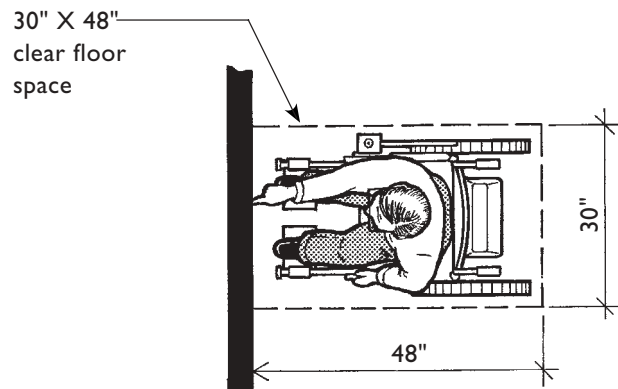
Where there are no obstructions to interfere with the reach of a person using a wheelchair, controls and outlets may be mounted in a range from 15 to 48 inches above the floor. There must be a clear floor space of 30 inches x 48 inches perpendicular to the wall, adjoining a 36-inch wide accessible route, to allow a person using a wheelchair to approach and get into position to execute a forward reach to the control or outlet.

Thermostats and other controls that must be read pose additional considerations. Even though people using wheelchairs may be able to execute a forward reach of 48 inches at a clear wall, they may have difficulty seeing the small numerals and indicators generally found on thermostats. A person using a wheelchair, when positioned perpendicular to a wall, must lean forward over his or her feet and knees making it difficult to get close enough to read small type. Therefore, it is critical that thermostats and similar controls that must be read are mounted at or lower than 48 inches above the floor.



FORWARD REACH OVER AN OBSTRUCTION

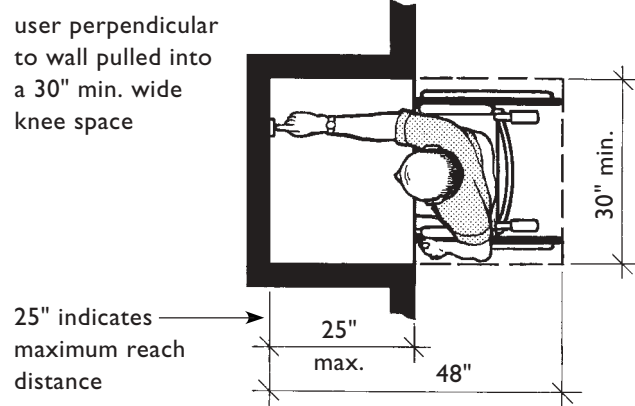
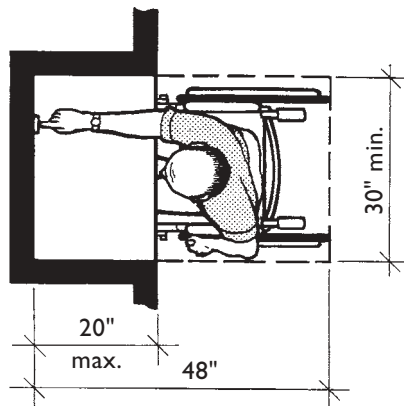
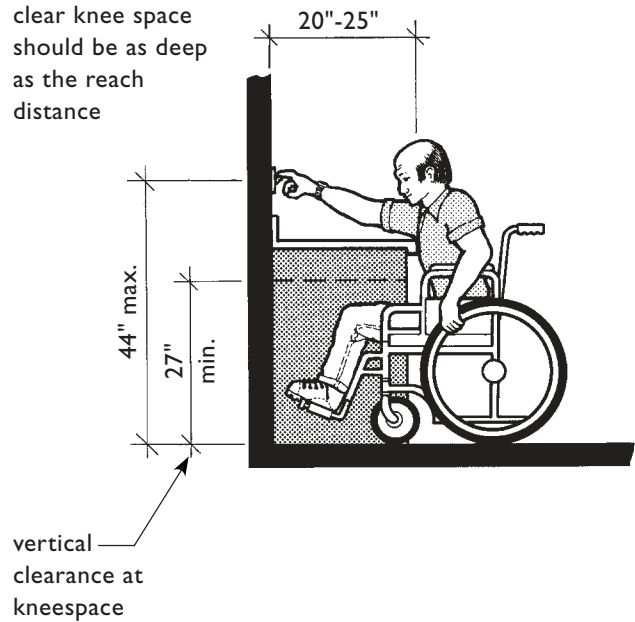
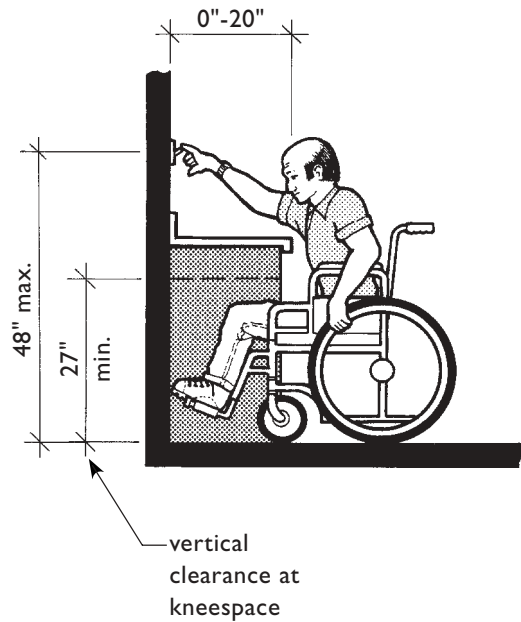
Controls and outlets may be positioned above obstructions (e.g. built-in shelves and countertops) and still be mounted in locations that are accessible. A minimum 30-inch wide clear knee space as deep as the reach distance, adjoining a 36-inch wide accessible route, must be available below the counter/obstruction to allow a person using a wheelchair to pull up and execute a forward reach over the obstruction.



High and Low Forward Reach Limits
From a Perpendicular Approach

For obstructions extending from 0 to 20 inches from the wall the maximum height for a control or outlet over the obstruction is 48 inches above the floor. Deeper shelves, extending 20 to 25 inches from the wall, reduce the maximum mounting height of controls and outlets to 44 inches. Controls and outlets mounted over obstructions

extending further than 25 inches are outside the reach range of people using wheelchairs and are not considered to be in accessible locations. However, Design for Life C'ville allows an industry tolerance of 1/2 inch to permit the installation of standard countertops that may project from the back wall for a maximum dimension of 25-1/2 inches.

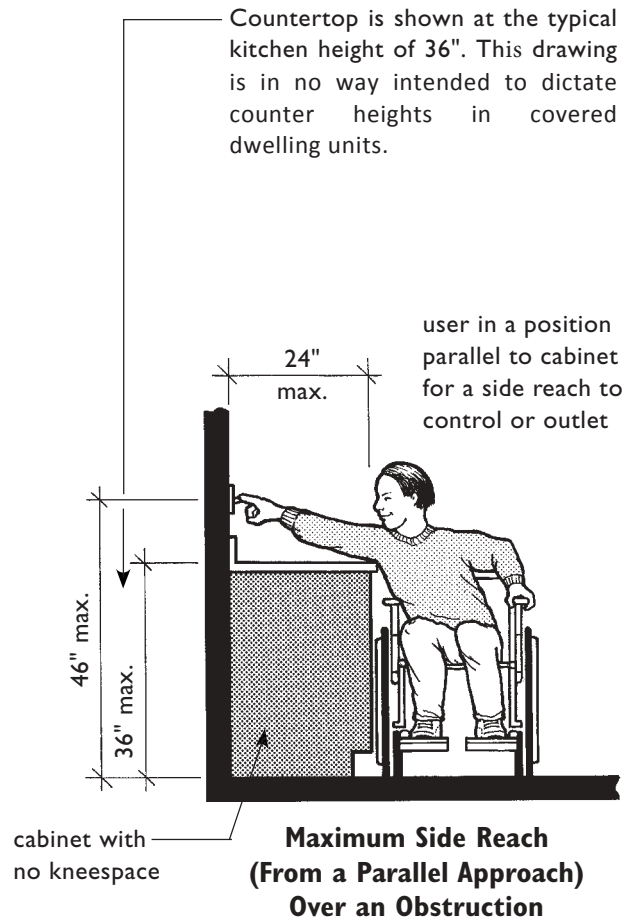


**Maximum Forward Reach
(From a Perpendicular Approach) over an Obstruction**

**SIDE REACH
OVER AN OBSTRUCTION**

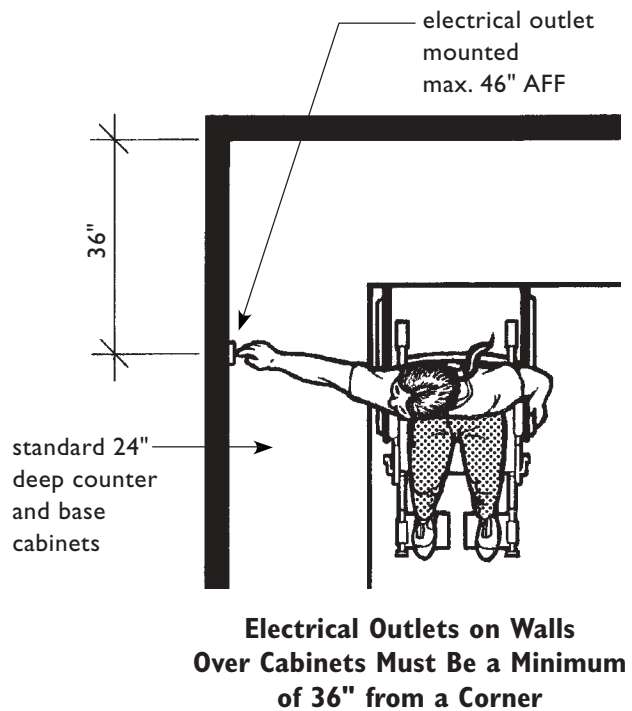
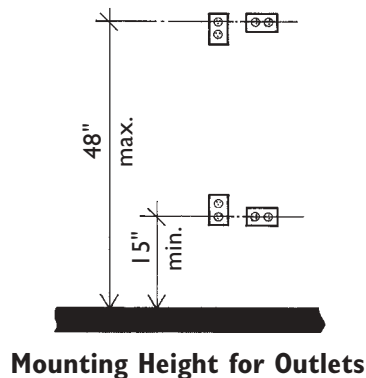
To reach controls and outlets mounted over base cabinets which lack knee space, a person using a wheelchair must be able to approach the cabinet from a position parallel to the cabinet and execute a side reach. This parallel position is made up of a 30-inch x 48-inch clear floor space adjoining a 36-inch wide minimum accessible route. When executing a side reach over a cabinet, the upper limit of the range is reduced to 46 inches.

Cabinet depth is limited to 24 inches. Design for Life C'ville permits use of a standard 24-inch deep cabinet with an additional extension of 1 to 1-1/2 inches for countertops for a maximum depth of 25-1/2 inches. If a built-in shelf, cabinet, or other obstruction must be deeper than 25-1/2 inches, then any switches, outlets, and controls that must be in accessible locations are not permitted to be installed over such deep surfaces.



MOUNTING LOCATIONS FOR OUTLETS

For accessible controls and outlets, all operable parts must be within the ranges specified above. When electrical outlets are installed horizontally or vertically, duplex outlets must have both receptacles within the reach range. Measurements are made as illustrated below.

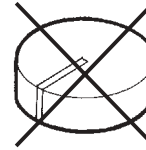


RECOMMENDATIONS FOR INCREASED ACCESSIBILITY

Design for Life C'ville does not specify that controls and switches installed in dwelling units be accessible in terms of ease of operation, but that they be in accessible locations. For anyone specifying building products and appliances and wishing to enhance the accessibility of dwelling units, the following is a brief discussion of the types of switches and controls that increase usability for people with disabilities, as well as other persons who may experience hand limitations.

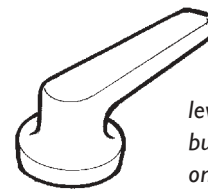
The most universally usable switches are rocker switches, toggle switches, and touch type electronic switches because they can be operated by a single touch, require little force, and do not require gripping, twisting, or fine finger dexterity.

Lever controls are generally usable by people with disabilities because they do not require grasping or significant force, and in some instances, their shape may double as an integral pointer to indicate the control's position. For people with limited strength or hand dexterity, smooth round knobs are especially difficult, as are controls that must be pushed down and turned at the same time.

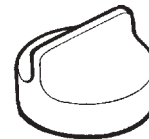


smooth round knobs are difficult for people with hand limitations as well as for people with visual impairments

Poor Choice



levers are ideal but rarely found on appliances

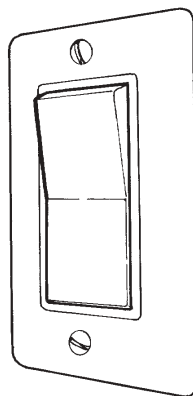


blades help indicate position and make turning somewhat easier

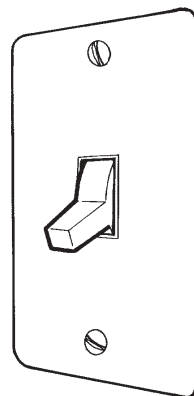


small lever or extended blade provides position pointer and leverage for easy turning without gripping

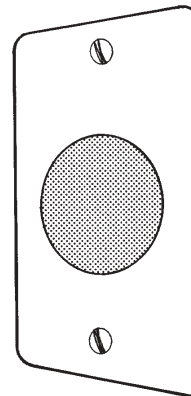
Better Control Choices



rocker



toggle



touch sensitive

Switches Most People Can Operate

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Approve Resolution.
Presenter:	Khristina S. Hammill, Financial and Debt Manager.
Staff Contacts:	Bernard Wray, Finance Director Khristina S. Hammill, Financial and Debt Manager.
Title:	\$16 Million Bond Issue (maximum amount) – New Debt. \$3 Million Refunding Bond Issue (maximum amount).

Background/Discussion:

The City periodically issues bonds as part of its on-going Capital Improvements Program. Capital spending and the related financing is projected for a 5 year period and updated annually.

This bond issue represents part of the funding plan approved by Council for the City’s on-going Capital Improvements Plan. All of the projects to be funded by this bond issue have been previously approved and appropriated by City Council in prior years and/or in the FY14 budget. These proceeds will be used as follows:

<u>Projects.</u>	<u>Amount.</u>
Public Schools	\$ 900,000
Transportation and Access	3,089,000
Public Safety	850,000
Public Buildings	1,161,000
Water System Improvements	3,000,000
Wastewater System Improvements	5,300,000
Stormwater System Improvements	<u>200,000</u>
Total	\$ 14,500,000

These bonds will be repaid over the next 20 years with level principal payments. A more detailed discussion of the specific projects to be funded is attached.

City staff along with The PFM Group, the City’s financial advisor, is evaluating the different options available for the actual sale. The bonds will be sold either by competitive bid via the Internet or by a solicited bid sale. The bond market and interest rate environment is being monitored on a daily basis; the exact date of the bond sale is not fixed at this time, but we are anticipating a sale by mid-May. For a competitive bid, the resolution authorizes the City Manager to accept the lowest interest rate bid on the

bonds. For a negotiated transaction, the City Manager will be authorized to negotiate with the chosen underwriter the final sale price on the bonds.

In addition, as with each new bond issue, City Staff along with its Financial Advisors will take the opportunity to evaluate and refund bonds previously issued at a higher interest rate with new refunding bonds issued at a lower interest rate. Market conditions will continue to be monitored until the time of sale. If suitable savings opportunities do not materialize, then only the bonds for the new money will be issued.

City management will be meeting with Moody's and Standard & Poor's in April to discuss the City's financial condition and to obtain ratings on these bonds. City staff anticipates that the City will retain its AAA bond rating, the highest rating given by both ratings agencies.

Community Engagement: The Director of Finance, as per the law has advertised this public hearing in the newspaper and will advertise the sale information in other media outlets prior to the bond sale date.

Alignment with City Council's Vision and Priority Areas: Approval of this agenda item aligns directly with Council's vision for a **Smart Citizen Focused Government and Economic Sustainability.**

Budgetary Impact:

The City continues to manage its debt and to plan its bond issuance in a manner to:

- (1) Provide a stream of funding as it is needed,
- (2) Keep annual debt service costs on a fairly level amount, (i.e., to avoid large spikes in debt service) and
- (3) To maintain and finance its physical facilities and infrastructure in such a manner that future users/beneficiaries will help to pay for them.

This bond issue is part of the City's on-going capital financing plan. The debt service on this issue will be paid from previously appropriated funds in the City's Debt Service Fund. No new appropriation will be required.

Recommendation:

Staff recommends that Council approve the resolution authorizing the City Manager to accept the low bid on the bond sale on behalf of the City for a competitive transaction or negotiate the final price with the chosen underwriter for a negotiated transaction.

Alternatives: N/A.

Attachments:

Descriptions of projects.

Resolution.

BOND FUNDED PROJECTS.

The following projects are all part of the City's on-going Capital Improvements Program. This program has been in place for a number of years, and all of the specific projects included here have been appropriated.

1. Transportation and Access - \$3,089,000 – These funds will be used for street reconstruction, undergrounding utilities and for the design and construction of new sidewalks.
2. Public Buildings - \$1,161,000 – These funds will allow the City to continue on-going projects such as A.D.A. improvements, window restoration and replacements and exterior building restorations.
3. Public Safety - \$850,000 – As part of the Fire department's apparatus replacement schedule, the cost a replacement fire engine will be funded with this bond issue.
4. Education - \$900,000 – Normally, City Council approves a lump sum appropriation for the Schools each year, and the Schools in turn decide upon the priority order and specific capital needs to be undertaken. Some of the projects covered by this lump sum include: HVAC component replacements and upgrades in various school buildings.
5. Water System Improvements - \$3,000,000 – Continued system improvements will be funded by this bond issue.
6. Sewer System Improvements - \$5,300,000 – Continued system improvements will be funded by this bond issue.
7. Stormwater System Improvements - \$200,000 – Stormwater system improvements will be funded by this bond issue. This will be the first bond issue for the stormwater system and the debt will be repaid using the fee revenue established with the new Stormwater Utility that began in January 2014.

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED SIXTEEN MILLION DOLLARS (\$16,000,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE CITY OF CHARLOTTESVILLE, VIRGINIA, TO BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF VARIOUS PUBLIC IMPROVEMENT PROJECTS OF AND FOR THE CITY, AND NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF CHARLOTTESVILLE, VIRGINIA, TO BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND IN ADVANCE OF THEIR STATED MATURITIES AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE CITY; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER FEATURES OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER OR THE DIRECTOR OF FINANCE CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT BY AND BETWEEN THE CITY AND SUCH ESCROW AGENT AND THE PURCHASE OF THE SECURITIES TO BE HELD THEREUNDER; AND AUTHORIZING THE DESIGNATION OF THE REFUNDED BONDS FOR REDEMPTION.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA:

SECTION 1. The Council (the "Council") of the City of Charlottesville, Virginia (the "City"), hereby finds and determines as follows:

(a) (i). Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), the City is authorized to contract debts for, borrow money for and issue its negotiable bonds to pay all or any part of the cost of any public improvement or undertaking for which the City is authorized by law to appropriate money.

(ii) In the judgment of the Council of the City, it is necessary and expedient to authorize the issuance and sale of General Obligation Public Improvement Bonds of the City in the principal amount of not to exceed Sixteen Million Dollars (\$16,000,000) for the purpose of providing funds to pay the costs of various public improvement projects of and for the City and to pay the costs of issuing such Bonds.

(b) (i). The City has been advised by the City's Financial Advisor that the refunding in advance of their stated maturities of all or a portion of certain currently outstanding issues of general obligation public improvement bonds of the City may result in debt service cost savings to the City.

(ii) The Council desires to authorize the issuance and sale of general obligation public improvement refunding bonds to provide for the refunding in advance of their stated maturities and redemption of all or a portion of such outstanding general obligation public improvement bonds, the refunding of which shall be recommended by the City's

Financial Advisor (such bonds to be refunded in advance of their stated maturities being referred to hereinafter as the “Refunded Bonds”).

(iii) The Council desires to authorize the issuance and sale of general obligation public improvement refunding bonds to provide for the refunding in advance of their stated maturities and redemption of the Refunded Bonds and to pay the costs of issuing the Refunded Bonds.

(iv) In the judgment of the Council, it is necessary and expedient to authorize the issuance and sale of General Obligation Public Improvement Refunding Bonds in the principal amount of not to exceed Three Million Dollars (\$3,000,000) for the purpose of providing funds to refund in advance of their stated maturities and redeem all or a portion of the Refunded Bonds and to pay the costs of issuing such Bonds.

SECTION 2. (a)(i). Pursuant to the Public Finance Act of 1991, for the purpose of providing net proceeds of sale sufficient to pay the costs of the public improvement projects of and for the City set forth in Section 8 and to pay the costs of issuing such Bonds, there are hereby authorized to be issued and sold not to exceed Sixteen Million Dollars (\$16,000,000) principal amount of General Obligation Public Improvement Bonds of the City, to be known and designated as the “City of Charlottesville, Virginia, General Obligation Public Improvement Bonds” (the “General Obligation Public Improvement Bonds”).

(ii) Pursuant to the Public Finance Act of 1991, for the purpose of providing funds to refund in advance of their stated maturities and redeem the Refunded Bonds and to pay the costs of issuing such Bonds, there are hereby authorized to be issued and sold not to exceed Three Million Dollars (\$3,000,000) principal amount of General Obligation Public Improvement Refunding Bonds of the City, to be known and designated as the “City of Charlottesville, Virginia, General Obligation Public Improvement Refunding Bonds” (the “General Obligation Public Improvement Refunding Bonds” and, collectively with the General Obligation Public Improvement Bonds, the “Bonds”).

(iii) In lieu of the General Obligation Public Improvement Bonds and the General Obligation Public Improvement Refunding Bonds being issued as separate series, the General Obligation Public Improvement Bonds and the General Obligation Public Improvement Refunding Bonds may be combined into a single series of the Bonds, to be known and designated as the “City of Charlottesville, Virginia, General Obligation Public Improvement and Refunding Bonds”, if so determined by the City Manager.

(b) The Bonds shall be issued and sold in their entirety at one time, or from time to time in part in series, as shall be determined by the City Manager. The Bonds may be sold at the same time as other general obligation bonds are sold by the City. The Bonds shall be issued in fully registered form and shall be in the denomination of \$5,000 or any integral multiple thereof. The Bonds of each series shall be numbered from R-1 upwards in order of issuance, and shall bear such series designation as shall be determined by the City Manager; shall mature in such years and in such amounts in each year as shall be determined by the City Manager; and shall bear interest at such rate or rates per annum as shall be determined by the City Manager pursuant to Section 9, such interest being payable on a date which is not more than one (1) year after the date of the Bonds of such series and semiannually thereafter. The City Manager is authorized to determine, in accordance with and subject to the provisions of this

resolution: the date or dates of the Bonds; the interest payment dates thereof; the maturity dates thereof (*provided* that the final maturity of the Bonds of any series shall be not later than forty (40) years from the date the first Bonds of such series are issued under this resolution); the amount of principal maturing on each maturity date; the place or places of payment thereof and the paying agent or paying agents therefor; the place or places of registration, exchange or transfer thereof and the Registrar and Paying Agent therefor; and whether or not the Bonds shall be subject to redemption prior to their stated maturity or maturities and, if subject to such redemption, the premiums, if any, payable upon such redemption and the respective periods in which such premiums are payable. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year comprised of twelve (12) thirty (30) day months.

(c) In the event the Bonds of any series shall be dated as of a date other than the first day of a calendar month or the dates on which interest is payable on such series are other than the first days of calendar months, the provisions of Section 3 with regard to the authentication of such Bonds and of Section 10 with regard to the forms of such Bonds shall be modified as the City Manager shall determine to be necessary or appropriate.

(d) (i). If the Bonds of a given series are subject to redemption and if any Bonds of such series (or portions thereof in installments of \$5,000 or any integral multiple thereof) are to be redeemed, notice of such redemption specifying the date, numbers and maturity or maturities of the Bond or Bonds to be redeemed, the date and place or places fixed for their redemption, and if less than the entire principal amount of a Bond called for redemption is to be redeemed, that such Bond must be surrendered in exchange for payment of the principal amount thereof to be redeemed and the issuance of a new Bond or Bonds equalling in principal amount that portion of the principal amount of such Bond not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the registered owner of each such Bond at the address of such registered owner as it appears on the books of registry kept by Director of Finance of the City, who is hereby appointed as the Registrar and Paying Agent for the Bonds (the "Registrar and Paying Agent" or the "Registrar" or the "Paying Agent"), as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If any Bonds shall have been called for redemption and notice thereof shall have been given as hereinabove set forth, and payment of the principal amount of such Bonds (or of the principal amount thereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest on such Bonds shall cease to accrue from and after the date so specified for their redemption.

(ii) Any notice of the optional redemption of the Bonds may state that it is conditioned upon there being on deposit with the City, or with the Registrar and Paying Agent for the Bonds or other agent designated by the City, on the date fixed for the redemption thereof an amount of money sufficient to pay the redemption price of such Bonds, together with the interest accrued thereon to the date fixed for the redemption thereof, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of such Bonds, together with the interest accrued thereon, is due and payable if any such condition so specified is not satisfied. If a redemption of any Bonds does not occur after a conditional notice is given due to there not being on deposit with the City, or with the Registrar and Paying Agent for the Bonds or other agent designated by the City, a sufficient amount of money to pay the redemption price of such Bonds, together with the interest accrued thereon to the date fixed for the redemption thereof, the corresponding notice of redemption shall be deemed to be revoked.

(iii) So long as the Bonds are in book-entry only form, any notice of redemption shall be given only to The Depository Trust Company, New York, New York (“DTC”), or to its nominee, Cede & Co., or to such other nominee of DTC as may be requested by an authorized representative of DTC, and any notice of redemption otherwise required by this resolution to be given by first class mail, postage prepaid, may be given electronically in lieu of being given by first class mail, postage prepaid, if and to the extent delivery of notices of redemption electronically is acceptable to DTC. The City shall not be responsible for providing any beneficial owner of the Bonds any notice of redemption.

(e) (i). The Bonds of each series shall be issued only in book-entry only form. One Bond representing each maturity of the Bonds of each series will be issued to and registered in the name of Cede & Co., as nominee of DTC, or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, as registered owner of the Bonds, and each such Bond shall be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased.

(ii) Principal and interest payments on the Bonds will be made by the Registrar and Paying Agent for the Bonds to DTC or its nominee, Cede & Co., or to such other nominee of DTC as may be requested by an authorized representative of DTC, as registered owner of the Bonds, which will in turn remit such payments to the DTC participants for subsequent disbursement to the beneficial owners of the Bonds. Transfers of principal and interest payments to DTC participants will be the responsibility of DTC. Transfers of such payments to beneficial owners of the Bonds by DTC participants will be the responsibility of such participants and other nominees of such beneficial owners. Transfers of ownership interests in the Bonds will be accomplished by book entries made by DTC and, in turn, by the DTC participants who act on behalf of the indirect participants of DTC and the beneficial owners of the Bonds.

(iii) The City will not be responsible or liable for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants or for transmitting payments to, communicating with, notifying or otherwise dealing with any beneficial owner of the Bonds. So long as the Bonds are in book-entry only form, the Director of Finance will serve as Registrar and Paying Agent for the Bonds. The City reserves the right to designate a successor Registrar and Paying Agent for the Bonds if the Bonds at any time cease to be in book-entry only form.

SECTION 3. (a). The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor of the City and shall have a facsimile of the corporate seal of the City imprinted thereon, attested by the manual or facsimile signature of the Clerk of Council of the City.

(b) The City Manager shall direct the Registrar and Paying Agent for the Bonds of a given series to authenticate such Bonds and no such Bond shall be valid and obligatory for any purpose unless and until the certificate of authentication endorsed on such Bond shall have been manually executed by the Registrar and Paying Agent. Upon the authentication of any Bonds, the Registrar and Paying Agent shall insert in the certificate of authentication the date as of which such Bonds are authenticated as follows: (i). if the Bond is

authenticated prior to the first interest payment date, the certificate shall be dated as of the date of the initial issuance and delivery of the Bonds of the series of which such Bond is one, (ii). if the Bond is authenticated upon an interest payment date, the certificate shall be dated as of such interest payment date, (iii). if the Bond is authenticated after the fifteenth (15th) day of the calendar month next preceding an interest payment date and prior to such following interest payment date, the certificate shall be dated as of such following interest payment date and, (iv). in all other instances the certificate shall be dated as of the actual date upon which the Bond is authenticated by the Registrar and Paying Agent.

(c) The execution and authentication of the Bonds in the manner above set forth is adopted as a due and sufficient authentication of the Bonds.

SECTION 4. (a). The principal of and interest on the Bonds shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

(b) Principal of the Bonds of a given series shall be payable upon presentation and surrender thereof at the office of the Registrar and Paying Agent.

(c) Interest on the Bonds shall be payable by check mailed by the Registrar and Paying Agent to the registered owners of such Bonds at their respective addresses as such addresses appear on the books of registry kept pursuant to the provisions of this Section 4; *provided, however*, that so long as the Bonds are in book-entry form and registered in the name of Cede & Co., as nominee of DTC, or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on the Bonds shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer.

(d) At all times during which any Bond of any series remains outstanding and unpaid, the Registrar and Paying Agent shall keep or cause to be kept, at its office, books of registry for the registration, exchange and transfer of Bonds of such series. Upon presentation of a Bond or Bonds at the office of the Registrar and Paying Agent, the Registrar and Paying Agent, under such reasonable regulations as the Registrar and Paying Agent may prescribe, shall register, exchange or transfer, or cause to be registered, exchanged or transferred, such Bond or Bonds on the books of registry as hereinbefore set forth.

(e) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(f) Any Bond may be exchanged at the office of the Registrar and Paying Agent for a like aggregate principal amount of such Bonds in other authorized principal sums and of the same series, interest rate and maturity.

(g) Any Bond of any series may, in accordance with its terms, be transferred upon the books of registry by the registered owner in whose name it is registered, in person or by the duly authorized agent of such registered owner, upon surrender of such Bond to the Registrar and Paying Agent for cancellation, accompanied by a written instrument of transfer duly executed by the registered owner or the duly authorized agent of such registered owner, in form satisfactory to the Registrar and Paying Agent.

(h) All transfers or exchanges pursuant to this Section 4 shall be made without expense to the registered owner of such Bond or Bonds, except as otherwise herein provided, and except that the Registrar and Paying Agent shall require the payment by the registered owner of such Bond or Bonds requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Bonds surrendered for transfer or exchange pursuant to this Section 4 shall be cancelled.

SECTION 5. The full faith and credit of the City shall be and is irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due. In each year while the Bonds, or any of them, are outstanding and unpaid, the Council is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

SECTION 6. CUSIP identification numbers may be printed on the Bonds, but no such number shall constitute a part of the contract evidenced by the particular Bonds upon which it is printed and no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Bonds) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use. All expenses in relation to the printing of such numbers on the Bonds shall be paid by the City; *provided, however,* that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the purchasers of the Bonds.

SECTION 7. To the extent it shall be contemplated at the time of their issuance that the interest on any Bonds issued hereunder shall be excludable from gross income for purposes of federal income taxation, the City covenants and agrees to comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 and the Treasury Regulations promulgated under such Sections 103 and 141-150 throughout the term of the Bonds.

SECTION 8. The net proceeds of the sale of the General Obligation Public Improvement Bonds shall be applied to the payment of the cost of the following public improvement projects of and for the City in substantially the following respective amounts:

<u>Projects.</u>	<u>Amounts.</u>
Public Schools	\$ 900,000
Transportation and Access Improvements (Including Public Street, Bridge and Sidewalk Improvements)	3,089,000
Public Safety	850,000
Public Buildings	1,161,000
Water System Improvements	3,000,000
Sewer System Improvements	5,300,000
Stormwater System Improvements	<u>200,000</u>
Total	\$ 14,500,000

If any project set forth above shall require less than the entire respective amount so set forth, the difference may be applied to any of the other projects so set forth.

SECTION 9. (a). The Bonds shall be sold in one or more series in accordance with the provisions of Section 2 at competitive or negotiated sale at not less than ninety-eight percent (98%) of the principal amount thereof (less any original issue discount) and on such other terms and conditions as are provided in the Notice of Sale thereof or in the Purchase Contract or Bond Purchase Agreement relating thereto.

(b) If the Bonds are sold at competitive sale, they may be sold contemporaneously with other bonds of the City under a combined Notice of Sale. If the Bonds are sold at competitive sale, the City Manager is hereby authorized to cause to be prepared and distributed (via electronic dissemination or otherwise) a Notice of Sale of the Bonds in such form and containing such terms and conditions as the City Manager may deem advisable, subject to the provisions hereof.

(c) Upon the determination by the City Manager to sell the Bonds at competitive or negotiated sale, the City Manager is hereby authorized, without further notice to or action by the Council, to determine the rates of interest the Bonds shall bear; *provided* that:

(i) in no event shall the true interest cost for the Bonds exceed five percent (5%), and

(ii) in no event shall the premium payable by the City upon the redemption of the Bonds exceed two percent (2%) of the principal amount thereof.

(d) If the Bonds are sold at negotiated sale, the City Manager is hereby authorized to, without further notice to or action by the Council, to select the underwriters for the Bonds (the "Underwriters") and to execute and deliver to the Underwriters a Purchase Contract or Bond Purchase Agreement relating to the Bonds.

(e) The City Manager is hereby authorized to cause to be prepared and distributed a Preliminary Official Statement and a final Official Statement relating to the Bonds. The City Manager is hereby further authorized to certify that the Preliminary Official Statement for the Bonds of each series authorized hereunder is “deemed final” for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934. The City Manager is hereby authorized to execute and deliver the final Official Statement for the Bonds of each series authorized hereunder, and the City Manager, the Chief Operating Officer/Chief Financial Officer, the Director of Finance and the City Attorney are hereby authorized to execute and deliver to the purchasers of the Bonds of each series certificates in the forms provided for in the Official Statement for the Bonds of such series.

(f) The City Manager is hereby further authorized to execute and deliver to the purchasers of the Bonds of each series authorized hereunder a Continuing Disclosure Certificate or a Continuing Disclosure Agreement evidencing the City’s undertaking to comply with the continuing disclosure requirements of Paragraph (b)(5) of such Rule 15c2-12 to the extent applicable to the Bonds, such Continuing Disclosure Certificate or Continuing Disclosure Agreement to be in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel to the City), such approval to be conclusively evidenced by the execution of such Continuing Disclosure Certificate or Continuing Disclosure Agreement by the City Manager.

SECTION 10. The Bonds, the certificate of authentication of the Registrar and Paying Agent and the assignment endorsed on such Bonds, shall be in substantially the form set forth in Exhibit A, with such changes in format as may be appropriate to conform with customs and practices applicable to comparable securities.

SECTION 11. (a). The City Manager is hereby authorized to appoint an escrow agent (the “Escrow Agent”) for the City in connection with the refunding of the Refunded Bonds.

(b) The City Manager is hereby authorized and directed to execute and deliver an Escrow Deposit Agreement by and between the City and the Escrow Agent in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel), such approval to be conclusively evidenced by the execution of the Escrow Deposit Agreement by the City Manager.

(c) The City Manager and the Director of Finance, or either of them, are hereby authorized to enter into such purchase agreements as may be required in connection with the purchase by the Escrow Agent, from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement, of Government Securities (as defined in the Escrow Deposit Agreement).

SECTION 12. Subject to the issuance, sale and delivery of the Bonds pursuant to this resolution and receipt of the proceeds of the Bonds, the City Manager is hereby authorized to designate the Refunded Bonds for redemption on such date or dates as shall be determined by the City Manager and is hereby further authorized to direct the Escrow Agent to cause notices of the redemption of the Refunded Bonds on such date or dates to be given in accordance with the provisions of the proceedings authorizing the issuance of the Refunded Bonds.

SECTION 13. The Council hereby authorizes the City to make expenditures for the purpose for which the General Obligation Public Improvement Bonds are to be issued in advance of the issuance and receipt of the proceeds of the General Obligation Public Improvement Bonds and to reimburse such expenditures from the proceeds of the General Obligation Public Improvement Bonds. The adoption of this resolution shall be considered as an “official intent” within the meaning of Treasury Regulation Section 1.150-2 promulgated under the Internal Revenue Code of 1986.

SECTION 14. The City Attorney of the City is directed to file a copy of this resolution, certified by the Clerk of Council of the City to be a true and correct copy hereof, with the Circuit Court of the City in accordance with Section 15.2-2607 of the Code of Virginia, 1950.

SECTION 15. All ordinances, resolutions and proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 16. In the event any Bonds authorized for issuance under this resolution shall not have been issued on or before June 30, 2015, such authorization to issue such Bonds shall terminate and shall be of no further force and effect.

SECTION 17. This resolution shall take effect upon its adoption.

EXHIBIT A

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE
GENERAL OBLIGATION PUBLIC IMPROVEMENT [REFUNDING]
BOND, SERIES 201_[A][B]**

REGISTERED

REGISTERED

NO. [R-201_A-1] [R-201_B-1]

\$_____

**INTEREST
RATE:**

**MATURITY
DATE:**

DATE OF BOND:

CUSIP NO.:

%

161069

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM:

DOLLARS

The City of Charlottesville, a municipal corporation of the Commonwealth of Virginia (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the Registered Owner (named above), or registered assigns, on the Maturity Date (specified above), [unless this Bond shall have been duly called for previous redemption and payment of the redemption price duly made or provided for,] the Principal Sum (specified above) and to pay interest on such Principal Sum until the payment of such Principal Sum in full, at the Interest Rate (specified above) per annum, on _____, _____ and semiannually on each _____ and _____ thereafter (each such date is hereinafter referred to as an "interest payment date"), from the date hereof or from the interest payment date next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an interest payment date, in which case from such interest payment date, or unless such date of authentication is within the period from the sixteenth (16th) day to the last day of the calendar month next preceding the following interest payment date, in which case from such following interest payment date. *[To be substituted if the interest payment date is the 15th day of the month:* or unless such date of authentication is within the period from the first (1st) day to the fourteenth (14th) day of the calendar month in which the following interest payment date shall occur, in which event from such following interest payment date]. Such interest shall be computed on the basis of a three hundred sixty (360) day year comprised of twelve (12) thirty (30) day months. Such interest is payable on each interest payment date by check mailed by the Registrar and Paying Agent hereinafter mentioned to the Registered Owner hereof at the address of such Registered Owner as it appears on the books of registry kept by the Registrar and Paying Agent, as of the close of business on the fifteenth (15th) day (whether or not a business day) of the calendar month next preceding each interest payment date. *[To be substituted if the interest payment date is the 15th day of the month:* Such interest is payable on each interest payment date by check mailed by the Registrar and Paying Agent hereinafter mentioned to the Registered Owner hereof at the address of such Registered Owner as it appears on the books of registry kept

by the Registrar and Paying Agent, as of the close of business on the last day (whether or not a business day) of the calendar month next preceding each interest payment date]; *provided, however,* that so long as this Bond is in book-entry only form and registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on this Bond shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer.

The principal of this Bond is payable on presentation and surrender hereof at the office of **the Director of Finance of the City**, as Registrar and Paying Agent, in the City of Charlottesville, Virginia. The principal of and interest on this Bond are payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

This Bond is one of an issue of Bonds aggregating _____ Dollars (\$ _____) in principal amount issued for the purpose of providing funds [to pay the cost of various public improvement projects of and for the City] [to refund in advance of their stated maturities certain outstanding general obligation bonds of the City], under and pursuant to and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, including Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), and a resolution and proceedings of the Council of the City duly adopted and taken under the Public Finance Act of 1991.

The Bonds of the series of which this Bond is one (or portions of the principal amount thereof in installments of \$5,000 or any integral multiple thereof) maturing on and after _____, _____ are subject to redemption at the option of the City prior to their stated maturities, on or after _____, _____, in whole or in part on any date, in such order as may be determined by the City (except that if at any time less than all of the Bonds of a given maturity are called for redemption, the particular Bonds of such maturity or portions thereof in installments of \$5,000 to be redeemed shall be selected by lot), upon payment of a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with the interest accrued thereon to the date fixed for the redemption thereof.

If this Bond is redeemable and this Bond (or any portion of the principal amount hereof in installments of \$5,000) shall be called for redemption, notice of the redemption hereof, specifying the date, number and maturity of this Bond, the date and place or places fixed for its redemption, and if less than the entire principal amount of this Bond is to be redeemed, that this Bond must be surrendered in exchange for the principal amount hereof not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the Registered Owner hereof at the address of such Registered Owner as it appears on the books of registry kept by the Registrar and Paying Agent as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If notice of the redemption of this Bond shall have been given as aforesaid, and payment of the principal amount of this Bond (or of the portion of the principal amount hereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest hereon shall cease to accrue from and after the date so specified for the redemption hereof.

Any notice of the optional redemption of this Bond may state that it is conditioned upon there being on deposit with the City, or with the Registrar and Paying Agent for the Bonds or other agent designated by the City, on the date fixed for the redemption hereof an amount of money sufficient to pay the redemption price of this Bond, together with the interest accrued thereon to the date fixed for the redemption hereof, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of this Bond, together with the interest accrued thereon, is due and payable if any such condition so specified is not satisfied. If a redemption of this Bond does not occur after a conditional notice is given due to there not being on deposit with the City, or with the Registrar and Paying Agent for the Bonds or other agent designated by the City, a sufficient amount of money to pay the redemption price of this Bond, together with the interest accrued thereon to the date fixed for the redemption hereof, the corresponding notice of redemption shall be deemed to be revoked.

So long as the Bonds of the series of which this Bond is one are in book-entry only form, any notice of redemption of this Bond shall be given only to Cede & Co., as nominee of The Depository Trust Company ("DTC"), and any notice of redemption otherwise required by the resolution pursuant to which this Bond and the Bonds of the series of which this Bond are issued to be given by first class mail, postage prepaid, may be given electronically in lieu of being given by first class mail, postage prepaid, if and to the extent delivery of notices of redemption electronically is acceptable to DTC.

Subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the series of which this Bond is one, this Bond may be exchanged at the office of the Registrar and Paying Agent for a like aggregate principal amount of Bonds of other authorized principal sums and of the same series, interest rate and maturity. This Bond is transferable by the Registered Owner hereof or by the attorney for such Registered Owner duly authorized in writing, on the books of registry kept by the Registrar and Paying Agent for such purpose at the office of the Registrar and Paying Agent, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the series of which this Bond is one, and upon the surrender hereof for cancellation. Upon such transfer a new Bond or Bonds of authorized denominations and of the same aggregate principal amount, series, interest rate and maturity as the Bond surrendered will be issued to the transferee in exchange herefor.

The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on this Bond as the same become due. In each year while this Bond is outstanding and unpaid, the Council of the City is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.

This Bond shall not be valid or obligatory unless the certificate of authentication hereon shall have been manually signed by or on behalf of the Registrar and Paying Agent.

It is certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the issuance of this Bond do exist, have

happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limitation of indebtedness prescribed by the Constitution or statutes of the Commonwealth of Virginia or the Charter of the City.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the facsimile signature of its Mayor; a facsimile of the corporate seal of the City to be imprinted hereon, attested by the facsimile signature of the Clerk of Council of the City; and this Bond to be dated the date first above written.

[SEAL]

CITY OF CHARLOTTESVILLE, VIRGINIA

Attest:

Mayor

Clerk of Council

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds delivered pursuant to the within-mentioned proceedings.

Director of Finance, as Registrar and Paying Agent

Dated: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto _____

(Please print or type name and address, including postal zip code of Transferee)

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF TRANSFeree:

the within-mentioned Bond and hereby irrevocably constitutes and appoints _____, agent, to transfer the same on the books of registry in the office of Registrar and Paying Agent with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of The New York Stock Exchange, Inc. or a commercial bank or trust company.

(Signature of Registered Owner)
NOTICE: The signature above must correspond with the name as written on the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 21, 2014
Action Required:	Public Hearing / Approval
Presenter:	Judith M. Mueller, Director of Public Works
Title:	Curbside Recycling Options

Background: The City solicited and received proposals for its curbside recycling services. Two levels of services were requested: the existing service and a bi-weekly service using wheeled containers.

Discussion: Several proposals were received and reviewed by City staff. Due to procurement regulations we are not able to discuss the costs associated with the proposals.

Community Engagement: Two pilot programs have been running in the Greenbrier and Belmont neighborhoods using the wheeled containers and providing bi-weekly collection service. The satisfaction rate among participants has been 87%.

There will be a public hearing tonight as advertised.

Alignment with City Council's Vision and Priority Areas: Supports the City Council vision for a green and sustainable community.

Budgetary Impact: Funding is available in the approved budget

Recommendation: Approve moving to bi-weekly collection with wheeled containers.

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CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: April 21, 2014

Action Required: First Reading of Ordinance (April 21)
Final Approval of Ordinance May 5, 2014

Presenters: Lisa Robertson, Chief Deputy City Attorney
Marty Silman (NDS Engineering); Dan Frisbee (Public Works, Water
Resources Specialist)

Staff Contacts: Lisa Robertson

Title: *Amendment of City Code Chapter 10 (Water Protection Ordinance), to comply with state requirement for establishment of a local VSMP prior to July 1, 2014*

Background:

During its 2012 Session, the General Assembly enacted legislation that requires Virginia localities to adopt local Virginia Stormwater Management Programs (VSMPs). Any locality that operates a regulated MS4 (Charlottesville) must implement its VSMP by July 1, 2014. The Virginia Department of Environmental Quality has established deadlines that require the City to submit the final VSMP Program Package (administrative components, such as a plan for staffing of plan reviews and inspections, plus an ordinance that has been adopted by City Council) for DEQ's approval, no later than May 15, 2014.

The State's VSMP requirements and regulations remain in flux, and have been amended and revised several times over the past two years. We anticipate additional changes at the state level, and may need to return to you with additional proposed amendments over the next year or two; however, the attached proposed ordinance changes are those required by current state law and regulations.

Discussion:

1. *Mandated changes*--Most of the Chapter 10 ordinance changes being presented to you for consideration derive from two Model Ordinances: (1) Model Stormwater Ordinance (approved by DEQ 12/13/2012 – source of proposed changes to Articles I and III of Chapter 10); and (2) Model Erosion and Sediment Control Ordinance (approved by DCR 7/1/2008 – source of most proposed changes to Article II of Chapter 10). DEQ has already reviewed a previous draft of the changes being presented to you, and DEQ's requested changes have been incorporated. DEQ utilizes a checklist to review these ordinances and allows only minor deviations from the Model Ordinance (matters of form and style; typically not substance).
2. *Required Integration of procedures; method not prescribed*--State laws and regulations mandate that the local VSMP and our ordinance must meet certain administrative requirements, including the following: (i) provisions for integration of the VSMP with our local E&S Program,

and other programs requiring compliance prior to authorizing construction, in order to make submission and approval of [development] plans, issuance of permits, etc., more convenient and efficient, *see* VA Code 62.1-44.15:27(E)(3); and (ii) issuance of a consolidated stormwater management and erosion and sediment control permit (“land disturbing permit”).

1. Although “integration” is mandated by state law, the Model Ordinances do not prescribe what (or how) the City must do in order to *achieve* integration of the VSMP and E&S Programs with other development review processes.
 2. The following proposed changes to Chapter 10 are for the purpose of achieving integration of the VSMP and E&S Programs and coordinating those Programs with other City procedures for approval of developments via site plans and subdivision plats, and with issuance of building code permits: **Sections 10-9(a); 10-9(b); 10-9(c); 10-31; 10-36(5)**. (Again, the proposed changes are not prescribed by DEQ, but represent our best recommendation as to how the required “integration” can be achieved).
 3. Attached is a chart showing the relationship between these Chapter 10 amendments (necessitated by DEQ’s “integration” mandate) and several proposed amendments to the City’s Subdivision and Zoning Ordinances. The Subdivision and Zoning Amendments are an agenda item that will be presented to you, separately, for consideration.
3. *Recommended updates*—A review of the E&S fee schedule in 10-42 revealed a number of items with incorrect references to applicable Code sections, and a number of more significant violations which carry only minor penalties. It is our recommendation that City Council should consider increasing several of the civil penalties to a more substantial amount, as shown within 10-42.

Community Engagement:

As referenced above, the proposed Changes to Chapter 10 are driven by a State-mandated requirement for establishment of a local VSMP in accordance with State regulations and a DEQ-approved Model Ordinance. We have limited control over the contents of the ordinance required to establish the local program. However, the State legislation, and implementing regulations, followed a public process conducted at the state level, and DEQ’s web site offers a number of informational materials to the public. For example:

http://www.deq.virginia.gov/Portals/0/DEQ/Water/StormwaterManagement/VSMP_FAQ.pdf

Alignment with City Council’s Vision and Priority Areas:

Vision: “A Green City”—healthy rivers and streams; clean water; minimize stormwater runoff. Homes and buildings sustainably designed. Implement a sustainable Stormwater Program that addresses infrastructure, drainage and water quality challenges/ goals.

Budgetary Impact:

At this time, no additional staff is anticipated. However, this state-mandated VSMP will add substantial plan review and inspection duties to existing staff, relative to stormwater management plans. A portion of fees collected from applicants must be shared with the State; however, the remainder of the fees will cover at least a portion of the City’s administrative costs for the VSMP.

Recommendation:

We recommend adoption of the proposed ordinance.

Alternatives:

None. If the City does not adopt an ordinance and submit its final program implementation checklist to DEQ prior to May 15, 2014, and is not prepared on July 1, 2014 to undertake responsibility for reviewing stormwater management plans and conducting inspections, DEQ will not continue to provide the stormwater administration and oversight.

Attachments:

1. Chart Showing Relationship to Zoning and Subdivision Regulations
2. Proposed Ordinance, with effective date July 1, 2014 - Attached are clean copy (incorporating proposed changes) and red-lined versions.

WATER PROTECTION AND DEVELOPMENT APPROVALS: RELATIONSHIP BETWEEN PROPOSED CITY CODE AMENDMENTS

Chapter 10: Water Protection Ordinance	Chapters 29 and 34 (Zoning and Subdivision Ordinances)
<p>10-3(3): One purpose of Chapter 10 is to establish procedures by which the City’s VSMP, VESCP, MS4 programs shall be integrated with other development approvals.</p>	<p>29-2: One purpose of the City’s updated subdivision regulations is to integrate the subdivision development approval process with the City’s VSMP and VESCP programs, to make the process for submission and approval of plans and permits more efficient</p>
<p>10-9: applications for a permit authorizing land-disturbing activity within a development must <u>include</u> either: (i) an approved preliminary subdivision or site plan showing a layout of stormwater management facilities, or (ii) an approved final subdivision or site plan.</p>	<p>34-827(d)(4) and (d)(9): a preliminary site plan must include a topographic survey identifying critical slopes, natural streams, and natural drainage areas AND a stormwater management concept 29-111(2): same requirements as above, for preliminary subdivision plans</p>
<p>10-9(b): No site plan or subdivision plat shall be granted final approval, unless and until such final plan/ plat includes facilities and treatments identified within an approved stormwater management plan</p>	<p>34-828(d) and (d)(6): a final site plan shall reflect the conditions within an approved preliminary site plan, AND shall include the information, details, calculations, etc. required by Chapter 10 for approval of a stormwater management plan AND an erosion and sediment control plan</p>
<p>10-36(5): No E&S Plan shall be approved prior to approval of a required final site plan or final subdivision plat (except: utility projects of a public entity or public service corporation, OR to correct an existing erosion creating erosive conditions and sedimentation, only to the extent necessary to correct the existing problem)</p>	<p>29-276: same requirements as above, for final subdivision plans 29-260(a): <i>delete</i> clause suggesting that construction of site-related improvements may commence prior to approval of a final plat.</p>
<p>10-9: No permit authorizing any land-disturbing activity shall be issued by any city department or official, unless and until a stormwater management plan AND an erosion and sediment control plan have been approved.</p>	<p>29-260(a) and 34-803(d): prior to issuance of any permit authorizing any land disturbing activity within a development, a developer must post the required bonds, and SWM facilities must be completed prior to first CO, or within a time period specified by a written agreement. 29-202: Every development must be designed to meet SWM requirements of Chapter 10, with specific SWM facilities/measures to be constructed by the developer</p>
<p>10-56(b): provisions governing when a SWM facility might be dedicated to/ accepted by the City for ownership and maintenance</p>	<p>29-232(3): Cross references provisions in 10-56, as to dedication/ acceptance of SWM facilities</p>
<p>10-9(a)(3): prior to issuance of a land-disturbing permit, developer must provide SWM and E&S Bonds</p>	<p>29-260(a): Prior to the issuance of any building permit or any other permit authorizing land-disturbing activity bonds for site-related improvements (including SWM facilities) must be submitted</p>

WATER PROTECTION ORDINANCE

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Prepared for 1st reading on April 21, 2014

ORDINANCE

TO AMEND CHAPTER 10 OF THE CODE OF THE CITY OF CHARLOTTESVILLE TO ESTABLISH A LOCAL VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP), TO COORDINATE THE VSMP WITH REQUIREMENTS OF THE LOCAL VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM (VESCP), AND TO UPDATE THE PROVISIONS OF CHAPTER 10 TO MEET REQUIREMENTS OF CURRENT REGULATIONS ADOPTED BY THE VIRGINIA STATE WATER CONTROL BOARD

WHEREAS, pursuant to the requirements of Virginia Code Sec. 62.1-44.15:27 the City is required to establish a local Virginia Stormwater Management Program (VSMP) for land-disturbing activities, consistent with Virginia State Water Control Law, effective July 1, 2014; and

WHEREAS, the VSMP must be administered in conjunction with the City's established municipal separate storm sewer system (MS4) and Virginia Erosion and Sediment Control programs (VESCP); and

WHEREAS, the State's Department of Environmental Quality (DEQ) requires the VSMP and VESCP to be established within locally-adopted ordinances that contain certain provisions recommended by DEQ through the provision of model ordinances, consistent with regulations established by the State's Water Control Board; and

WHEREAS, following the establishment of the state-mandated VSMP, the City will be required to issue a consolidated stormwater management and erosion and sediment control permit, necessitating certain reorganization and integration of the definitions and procedural requirements in Chapter 10, Article I (In General) of the City Code with the provisions of Article II (Erosion and Sediment Control) and Article III (Stormwater Management); now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville:

1. **That City Code Chapter 10, Article I (In General) be amended and re-ordained, as follows:**

Sec. 10-1. Short title.

This chapter shall be known and may be cited as the city's "Water Protection Ordinance."

Sec. 10-2. Authority.

This chapter is adopted pursuant to authority conferred by: (i) the Virginia State Water Control Law, set forth within the Virginia Code, Title 62.1, Chapter 3.1 (§§ 62.1-44.2 through 62.1-44.34:28), including, without limitation, §§ 62.1-44.15:27 and 62.1-44.15:54; (ii) Virginia Code, Title 15.2, Chapters 21 and 22; and (iii) the federal Clean Water Act (33 U.S.C. §§1251 *et seq.*).

Sec. 10-3. Purpose.

The purposes of this chapter are:

- (1) To ensure the general health, safety, and welfare of the citizens of the City of Charlottesville by (i) protecting the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced, and (ii) preventing degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff; and
- (2) To provide a framework for the administration, implementation and enforcement of the provisions of the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law, and to delineate the procedures and requirements to be followed in connection with permits issued by the city, acting as a VSMP and VESCP authority, respectively; and
- (3) To establish procedures whereby the requirements of the city's VSMP, VESCP and MS4 programs shall be enforced in conjunction with one another, and to ensure integration of those program requirements with flood insurance, flood plain management and other programs requiring compliance prior to authorization of construction, in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the city and for those persons responsible for compliance with the programs.

Sec. 10-4. Rules of construction.

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. The following rules of construction shall apply in the construction of this chapter, unless such application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

- (1) All references to any statute, ordinance, regulation, guideline, handbook, manual or standard shall be to such statute, ordinance, regulation, guideline, handbook, manual or standard as it exists on the date of adoption of this chapter and includes any

subsequent amendment, reenactment, renumbering, or reissuance in a subsequent edition.

- (2) Any reference to "this article," "article II," "article III," or "article IV" shall include references to all applicable references of article I.
- (3) All references to "days" shall be to calendar days.
- (4) All references to a "fee schedule" shall mean and refer to a schedule of the fees and charges associated with the various applications, inspections, permits and approvals required by this chapter, as approved and amended by the city council from time to time. All required fees shall be made payable to the city treasurer.

Sec. 10-5. Definitions.

In addition to the definitions set forth within the Virginia Administrative Code (VAC) at 9VAC25-840-10, 9VAC25-850-10 and 9VAC25-870-10, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified herein. In the event of a conflict between any definition incorporated by reference and any definition following below, the definition incorporated by reference shall have precedence.

Act means, according to the context of its use, (1) the Stormwater Management Act set forth within Title 62.1, Chapter 3.1, Article 2.3 (§§62.1-44.15:24 *et seq.*) of the Virginia Code or (2) the Erosion and Sediment Control Law set forth within Title 62.1, Chapter 3.1, Article 2.4 (§§62.1-44.15:51 *et seq.*) of the Virginia Code.

Administrator means, when referring to a person performing duties relative to the city's VSMP or VESCP as set forth within this chapter, the city's department of neighborhood development services. The department of neighborhood development services shall have authority to act by and through the director of neighborhood development services and any city official, employee, contractor or other agent designated by the director of neighborhood development services to perform any responsibilities or functions assigned to the VSMP or VESCP Administrator. Whenever the term "Administrator" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

Agreement in lieu of a plan means (i) a contract between the VESCP Administrator and a property owner which specifies conservation measures which must be implemented in the construction of an individual single-family residence, not part of a common plan of development or sale; or (ii) a contract between the VSMP Administrator and a property owner which specifies methods that will be implemented to comply with the requirements of article III of this chapter in the construction of an individual single-family residence, not part of a common plan of development or sale. Such contract may be executed by the Administrator in lieu of a formal erosion and sediment control plan or stormwater management plan, as applicable.

Applicant means any person submitting an application for a permit or requesting the issuance of a permit under any provision of this chapter.

Best management practice ("BMP") means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the runoff volume and pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

Board means the State Water Control Board.

Clean Water Act or *CWA* means the federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Clearing means any activity which removes vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

Common plan of development or sale refers to a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

Conservation standards, criteria or specifications means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the State Water Control Board, or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia Department of Environmental Quality.

Control measure means any BMP or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

DEQ and *Department* mean the Virginia Department of Environmental Quality.

Development, land development and *land development project* as used within this chapter each refer to land improved or to be improved as a unit, under single ownership or unified control, such improvement(s) including all of the land disturbance, and the resulting landform, associated with the construction of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and or the clearing of land for non-agricultural or non-silvicultural purposes. The term shall include the entire area within a common plan of development or sale..

Director, as used in Article V of this chapter, shall mean and include the city's director of public works and director of neighborhood development services, and the employees and agents authorized by either of them to exercise authority or to take enforcement action under the provisions of Article V. The term *director* as used within Articles II and III of this chapter, shall mean the director of neighborhood development services. Whenever the term "Director" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

Erosion and sediment control plan means a document containing materials and provisions for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing

to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of six thousand (6,000) square feet or less used for residential purposes.

Excavating means any digging, scooping, or other method(s) of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

General permit means the *State General Permit*, defined following below.

Grading means any excavating or filling, and any combination thereof, including the land in its excavated or filled conditions.

Illegal discharge and *illicit discharge* each means and refers to any discharge to the city's municipal storm sewer system ("MS4") that is not composed entirely of stormwater, except: (i) discharges pursuant to a VPDES permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this chapter.

Illicit connection means any connection to the city's municipal storm sewer system ("MS4") made without the express written approval of an authorized city official.

Land disturbance or *Land disturbing activity* means any man-made change to the land surface that (i) actually or potentially changes its runoff characteristics, including, without limitation, clearing, grading, or excavation, or (ii) that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, without limitation, clearing, grading, excavating, transporting and filling. The entire land area within a common plan of development or sale, as a whole, shall be considered to be a single land disturbing activity.

Layout means a conceptual drawing sufficient to identify and provide for specific stormwater management facilities required at the time of approval.

Licensed professional means an individual who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

Local erosion and sediment control program or *VESCP* means an outline of the various methods employed by the City to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, city ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Minor modification means, in relation to the State General Permit, an amendment to an existing State General Permit, before its expiration, not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor State General Permit modification or amendment is one that does not substantially alter State General Permit conditions, substantially increase or decrease the amount of surface water impacts, increase

the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Mitigation plan means a plan, a component of a stormwater management/BMP plan, an erosion and sediment control plan, or an agreement in lieu of a plan, that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

MS4 means the city's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-870-10.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Operator means the owner or operator of any facility or activity subject to regulation under this chapter.

Owner means the owner(s) of the freehold of land, or a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property. As used herein, "owner" also refers to, in the appropriate context, any person authorized to act as the agent for the owner.

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Permit means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the city as a prerequisite to any land disturbing activity or development. In relation to the provisions of articles II and III of this chapter the term shall mean an approval issued by the VSMP/VESCP Administrator for the initiation of a land-disturbing activity in accordance with this chapter, after evidence of State general permit coverage has been received.

Permittee means the person to whom a permit authorizing a land-disturbing activity is issued, and, in the appropriate context the term may refer to the person who certifies that an approved erosion and sediment control plan will be followed .

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

Pollution Prevention Plan shall mean a plan for implementing pollution prevention measures during construction activities, which meets the requirements of 9VAC25-870-56.

Project shall have the same meaning as set forth above for the term *development*.

Public waters means and refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

Redevelopment for purposes of this chapter, means and refers to construction of buildings, structures, fixtures or other improvements to land as replacement(s) for existing improvements.

Regulations means (1) in the context of the provisions of article II, the Virginia Erosion and Sediment Control Regulations set forth within 9VAC25-840-10 *et seq.* of the Virginia Administrative Code, or (2) in the context of the provisions of article III, the Virginia Stormwater Management Regulations set forth within 9VAC25-870-10 *et seq.* of the Virginia Administrative Code.

Residential development means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three (3) or more residential dwelling units.

Responsible land disturber or *RLD* means an individual holding a certificate of competence issued by the Department, who is responsible for the operations of carrying out land disturbing activity in accordance with an approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor or any other project or development team member; however, the identity of the RLD must be designated on the approved erosion and sediment control plan or permit.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land disturbing activity. All of the land that is part of a development, or of common plan of development or sale shall be considered as a single site.

State means the Commonwealth of Virginia, inclusive of its departments, boards, agencies and divisions.

State Board means the Virginia State Water Control Board.

State General Permit means the state permit titled “*General Permit for Discharges of Stormwater From Construction Activities*” referenced within the Virginia Administrative Code at 9VAC25-880-1 *et seq.*, authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the State Board. Under a State permit, the State imposes and enforces requirements pursuant to the federal Clean Water Act and related regulations and the Virginia Stormwater Management Act and related regulations.

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

State Water Control Law means Chapter 3.1 (§62.1-44.2 *et seq.*) of Title 62.1 of the Virginia Code.

Stormwater and *stormwater runoff* mean precipitation that is discharged across the land surface or through conveyances to one or more waterways. The term may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan means any document(s) containing material that describes method(s) for complying with the requirements of article III of this chapter.

Stormwater Pollution Prevention Plan or *SWPPP* means a document or set of documents prepared in accordance with good engineering practices, meeting the requirements set forth within 9VAC25-870-54, in which potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site are described, and control measures are identified.

Stream buffer means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

Subdivision shall have the same meaning as set forth within Sec. 29-3 of the City Code.

Total maximum daily load or *TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs may be expressed in terms of either mass per time, toxicity, or other appropriate measures. The TMDL process provides for point source versus nonpoint source trade-offs.

Transporting means any moving of earth materials from one place to another place, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

VAC means the Virginia Administrative Code. References to specific sections of the Virginia Administrative Code appear in the following format: e.g., 9VAC25-870-10. Whenever reference to a specific VAC section is given, the provisions of that VAC section shall be deemed incorporated into this chapter by reference, as if set forth herein verbatim.

Virginia Erosion and Sediment Control Program or *VESCP* means a program approved by the State that has been established by the City for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and shall include such items, where applicable, as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in article II of this chapter, and evaluation consistent with the requirements of this chapter and related federal, State and local regulations.

Virginia Erosion and Sediment Control Program Authority or *VESCP Authority* shall mean the City of Charlottesville, acting pursuant to authority granted by the State to operate a VESCP.

Virginia Stormwater BMP Clearinghouse Website means a State website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Act means Article 2.4 (§§ 62.1-44.15:24 *et seq.*) of the State Water Control Law and the related state regulations set forth within 9VAC25-870-10 *et seq.*

VSMP or *Virginia Stormwater Management Program* means a program approved by the State Board after September 13, 2011, that has been established by the city to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in article III, and evaluation consistent with the requirements of article III.

VSMP Authority or *Virginia Stormwater Management Program Authority* means the City of Charlottesville, acting pursuant to authority granted by the State to operate a VSMP.

Water dependent facility refers to land development that cannot exist outside the stream buffer and must be located on a shoreline because of the intrinsic nature of its operation, including, without limitation: intake and outfall structures of water and sewage treatment plants and storm sewers; water-oriented recreation areas; and boat docks and ramps.

Sec. 10-6. Program administration.

(a) The city council hereby designates the department of neighborhood development services as its administrator for the programs referenced in Articles II, III, and IV. Administration and enforcement of Article V shall be as set forth within sections [10-92](#) and [10-93](#).

(b) The administrator shall administer and enforce the provisions of this chapter, acting by and through its director. The director may enter into agreements or contracts with the local soil and water conservation district, an adjacent locality, or another public or private entity, to carry out or assist with the responsibilities of this chapter. The director of the department of neighborhood development services shall have authority to assign specific responsibilities or functions of the administrator to authorized agents of such department, such as another city official, employee, or an independent contractor, consistent with requirements of this chapter and applicable state laws and regulations.

(c) The administrator shall establish reasonable regulations and interpretive guidelines for the administration of this chapter, subject to approval of city council. Such regulations and guidelines shall be consistent with this chapter and all applicable federal and State statutes and regulations.

(d) The administrator shall assure that the erosion and sediment control program set forth in Article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person. The administrator shall assure that persons reviewing stormwater management plans and conducting related inspections shall hold a certificate of competence issued by the Board.

(e) The administrator shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities and developments.

(f) The administrator is authorized to cooperate with any federal or State department, agency, or official in connection with plans for erosion and sediment control or stormwater management. The administrator may also recommend to the city manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the city manager on behalf of the city.

Sec. 10-7. Saving provision.

The adoption of this chapter shall not abate any pending action, liability, or penalty of any person accruing or about to accrue, nor waive any right of the city under any provision in effect prior to the date of adoption of this chapter, unless expressly provided for in this chapter.- As they pertain to land disturbing activity for development that is the subject of a site plan or subdivision plat approved prior to July 1, 2014, the requirements of this chapter in relation to such development shall be as prescribed within the Regulations, or as otherwise specified by state law.

Sec. 10-8. Appeals from decisions under this chapter.

(a) Any person who is aggrieved by a decision of the administrator pursuant to this chapter shall have the right of review of such action by the city council. Any such appeal shall be filed in writing with the clerk of the city council within thirty (30) days of the date of such decision.

(b) An appeal received by the city council pursuant to this section shall be referred to the planning commission for review and findings of fact. The planning commission shall review the appeal at its next regular meeting following the date the notice of appeal is received by the clerk of council, and shall report its findings to city council. The city council shall review the appeal within thirty (30) days after the date of the planning commission meeting, at a regular or a special meeting of city council.

(c) The city council shall consider evidence presented by the owner, the Administrator, and any other aggrieved person.

(d) The council shall render its decision in writing and may affirm, reverse or modify the administrator's decision. The council's decision shall constitute the final decision of the city on the matter(s) which are the subject of the appeal.

(e) Any person aggrieved by a final decision of the city council pursuant to this section shall have the right of review of such decision by the circuit court of the city. Any such appeal shall be filed by the aggrieved person in writing with the circuit court within thirty (30) days of the city council's final decision.

(f) For the purposes of this section, "aggrieved person" is limited to the owner, a permittee, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

Sec. 10-9. Compliance with chapter required prior to issuance of permits for development involving land disturbing activities.

(a) A person shall not commence, conduct or engage in any land-disturbing activity until he has submitted a permit application to the administrator and has obtained the administrator's approval of a permit authorizing commencement of land disturbing activity.

- (1) The applicant shall submit with his application for a permit:
 - a. a proposed erosion and sediment control plan;
 - b. a proposed stormwater management plan, if required;
 - c. a State General Permit registration statement, if required;
 - d. for the land that is proposed to be disturbed, (i) a valid, approved preliminary site plan that provides a layout, as defined in 9VAC25-870-10, or a valid approved site plan, (ii) a valid, approved preliminary subdivision plat that provides a layout, as defined in 9VAC25-870-10, or a valid, approved final subdivision plat, or (iii) for land use or construction not subject to the requirement of an approved site plan or subdivision plat, the applicant shall submit a written certification of the purpose of the proposed land disturbing activity together with a zoning administrator determination stating that the use sought to be established on the land is permitted under applicable zoning district regulations and will comply with applicable requirements of the city's zoning and other local ordinances;
 - e. any request for exception(s) from applicable technical requirements; and
 - f. payment of required application fee(s), pursuant to sec. 10-10.

The administrator shall not issue any approval(s) for commencement of any land-disturbing activity until all such required submissions and plans have been received and approved.

- (2) The administrator shall act on each plan included within the application, in accordance with the following:
 - a. The administrator, or any duly authorized agent of the administrator, shall promptly review the materials submitted with an application. The administrator or his agent shall determine the completeness of the application within 15 calendar days of receipt, in accordance with the procedure referenced in 9VAC25-870-108(B).
 - b. The administrator or his agent shall act on a plan within the time period(s) and in accordance with the procedures referenced within 9VAC25-870-108(B). However, when a proposed erosion and sediment control plan is determined to be inadequate, notice of disapproval, stating the specific reasons for disapproval, will be communicated to the applicant within 45 days.
 - c. Approval or denial of a plan shall be based on compliance with the requirements of this chapter. Any decision shall be communicated in writing

to the person responsible for the land-disturbing activity or his agent. Where available to the applicant, electronic communication will be deemed communication in writing. If a plan meeting all of the requirements of this chapter is submitted and no action is taken within the required time period, the plan shall be deemed approved. If a plan is not approved, the reasons for not approving the plan shall be provided in writing.

- d. When all requirements have been satisfied and all required plans have been approved, the administrator shall issue a consolidated stormwater management and erosion and sediment control permit, when all of the following requirements have been satisfied:
 1. Upon the development of an online reporting system by DEQ, but no later than July 1, 2014, the administrator shall not issue a permit to authorize any land disturbing activity until evidence has been obtained of State General Permit coverage, where required; and
 2. The administrator must receive the performance guarantee(s) and other instruments and documentation specified in subparagraphs (3) through (6), following below; and
 3. All fees required by sec. 10-10 shall be paid by the applicant.
- (3) Prior to issuance of any approval or permit, the administrator shall require (or in the case of an agreement in lieu of a plan, may require) the applicant to submit a reasonable performance bond with surety, a cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator (individually, and collectively, "performance guarantee"), to ensure that measures could be taken by the city at the applicant's expense, should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the approved plan(s) and permit(s) or permit conditions as a result of his land-disturbing activity. Separate performance guarantees shall be established and required to assure compliance with the approved stormwater management plan and with the erosion and sediment control plan, except as provided in subparagraph (c), below.
- a. Each performance guarantee shall be effective from a date prior to the issuance of any permit or approval until sixty (60) days after completion of the requirements of approved plan(s) and permit(s) or permit conditions. . The instrument(s) of security shall provide that the performance guarantee for stormwater requirements shall be and remain in effect until satisfactory completion of all permit conditions has been achieved. Within 60 days of the satisfactory completion of the requirements of the permit conditions, such security, or the unexpended or unobligated portion thereof, if any, shall be refunded to the applicant or terminated.
 - b. If approved by the administrator , the applicant may submit any required performance guarantee as part of, or included in, any other performance guarantee(s) required in connection with a site plan, subdivision plat or other required approval. In cases where any such consolidated performance guarantee

is authorized, the administrator shall separately establish the specific amount(s) attributable to erosion and sediment control requirements, stormwater management requirements, construction of public facilities and improvements, and other activities for which a performance guarantee is to be provided.

- c. The instrument(s) of security shall provide the administrator and its authorized agents with a right of entry, for the purpose of initiating or maintaining appropriate actions that are required by the permit, or permit conditions associated with a land-disturbing activity when the applicant, a permittee, or other person responsible for carrying out the land disturbing activities or the requirements of a permit and permit conditions, after proper notice, has failed to take acceptable action within the time specified.
 - d. This requirement for performance bonding/ security is in addition to all other provisions and requirements of this article, state law and state Regulations, relating to the issuance of permits, and is not intended to otherwise affect the requirements for such permits.
 - e. If the administrator is required to take action upon a failure of the permittee, the administrator may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the performance guarantee held by the administrator.
 - f. The administrator may require submission of other materials and supporting documentation as the administrator deems necessary in order for the applicant to demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (4) . Prior to issuance of any approval or permit for land disturbing activity involving one or more acres of land, the administrator shall require the applicant to submit a stormwater pollution prevention plan (SWPPP). The SWPPP shall include the content specified by 9VAC25-870-54, 9VAC25-870-55 and 9VAC27-870-56, as well as the requirements and general information specified by 9VAC25-880-70, Section II.
- a. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
 - b. The SWPPP must be maintained by the operator at a central location at the site of the development. If no onsite location is available, notice of the SWPPP's location must be posted near the main entrance at the development site. Operators shall make the SWPPP available for public inspection in accordance with 9VAC25-880-70, Section II, either electronically or paper copy.
- (5) Except as provided in sec. 10-56(d), prior to issuance of any approval or permit for land disturbing activity associated with development for which permanent stormwater management facilities are required, the administrator shall require the applicant to submit a proposed written instrument, in a form suitable for recordation in the city's land records, specifying long-term responsibility for and maintenance of

the stormwater management facilities and other techniques specified within the proposed stormwater management plan for management of the quality and quantity of runoff.

(b) No site plan shall be granted final approval, and no final subdivision plat shall be signed by any city board, commission, agency, department, official or employee, unless and until such final site plan or final subdivision plat includes improvements, facilities and treatments identified within a stormwater management plan approved by the administrator in accordance with this chapter.

(c) No authorization or permit for any construction, land use or development involving any land-disturbing activity, including any grading permit, building permit, foundation permit, demolition permit, or other city-issued development permit, shall be issued by any city board, commission, agency, department, official or employee, unless and until a stormwater management plan has been approved and a permit has been issued by the administrator in accordance with this chapter.

Sec. 10-10. Fees for review and approval of plans.

(a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, actions, inspections, permits and approvals required by this chapter in connection with the review of plans, issuance of VSMP and VESCP Authority permits, issuance of State General Permit coverage, and implementation of the VSMP and VESCP related to land disturbing activities. Prior to the issuance of any permit authorizing commencement of any land disturbing activity, and prior to conducting any inspection or other action required by this chapter for which a fee is specified, the administrator shall assess, collect and administer the applicable fees and charges set forth within the most recent fee schedule adopted by city council.

(b) The city council hereby adopts and incorporates by reference the statewide fee schedule(s) enacted by the State Board pursuant to Virginia Code §62.1-44.15:28 and 9VAC25-870-700 et seq., and said fee schedule(s) shall be deemed included within the local fee schedule referenced in paragraph (a), above. Prior to the issuance of any permit authorizing the commencement of any land disturbing activity, the administrator shall assess, collect and administer the fees as set forth within 9VAC25-870-700-700 et seq., including, without limitation:

- (1) Fees for the modification or transfer of registration statements from the State General Permit issued by the State Board; provided, however, that if the State General Permit modifications result in changes to stormwater management plans that require additional review by the administrator, then, in addition to the State General Permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference between the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage. No such modification fee shall be assessed to (i) permittees who request Minor Modifications to a State General Permit, or (ii) permittees whose general permits are modified or amended at the initiative of

DEQ (excluding errors in the registration statement identified by the administrator and errors related to the acreage of the site); and

- (2) Annual fees for maintenance of the State General Permit, including fees on expired permits that have been administratively continued. State General Permit maintenance fees shall be paid annually to the city, on or before the anniversary date of general permit coverage. State General Permit maintenance fees shall apply, and shall continue to be paid, until State General Permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee for State General Permit coverage.
- (3) Payment of the state's portion of the statewide permit fee shall not be required for coverage under the State General Permit, for construction activity involving a single-family detached residential structure, when such activity is exempted from such fee pursuant to regulations established by the State Board.

State General Permit coverage and maintenance fees may apply to each State General Permit holder. Persons whose coverage under the State General Permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities. All persons seeking approval of a stormwater management plan, all persons seeking coverage under the State General Permit, and all permittees who request modifications to or transfers of their existing registration statement for coverage under a State General Permit, shall be subject to the fees referenced within this paragraph, in addition to any separate fees that may apply under paragraph (a) of this section.

(c) Fees shall be paid when due, by applicants, permittees, and other persons responsible for carrying out conditions of a permit. An incomplete payment will be deemed a nonpayment. Interest shall be charged for non-payments and for late payments, at the rate set forth in Virginia Code §58.1-15, calculated on a monthly basis at the applicable periodic rate. A ten percent (10%) late payment fee shall be charged to any delinquent account that is more than 90 days past due. The city shall be entitled to all remedies available under the Virginia Code in collecting any past due amount.

Secs. 10-11—10-20. Reserved.

- 2. That City Code Chapter 10, Article II (Erosion and Sediment Control) be amended and re-ordained, as follows:**

DIVISION 1. IN GENERAL

Sec. 10-21. Purpose and authority; applicability.

(a) The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of

soil erosion, sediment deposition and nonagricultural runoff, and by establishing procedures by which these requirements shall be administered and enforced.

(b) This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1 (State Water Control Law) article 2.4, Sec. 62.1-44.15:51 et seq. (Erosion and Sediment Control Law).

(c) This article shall apply to any land disturbing activity within the city, except that state agency projects shall be subject to the requirements of Virginia Code § 62.1-44.15:56. Each owner of land within the City shall comply with the requirements of this article, as provided herein:

- (1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his property;
- (2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and
- (3) When notified by the administrator that an erosion impact area exists on his land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.

(d) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to “this article”, and references to “provisions of this article” shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and II of this chapter.

Sec. 10-22. Determination of land disturbing activity.

(a) The determination of whether an activity is a land disturbing activity for purposes of this article shall be made by the administrator. Except as may otherwise be required by federal or state law or regulations, the term “land disturbing activity” shall not include:

- (1) Disturbed land areas of less than 6,000 square feet;
- (2) Home gardens, individual home landscaping, repairs or maintenance work;
- (3) Individual service connections; administrator
- (4) Installation, maintenance, or repair of any underground public utility lines, when such activity occurs on an existing hard surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced;

- (5) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of a building to be served by the septic tank system;
 - (6) Surface or deep mining operations and projects, or oil and gas operations and projects, conducted in accordance with a permit issued pursuant to Code of Virginia Title 45.1; however, such activities shall not be conducted unless allowed by the city's zoning ordinance;
 - (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Code of Virginia § 10.1-1100 *et seq.*, or is converted to bona fide agricultural or improved pasture use, as described in subsection B of § [10.1-1163](#). Such activities shall not be conducted unless allowed by the city's zoning ordinance.
 - (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ [10.1-604](#) *et seq.*), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
 - (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 - (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
 - (12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if there were no emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this article.
- (b) Upon the determination by the administrator that an activity is a land disturbing activity the owner shall submit an erosion and sediment control plan to the administrator for review and approval, and shall otherwise take all actions necessary to comply with the requirements of this article.
- (c) Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either:

- (1) Consider the off-site activity as being part of the proposed land-disturbing activity; or
- (2) If the off-site activity is already covered by an approved erosion and sediment control plan, the administrator may require the applicant to provide proof of such approval and to certify that the plan will be implemented in accordance with the requirements of this article.

(d) An erosion and sediment control plan shall be submitted and approved for a development and the buildings constructed within, regardless of the phasing of construction.

Sec. 10-23. Determination of erosion impact area.

(a) In order to prevent further erosion, the administrator may require submission and approval of an erosion and sediment control plan for any land determined to be an erosion impact area, regardless of the size of such area. The determination of whether an erosion impact area exists shall be rendered by the administrator.

(b) The administrator shall determine whether an erosion impact area exists on a property. The administrator shall make this determination after an investigation brought either on his own initiative or upon the complaint of any citizen.

(c) Upon making a determination that an erosion impact area exists, the administrator shall immediately notify the owner of the property, in writing, of its determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the city, or by personal delivery. The written notice shall (i) instruct the owner to submit an erosion and sediment control plan for review and approval as provided in this article, and (ii) state the date by which the plan must be submitted.

(d) Upon receipt of the notice required by this section the owner shall submit to the administrator for approval an erosion and sediment control plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.

(e) For good cause shown, the administrator may grant to an owner an extension of time to comply with the requirements of this section and this article.

Secs. 10-24—10-30 Reserved.

DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 10-31. Permit required for land disturbing activities.

No person shall engage in any land-disturbing activity within the city until an erosion and sediment control plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code. The land disturbing permit is

required in addition to any other approval required by this chapter, by the city's zoning or subdivision ordinances, or from the city's building official (including, without limitation, any building permit, foundation permit, or demolition permit).

Sec. 10-32. Responsibilities of owner of land when work to be conducted by contractor.

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

Sec. 10-33. Conformity to state handbook and regulations.

Pursuant to Code of Virginia § 62.1-44.15:54 the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state Board, and the City's Design and Standards Manual, for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the Virginia Erosion and Sediment Control Regulations set forth within the Virginia Administrative Code at 9VAC25-840-10 et seq. and the Virginia Erosion and Sediment Control Handbook, including all amendments thereto. The regulations, references, guidelines, standards and specifications referenced within this paragraph shall be used (i) by an applicant when preparing and submitting an erosion and control plan for review and approval of the administrator under the provisions of this article, and (ii) by the administrator, in considering the adequacy of a submitted plan.

Sec. 10-34. Fees.

Fees shall be submitted at the time of filing any erosion and sediment control plan, and thereafter, as specified within the most recent fee schedule approved by city council. Each re-submission of a plan following rejection by the administrator shall constitute a new application requiring an additional application fee.

Sec. 10-35. Erosion and sediment control plan.

(a) No person shall engage in any land-disturbing activity until he has submitted to the administrator for review and approval an erosion and sediment control plan, along with an application for a land disturbing permit in accordance with article I.

(b) The owner shall submit four (4) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.

(c) The standards contained within the Regulations, and within the Virginia Erosion and Sediment Control Handbook, as amended, and the City's Standards and Design Manual, shall be used by the applicant in preparing and submitting an erosion and sediment control plan.

(d) The administrator may require additional information as may be necessary for its complete review of the plan.

(e) In lieu of paragraphs (1)—(3), above, administrator where land disturbing activity will involve land under the jurisdiction of more than one locality's program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state Board or its agent (DEQ) for review and approval, rather than to each locality.

(f) In lieu of paragraphs (1)—(3), above, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the DEQ for review and approval consistent with guidelines established by the Board.

(g) Pursuant to Virginia Code § 62.1-44.15:55(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies shall, and railroad companies shall and authorities created pursuant to Code of Virginia § 15.2-5102 may, file general erosion and sediment control specifications annually with the Board for review and approval.

Sec. 10-36. Review and approval of erosion and sediment control plan.

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

- (1) The plan shall be submitted along with the application required by sec. 10-9 of article I, and shall be reviewed by the administrator to determine its compliance with the requirements of this article and with applicable state laws and regulations.
- (2) During his review of the plan the administrator may correspond with the owner from time to time to review and discuss the plan with the owner, and may require additional information from the owner as necessary in order for the plan to be approved.
- (3) The administrator shall review erosion and sediment control plans submitted to him, and shall either grant written approval or written notice of disapproval in accordance with the time periods and other requirements set forth within Code of Virginia § 62.1-44.15:55 and article I of this chapter.
- (4) Applicants for land-disturbing permits may be required to provide a performance bond, cash escrow or other financial guarantee, determined in accordance with Sec. 10-9 of this chapter, to ensure that measures could be taken by the administrator at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate measures required of him by the approved erosion and sediment control plan as a result of his land-disturbing activity.
- (5) If the owner is required to obtain approval of a site plan or subdivision plat for a development, the administrator shall not approve an erosion and sediment control

plan or authorize the commencement of any land disturbing activity, unless and until the site plan or plat has received final approval as provided by law. Notwithstanding the foregoing, the administrator may approve an erosion and sediment control plan and authorized commencement of land disturbing activity, prior to approval of a required final site plan or final subdivision plat only in the following circumstances:

- a. To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
- b. To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have previously been approved by the operating public utility or public service corporation and have previously been approved by the city as being substantially in accord with the comprehensive plan, where required by Code of Virginia § 15.2-2232.

Sec. 10-36.1. Variances.

The administrator may waive or modify any of the standards that are deemed inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the administrator shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the administrator. The administrator shall respond in writing either approving or disapproving such a request. If the administrator does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (3) The administrator shall consider variance requests judiciously, keeping in mind both the need of an applicant to maximize cost effectiveness and the public interest and need to protect off-site properties and resources from damage.

Sec. 10-37. Agreement in lieu of a plan.

(a) If land disturbing activity is for the purpose of establishing or modifying a single family detached dwelling, then, in lieu of an erosion and sediment control plan, the administrator may enter into a contract with the property owner that specifies conservation measures that must be implemented in the construction of the single-family dwelling.

(b) In determining whether to allow an agreement in lieu of a plan, the administrator shall include as part of its consideration the potential threat to water quality and to adjacent land resulting from the land disturbing activity, as well as applicable provisions of state law and regulations. When an agreement in lieu of a plan is authorized and approved by the administrator, the administrator and the owner shall have all of the rights, responsibilities and remedies set forth in this article as though such agreement in lieu of a plan was an erosion and sediment control plan.

(c) The administrator may waive the requirement for a responsible land disturber holding a certificate of competence, in connection with an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and shall provide the name of an responsible land disturber holding a certificate of competence, as provided by Code of Virginia § 62.1-44.15:55.

Sec. 10-38. Amendment of approved plan.

The administrator may require changes to an approved erosion and sediment control plan, and require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this article;
- (2) The person responsible for carrying out the plan finds that, because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out and proposed amendments to the plan, consistent with the requirements of this article are agreed to by the administrator and the person responsible for carrying out the plan; or
- (3) In the event that land disturbing activity has not commenced during the 180 -day period following plan approval, or if land disturbing activity pursuant to an approved plan has ceased for more than one 180 days, the administrator may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies the requirements of this article and state erosion and sediment control criteria, and to verify that all design factors are still valid. If the administrator finds the previously approved plan to be inadequate, a modified plan shall be submitted for approval by the administrator prior to the commencement or resumption of land-disturbing activity.

Sec. 10-39. Duty to comply, maintain and repair.

Upon approval by the administrator of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land disturbing activities, or activities to correct an erosion impact area;
- (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;

- (3) Comply with all requirements of this article, and with applicable state laws and regulations; and
- (4) Provide the name of a responsible land disturber, as defined in article I of this chapter, who will be in charge of and responsible for carrying out the land disturbing activity.

Sec. 10-40. Inspection and monitoring.

(a) As a condition of approval of an erosion and sediment control plan, the administrator may require the person responsible for carrying out the plan to monitor the land-disturbing activity as provided herein:

- (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (2) The condition requiring monitoring and reporting shall state: (i) the method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.
- (3) The person responsible for carrying out the plan will maintain records of inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The administrator shall periodically inspect the land disturbing activity in accordance with 9VAC25-840-60, to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation as provided herein. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

- (1) Monitoring, reports and inspections required by the administrator shall be conducted in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58 and 62.1-44.15:60, and applicable provisions of state regulations.
- (2) If the administrator determines that there is a failure to comply with the approved plan, notice shall be served on the permittee or person responsible for carrying out the plan, in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58. Upon failure to comply within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.
- (3) Upon determination of a violation of this ordinance the administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. In cases where the alleged noncompliance is causing

or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Any such order shall be served in the same manner as a notice to comply. A stop-order shall have the effects, shall remain in effect, as set forth within Code of Virginia §§ 62.1-44.15:58. Upon completion and approval of corrective action, or obtaining an approved plan and any required permits, the order shall be lifted. Upon failure to comply with any such order within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.

- (4) Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (5) Nothing in this section shall prevent the administrator from taking any other action authorized by this ordinance.

Sec. 10-41. Determination of noncompliance with plan; stop work orders.

Upon a determination by the administrator that an owner has failed to comply with an approved erosion and sediment control plan, the administrator shall provide notice to a permittee or person responsible for carrying out the erosion and sediment control plan, and may issue an order requiring that all or part of the land-disturbing activities be stopped, in accordance with the provisions of Code of Virginia § 62.1-44.15:58 and applicable state regulations.

Sec. 10-42. Program personnel requirements.

- (a) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer.
- (b) Inspections of land-disturbing activities shall be conducted by a certified inspector.
- (c) The city's erosion and sediment control program may be carried out by one or more persons; however, at all times the city's program, at a minimum, shall consist of a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.
- (d) The certifications required by this section shall be those granted by the state Board, as set forth within Code of Virginia § 62.1-44.15:53.

Sec. 10-43. Penalties, injunctions and other legal actions.

(a) Any person violating the provisions of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.

(b) The following may apply to the circuit court for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist:

- (1) The city; and
- (2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing both the administrator and the person who has violated the provisions of this article, and the administrator, that a violation of this article has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated this article nor the administrator has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.

(c) In addition to any criminal penalties provided under this section, any person who violates any provision of this article may be liable to the city in a civil action for damages.

(d) Any person who violates any provision of this ordinance shall, upon a finding of the Charlottesville General District Court, be issued a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. The civil penalty for violations listed within the schedule set forth following below shall be as set forth within the schedule. The administrator may issue a summons for collection of any civil penalty.

- (1) There is hereby established a schedule of civil penalties for certain violations of this ordinance, and any civil penalty assessed by a court to a person who is found to have violated the sections referenced in the schedule shall be in accordance with the schedule.

Schedule of Violations Subject to Prescribed Civil Penalties	Section	Penalty
Additional measures - failure to install additional measures as deemed necessary by the administrator or his inspector once work has commenced	10-38	\$100.00
Bond - failure to obtain bond	10-36	\$100.00
E&S plan - failure to submit if required by administrator	10-35	\$1000.00
E&S plan - failure to comply with approved plan	10-35	\$500.00

	10-39	
Corrections - failure to comply with mandatory corrections as issued on an E&S inspection notice or report	10-40	\$500.00
Existing conditions - failure to submit plan or provide controls after receipt of notice	10-21 10-23	\$500.00
Inspection - failure to request at the time(s) required by approved plan	10-39 10-24	\$100.00
Land disturbing permit or approved plan- commencement of land disturbing activities without an approved permit or plan	10-31	\$1,000.00
Land disturbing permit or approved plan - failure to comply with provisions	10-39	\$500.00
Live waterway - causing silt or debris to enter when engaged in land disturbing activity without an approved plan and permit	10-31	\$500.00
Stop work order - failure to cease work after issuance	10-40	\$1000.00

(2) Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00), except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of a civil penalty pursuant to this subsection (d) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor. In any trial for a scheduled violation, it shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.

(e) Without limiting the remedies which may be obtained under this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city against such person.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the administrator; any condition of a permit; or any provision of this article or associated regulations, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000.00). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.

(g) Any civil penalties assessed by a court pursuant to this section shall be paid into the city treasury. However, where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

Secs. 10-44—10-49. Reserved.

3. That City Code Chapter 10, Article III (Stormwater Management) is hereby repealed, and replaced with the following provisions:

Sec. 10-50. Intent, purpose and authority.

(a) Pursuant to Virginia Code §§ 62.1-44.15:27 and 9VAC25-870-20, this article is adopted to establish a Virginia Stormwater Management Program that will integrate stormwater management requirements with the city's erosion and sediment control program, the city's MS4 permit, flood insurance, flood plain management, and related federal and state permits and requirements, into a unified program. This unified program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the city and those responsible for compliance.

(b) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and III of this chapter.

Sec. 10-51. Land disturbing permit required; exemptions.

(a) No person shall engage in any land-disturbing activity until a stormwater management plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code.

(b) Except as may otherwise be required by federal law, the following activities are exempt from the provisions of paragraph (a), above:

- (1) Where such uses are permitted by the City's zoning regulations: permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Where such uses are permitted by the City's zoning regulations: the clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- (3) Where such use is permitted by the City's zoning regulations: single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Land disturbing activities that disturb less than six thousand (6,000) square feet of land area, but only if the land area to be disturbed is not part of a common plan of development or sale;
- (5) Discharges to a sanitary sewer or a combined sewer system;
- (6) Activities under a state or federal reclamation program to return an abandoned property to an open land use, or to an agricultural use where permitted by the City's zoning ordinance;
- (7) Routine maintenance performed to maintain the original line and grade, hydraulic capacity, or original construction of a project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subparagraph; and
- (8) Land disturbing activities conducted in response to a public emergency, where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven (7) days of the commencement of the land-

disturbing activity and compliance with the administrative requirements of this chapter is required within 30 days of commencing the land-disturbing activity.

Sec. 10-52. Stormwater management program established.

Pursuant to Virginia Code §§ 62.1-44.15:27 and 62.1-44.15:49, the city hereby establishes a Virginia stormwater management program (VSMP) for land-disturbing activities and adopts the Regulations promulgated by the Board, specifying standards and specifications for such programs. No grading, building, or other city permit, shall be issued for a property unless a permit has been issued by the administrator pursuant to Sec. 10-9 of this chapter.

Sec. 10-53. Stormwater management plan required; contents.

(a) A person shall not conduct any land disturbing activity until he has submitted a stormwater management plan to the Administrator as part of the application required by sec. 10-9 and has obtained approval of the plan and a permit from the Administrator.

(b) Every stormwater management plan shall apply the stormwater management technical criteria set forth in sec. 10-54 to the entire land-disturbing activity. Individual lots within new residential, commercial or industrial subdivisions and developments shall not be considered separate land-disturbing activities, and the stormwater management plan for the entire subdivision or development shall govern the development of the individual parcels, including parcels developed under any subsequent owner(s).

(c) Every stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff; and shall include the following:

- (1) A general description of the proposed stormwater management facilities and the mechanism through which the permanent facilities will be operated and maintained after construction is complete;
- (2) Contact information, including the name, address, and telephone number of the owner and the city tax map reference(s) and parcel number(s) of the property on which the land disturbing activity is to be conducted;
- (3) A narrative that includes (i) a description of current site conditions and (ii) a description of final site conditions upon completion of development;
- (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
- (5) Information on the proposed stormwater management facilities, including:
 - (i) The type of facilities;

- (ii) Location, including the address, latitude and longitude, and the sixth order hydrologic unit code in which the facilities are located;
 - (iii) Total area (expressed as acreage) treated;
 - (iv) Impervious area (expressed as acreage) treated;
 - (v) Amount of pollutants removed (expressed as a number of pounds of phosphorous per year); and
 - (vi) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with applicable water quality and quantity requirements. All stormwater runoff controls shall be designed and installed in accordance with the water quality and water quantity design criteria specified in sec. 10-54, and any additional standards or criteria set forth within the City's Standards and Design Manual;
- (8) A map or maps of the site that depicts the topography and other characteristics of the entire area of the land disturbing activity and proposed development, including:
- (i) All contributing drainage areas;
 - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - (iv) Current land use, including existing structures, roads, and locations of known utilities and easements;
 - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the development site on such adjacent parcels;
 - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
 - (vii) Proposed buildings, roads, parking areas, paved surfaces, utilities, and stormwater management facilities;
 - (viii) Proposed land use(s), with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, streets, paved areas, and public and private easements; and
 - (ix) A description of the proposed timing and/or phasing of land disturbing activities and development.

The land area depicted in the map shall include all land within the limits of a valid, approved preliminary or final site plan, or a valid, approved preliminary or final subdivision plat, for the proposed development, and the proposed land use(s) and improvements shown on such site plan or subdivision plat shall be the same as those depicted within the map.

- (9) Any other information, materials, requirements or provisions required by state Regulations, including, without limitation, 9VAC25-870-55 and the City's Standards and Design Manual.
- (10) If an operator intends to meet water quality and/or quantity requirements through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included and the requirements of Virginia Code §62.1-44.15:35 must be satisfied. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity, except as otherwise allowed by Virginia Code § 62.1-44.15:35.
- (11) Signature and seal by a professional, if any elements of the stormwater management plan includes activities within the scope of the practice of architecture, land surveying, landscape architecture, or engineering, or other activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Virginia Code.

(d) If land disturbing activity is for the purpose of establishing or modifying an individual single family detached dwelling, then, in accordance with applicable state Regulations, the administrator may enter into an agreement in lieu of a plan with a property owner. Any such agreement in lieu of a stormwater management plan shall refer to specific measures that shall be implemented by the property owner to comply with the requirements of this article for the construction of the dwelling.

Sec. 10-54. Technical criteria for regulated land disturbing activities.

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the city hereby adopts the following technical criteria:

- (1) The technical criteria set forth in Part II B of the Regulations, as amended, §§ 9VAC25-870-62 *et seq.* ("Part II B Technical Criteria"); and
- (2) The technical criteria set forth in Part II C of the Regulations, as amended, §§ 9VAC25-870-93 *et seq.* ("Part II C Technical Criteria").

(b) The Part II B Technical Criteria shall apply to all regulated land disturbing activities, except as expressly set forth in subparagraphs (c) through (h), following below.

(c) Land disturbing activity shall be subject to the Part II C Technical Criteria, if coverage under the State General Permit was obtained, or land disturbance was otherwise lawfully commenced, prior to July 1, 2014.

(d) Land disturbing activity shall be considered grandfathered, and therefore subject to the Part II C Technical Criteria, as set forth within the provisions of 9VAC25-870-48.

(e) The Administrator may grant exceptions to the Part II B Technical Criteria or Part II C Technical Criteria, provided that (i) the exception is the minimum necessary to afford relief; (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved; (iii) granting the exception will not confer any special privileges, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason or justification for granting an exception. Notwithstanding the foregoing, the Administrator shall not have authority to approve the following:

- (1) Waiver of the requirement of a permit for any land disturbing activity;
- (2) Permission to use any BMP not found on the Virginia Stormwater BMP Clearinghouse Website; or a waiver or exception to the requirement for any control measure specifically approved by the Director of DEQ or the Board, except in accordance with Virginia Code §62.1-44.15:33(C). Notwithstanding the foregoing, the Administrator may approve the use of BMPs not found on the Virginia Stormwater BMP Clearinghouse Website for projects less than one (1) acre in size; or
- (3) Exceptions to, or waiver of, post-development nonpoint nutrient runoff compliance requirements, unless the Administrator determines that offsite options permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(f) Nothing in this section shall preclude construction of a stormwater management facility or BMP, or implementation of any technique or practice, to a more stringent standard at the developer's option.

Sec. 10-55. Permit conditions.

(a) Every land disturbing permit approved by the Administrator for activities regulated by this article shall be subject to the following conditions, which shall be deemed incorporated into such permit, as if set forth therein verbatim:

- (1) The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment;
- (2) The permittee shall at all times conduct land disturbing activities in accordance with the approved stormwater management plan and, when required, the SWPPP and all of its component parts and requirements;
- (3) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and all related appurtenances, that are constructed, installed or used to achieve compliance with the requirements of this article and the approved stormwater management plan. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures;

- (4) The permittee shall promptly furnish to the Administrator any information that the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit, or to determine the effect of a discharge on the quality of state waters, or such other information as the Administrator deems necessary to accomplish the purposes of this article;
- (5) The permittee shall allow the Administrator, or an authorized representative, to:
 - (i) Enter upon the site where regulated land disturbing activity or stormwater management facility is located, or where records are required to be kept;
 - (ii) Have access to and copy, at reasonable times, any records kept by the permittee in relation to the conduct and operations of any land disturbing activity and the design, specifications, installation, construction, and operation of stormwater management facility;
 - (iii) Sample or monitor, at reasonable times, for the purposes of determining compliance with requirements of this article, any substances or parameters at any location within the site;
- (6) Samples and measurements taken by the permittee for the purpose of monitoring shall be representative of the monitored activity. Monitoring results must be conducted according to test procedures and methods accepted by the State; analysis or analyses required to be performed by a laboratory shall be performed by an environmental laboratory certified under regulations adopted by the State's Department of General Services. Monitoring results shall be reported to the Administrator on a Discharge Monitoring Report (DMR) Form provided by the Administrator. If the permittee monitors any pollutant more frequently than required, using test procedures accepted by the State, the results of such monitoring shall be included in the calculation and reporting of data submitted within a required Discharge Monitoring Report;
- (7) The permittee shall retain records of all monitoring, including all monitoring information, calibration and maintenance records, and original strip chart recordings for continuous monitoring instrumentation, copies of monitoring reports, and records of all data used to complete any submission required by this article. In addition to the foregoing, records of monitoring shall include:
 - i. Date, exact place, and time of sampling or measurements;
 - ii. Identity of the individual(s) who performed the sampling or measurements;
 - iii. The date(s) on which analyses were performed;
 - iv. The analytical technique(s) or method(s) used;
 - v. Results of analysis/ analyses; and
 - vi. Copies of Discharge Monitoring Reports.
- (8) The permittee shall give advance notice to the Administrator:
 - i. of any planned physical alteration(s) or addition(s) to the site or to the stormwater management facilities described within the permit, when such alteration(s) or addition(s) may meet State criteria for determining whether a facility is a new source, or when such alteration(s) or addition(s) could

- significantly change the nature of, or increase the quantity of, pollutants discharged.
- ii. of any planned changes to the stormwater management facilities described within the permit, and
 - iii. of any activity that may result in noncompliance with the requirements of this article or with any of the conditions set forth within this section;
- (9) The permit issued by the Administrator is not transferable to any other person, unless the permittee provides evidence to the Administrator that the requirements of 9VAC25-870-620 have been satisfied in relation to a transfer of any required State General Permit;
- (10) Reports of compliance or noncompliance with, or any progress reports in regard to, any compliance schedule established by the Administrator shall be submitted no later than 14 days following each schedule date;
- (11) The permittee shall immediately report any noncompliance which may endanger health or the environment. Information regarding any such noncompliance shall be provided orally within 24 hours after the permittee becomes aware of the circumstances. The oral report shall be followed by a written report, which must be received by the Administrator no later than 5 days after the permittee became aware of the circumstances. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. Examples of noncompliance that require reports pursuant to this condition include, without limitation: any unanticipated bypass that exceeds an applicable effluent limitation; any upset that exceeds an applicable effluent limitation; and violation of a maximum daily discharge limitation for any pollutants required by the State to be reported within 24 hours.
- (12) Any noncompliance not reported under conditions (9) or (10), above, shall be reported by the permittee to the Administrator in writing at the time the next monitoring report is submitted to the Administrator. The report of noncompliance shall contain the same information required for reports made pursuant to condition (10), above;
- (13) Where the land disturbing activity is also subject to coverage under the State General Permit, or other State permit, the permittee shall comply with all conditions and requirements of such state permit(s), including, without limitation, those conditions set forth within 9VAC25-870-430. The permittee shall provide to the Administrator copies of submissions, reports, and information required to be given to the State, simultaneously with transmittal to the State. In addition to any remedies under state law and the Regulations, state permit noncompliance shall be grounds for enforcement action under this article, and for termination, revocation, reissuance or

modification of the permit issued by the administrator pursuant to sec. 10-9 of article I;

- (14) All applications, reports and information submitted to the Administrator shall be signed and certified in the manner, and by such person(s) prescribed within 9VAC25-870-370;
- (15) In the event the permittee becomes aware that it failed to submit any relevant facts in any application to the Administrator for a permit, or that it submitted incorrect information to the Administrator in any application, or any other submission, report, or document required by this article, the permittee shall promptly submit the relevant facts or correct information to the Administrator;
- (16) All stormwater management control devices and facilities, and other techniques for management of the quality and/or quantity of stormwater runoff, shall be designed, installed, implemented, constructed and maintained in accordance with the approved stormwater management plan approved for the development and all other applicable requirements of this article; and
- (17) The permit issued by the Administrator may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, shall not operate as a stay of the permittee's obligation to perform the requirements of any condition referenced in this section.

(e) Within 60 days of the completion of the requirements of all of the permit conditions, the performance guarantee required by sec. 10-9(3), or the unexpended or unobligated portion thereof, will be refunded or terminated.

Sec. 10-56. Long-term maintenance of permanent stormwater facilities.

(a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
- (2) Include an express statement that the maintenance responsibility shall run with the land;
- (3) Provide a right of ingress and egress to and from stormwater management facilities and other techniques, sufficient to provide all necessary access to the property for purposes of maintenance and regulatory inspections;

- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Clearly recognize a right of enforcement by all appropriate public bodies, including state and local authorities.

(b) Except as provided below, the City shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a “facility”) designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the Administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, “maintenance, repair or replacement” shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.

- (1) In the event that any common interest community, as defined in Virginia Code §55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.
- (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city’s approval and acceptance of such responsibility shall be the same as specified in subparagraph (b)(1), preceding above.

(c) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and –operated public storm sewer system, and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.

(d) If the Administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (a), above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

Sec. 10-57. Monitoring and inspections; information.

(a) The Administrator, or any authorized agent of the Administrator, shall inspect land-disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan and applicable permit conditions;
- (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
- (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.

(b) Following completion of the installation or construction of stormwater management facilities, the Administrator shall conduct periodic inspections, to determine whether measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. Such post-construction inspections shall be conducted by the Administrator at least once every five (5) years.

(c) A construction record drawing shall be submitted to the Administrator upon completion of the installation or construction of any permanent stormwater management facility or facilities, including, without limitation, permanent BMPs. The construction record drawing shall be signed and sealed by a licensed professional, as defined in sec. 10-5, and shall contain a certification of such professional that the stormwater management facility or facilities have been constructed in accordance with the approved stormwater management plan.

(d) Consistent with the authority conferred within Virginia Code §62.1-44.15:39, the Administrator, or an authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any site or property, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.

(e) The Administrator may also enter any establishment or upon any property, public or private, at reasonable times and under reasonable circumstances, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity, when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(f) Pursuant to Virginia Code §62.1-44.15:40, the Administrator may require every permit applicant or permittee, any operator, or any other person subject to permit requirements, to furnish when requested such application materials, plans, specifications, and other pertinent

information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

Sec. 10-58. Modification of approved stormwater management plans.

(a) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during any inspection.

(b) Any modification(s) of an approved stormwater management plan shall be allowed only after review and written approval of the Administrator. Following receipt of a complete request, supported by such information deemed necessary by the Administrator to determine compliance with the requirements of this article and article I, the Administrator shall have 60 days to act on the request, either by approval or by disapproval set forth in writing. The Administrator's review and decision shall be based on the requirements set forth within the Regulations, and those set forth within this article and within article I.

Sec. 10-59. Enforcement.

(a) If the Administrator determines that there is a failure to comply with a permit or any permit conditions, or if the Administrator determines there is an unauthorized discharge, the Administrator shall serve notice upon the permittee or other person responsible for carrying out the permit conditions, by any of the following: verbal warnings, written inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by mailing with confirmation of delivery to the address specified in the permit application, or by delivery at the site of the land disturbing activities, to the agent or employee supervising such activities.

- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued, or the permit may be revoked by either the Administrator or the Board.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order ("stop work order") requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit, to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed. A stop work order shall be in writing, and shall become effective upon service on the person (i) by mailing, with confirmation of delivery, sent to the person's address specified in the land records of the city, or (ii) by personal delivery by an agent of the Administrator. However, if the Administrator finds that any violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the

watersheds of the Commonwealth, or is otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency stop work order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued a stop work order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.

(b) Any person violating or failing, neglecting, or refusing to obey any provision of this article, any order issued hereunder, or any permit condition, may be compelled in a proceeding instituted in the circuit court for the city of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy, as set forth within Virginia Code §§62.1-44.15:42 and 62.1-44.15:48(D). If the Administrator applies to a court to enjoin a violation or a threatened violation of the provisions of this article, the Administrator shall not be required to show that an adequate remedy at law exists.

(c) A person who violates this article may be subject to criminal prosecution and criminal penalties, as follows:

- (1) Any person who willfully or negligently violates any provision of this article, any regulation or order of the Board, any order of the Administrator, any order of DEQ, any permit condition, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.
- (2) Any person who knowingly violates any provision of this article, any regulation or order of the Board, any order of the Administrator or of DEQ, or any permit condition, or any order of a court issued as herein provided, or who knowingly makes any false statement in any application, form or submission required by this article, or who knowingly renders inaccurate any monitoring device or method required to be maintained, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury, or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 or more than \$50,000 for each violation. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.
- (3) Any person who knowingly violates any provision of this article, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years or more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this provision, be sentenced to pay a fine not

exceeding the greater of one million dollars (\$1 million) or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment, for any subsequent conviction of the same person under this provision.

(d) Any person who violates any provision of this article, any order issued hereunder, or any permit condition, shall be subject to a civil penalty imposed by the Administrator, not to exceed \$32,500 per day for each violation. Each day a violation continues shall constitute a separate offense. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(1) Violations for which a penalty may be imposed under this paragraph (e) shall be as follows:

- (i) No state permit registration;
- (ii) No approved stormwater management plan;
- (iii) No SWPPP; an incomplete SWPPP; SWPPP not available for review at the site;
- (iv) No approved erosion and sediment control plan;
- (v) Failure to install stormwater BMPs or erosion and sediment controls;
- (vi) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (vii) Failure to conduct land disturbing activity in accordance with operational requirements established by Regulations or by this chapter;
- (viii) Failure to conduct required inspections;
- (ix) Incomplete, improper, or missed inspections; and
- (x) Discharges not in compliance with the requirements of Section 9VAC50-60-1170 of the State General Permit.

(2) Any civil penalties assessed by a court as a result of a civil summons issued by the Administrator shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

(e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, or any permit condition, the Administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d), above. Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

4. That the provisions of this Ordinance shall become effective July 1, 2014.

ORDINANCE
TO AMEND CHAPTER 10 OF THE CODE OF THE CITY OF CHARLOTTESVILLE
TO ESTABLISH A LOCAL VIRGINIA STORMWATER MANAGEMENT
PROGRAM (VSMP), TO COORDINATE THE VSMP WITH REQUIREMENTS OF
THE LOCAL VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM
(VЕСP), AND TO UPDATE THE PROVISIONS OF CHAPTER 10 TO MEET
REQUIREMENTS OF CURRENT REGULATIONS ADOPTED BY THE VIRGINIA
STATE WATER CONTROL BOARD

WHEREAS, pursuant to the requirements of Virginia Code Sec. 62.1-44.15:27 the City is required to establish a local Virginia Stormwater Management Program (VSMP) for land-disturbing activities, consistent with Virginia State Water Control Law, effective July 1, 2014; and

WHEREAS, the VSMP must be administered in conjunction with the City's established municipal separate storm sewer system (MS4) and Virginia Erosion and Sediment Control programs (VЕСP); and

WHEREAS, the State's Department of Environmental Quality (DEQ) requires the VSMP and VЕСP to be established within locally-adopted ordinances that contain certain provisions recommended by DEQ through the provision of model ordinances, consistent with regulations established by the State's Water Control Board; and

WHEREAS, following the establishment of the state-mandated VSMP, the City will be required to issue a consolidated stormwater management and erosion and sediment control permit, necessitating certain reorganization and integration of the definitions and procedural requirements in Chapter 10, Article I (In General) of the City Code with the provisions of Article II (Erosion and Sediment Control) and Article III (Stormwater Management); now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville:

1. **That City Code Chapter 10, Article I (In General) be amended and re-ordained, as follows:**

Sec. 10-1. Short title.

This chapter shall be known and may be cited as the city's "Water Protection Ordinance."

Sec. 10-2. Authority.

~~This chapter is adopted pursuant to authority conferred by the Virginia Erosion and Sediment Control Law (Virginia Code § 10.1-560 et seq.), the Virginia Stormwater~~

~~Management Act (Virginia Code § 10.1-603.1 et seq.), Virginia Code § 10.1-2108 of the Chesapeake Bay Preservation Act, and the federal Clean Water Act.~~

This chapter is adopted pursuant to authority conferred by: (i) the Virginia State Water Control Law, set forth within the Virginia Code, Title 62.1, Chapter 3.1 (§§ 62.1-44.2 through 62.1-44.34:28), including, without limitation, §§ 62.1-44.15:27 and 62.1-44.15:54; (ii) Virginia Code, Title 15.2, Chapters 21 and 22; and (iii) the federal Clean Water Act (33 U.S.C. §§1251 et seq.).

Sec. 10-3. Purposes.

The purposes of this chapter are:

- (1) To ensure the general health, safety, and welfare of the citizens of the City of Charlottesville by (i) protecting the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced, and (ii) preventing degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff; and
- (2) To provide a framework for the administration, implementation and enforcement of the provisions of the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law, and to delineate the procedures and requirements to be followed in connection with permits issued by the city, acting as a VSMP and VESCP authority, respectively; and
- (3) To establish procedures whereby the requirements of the city's VSMP, VESCP and MS4 programs shall be enforced in conjunction with one another, and to ensure integration of those program requirements with flood insurance, flood plain management and other programs requiring compliance prior to authorization of construction, in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the city and for those persons responsible for compliance with the programs.

~~The city council finds that this chapter is necessary to protect the health, safety and general welfare of the citizens of the city and the Commonwealth of Virginia and to prevent water from being rendered dangerous to the health of persons living in the city, and is supported by the findings of related studies that have been conducted. Therefore, the specific purposes of this chapter are to:~~

- ~~(1) Inhibit the deterioration of public waters and waterways resulting from land disturbing activities;~~
- ~~(2) Protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater runoff from new land development and redevelopment;~~

- ~~(3) Control nonpoint source pollution, erosion and sedimentation, and stream channel erosion;~~
- ~~(4) Maintain the integrity of existing stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;~~
- ~~(5) Protect the condition of public waters for all reasonable public uses and ecological functions;~~
- ~~(6) Provide for the long-term responsibility for and maintenance of stormwater management facilities and best management practices;~~
- ~~(7) Facilitate the integration of stormwater management and pollution control with other city ordinances and with federal, state and local programs, policies, regulations and guidelines; and~~
- ~~(8) Prohibit illicit connections and discharges to the city's municipal storm sewer system.~~

Sec. 10-4. Rules of construction.

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. The following rules of construction shall apply in the construction of this chapter, unless such application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

- (1) All references to any statute, ordinance, regulation, guideline, handbook, manual or standard shall be to such statute, ordinance, regulation, guideline, handbook, manual or standard as it exists on the date of adoption of this chapter and includes any subsequent amendment, ~~thereafter reenactment, renumbering,~~ or reissuance in a subsequent edition.
- (2) Any reference to "this article," "article II," "article III," or "article IV" shall include references to all applicable references of article I.
- (3) All references to "days" shall be to calendar days.
- (4) All references to a "fee schedule" shall mean and refer to a schedule of the fees and charges associated with the various applications, inspections, permits and approvals required by this chapter, as approved and amended by the city council from time to time. All required fees shall be made payable to the city treasurer.

Sec. 10-5. Definitions.

~~The following terms, whenever used or referred to in this chapter, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this chapter. In addition to the definitions set forth within the Virginia Administrative Code (VAC) at 9VAC25-840-10, 9VAC25-850-10 and 9VAC25-870-10, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified herein. In the event of a conflict between any definition~~

incorporated by reference and any definition following below, the definition incorporated by reference shall have precedence.

Act means, according to the context of its use, (1) the Stormwater Management Act set forth within Title 62.1, Chapter 3.1, Article 2.3 (§§62.1-44.15:24 *et seq.*) of the Virginia Code or (2) the Erosion and Sediment Control Law set forth within Title 62.1, Chapter 3.1, Article 2.4 (§§62.1-44.15:51 *et seq.*) of the Virginia Code.

Administrator means, when referring to a person performing duties relative to the city's VSMP or VESCP as set forth within this chapter, the city's department of neighborhood development services. The department of neighborhood development services shall have authority to act by and through the director of neighborhood development services and any city official, employee, contractor or other agent designated by the director of neighborhood development services to perform any responsibilities or functions assigned to the VSMP or VESCP Administrator. Whenever the term "Administrator" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

Agreement in lieu of a plan means (i) a contract between the ~~VESCP Administrator program authority~~ and ~~thea~~ property owner which specifies conservation measures which must be implemented in the construction of an individual single-family residence, not part of a common plan of development or sale; or (ii) a contract between the VSMP Administrator and a property owner which specifies methods that will be implemented to comply with the requirements of article III of this chapter in the construction of an individual single-family residence, not part of a common plan of development or sale. Such ~~this~~ contract may be executed by the ~~program authority~~ Administrator in lieu of a formal erosion and sediment control plan or stormwater management plan, as applicable.

Applicant means any person submitting ~~a plan for approval~~, an application for a permit or requesting the issuance of a permit, ~~when required under any provision of this chapter, authorizing land-disturbing activities to commence~~.

Best management practice ("BMP") means ~~schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce a practice or combination of practices that is determined by the state, a designated area-wide planning agency, or the program authority, to be the most effective, practical means of preventing or reducing the amount of surface water runoff volume and pollution of surface waters and groundwater systems from the impacts of land-disturbing activities generated by nonpoint sources to a level compatible with water quality goals.~~

Board means: (i) ~~as used in Article I, the State Water Control Virginia Soil and Water Conservation Board, and (ii) as used in Article II, the Virginia Board of Conservation and Recreation.~~

Certified inspector means an employee or agent of the program authority implementing the city's local erosion and sediment control program who (1) holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of project inspection or (2) is enrolled in that board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

~~*Certified plan reviewer* means an employee or agent of the program authority implementing the city's local erosion and sediment control program, who (1) holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (2) is enrolled in that board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (3) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Virginia Code § 54.1-400, et seq.~~

~~*Certified program administrator/administrator* means an employee of the department of neighborhood development services who (1) holds a certification of competence from the Virginia Soil and Water Conservation Board in the area of program administration, or (2) is enrolled in that board's training program for program administration and successfully completes such program within one (1) year after enrollment.~~

~~*Channel* means a natural stream or human-made waterway.~~

Clean Water Act or CWA means the federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Clearing means any activity which removes vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

Common plan of development or sale refers to a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

~~*Conservation plan, erosion and sediment control plan or plan and specifications* means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with necessary interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.~~

~~*Conservation standards, criteria or specifications* means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the Virginia Soil and Water Conservation Board~~State Water Control Board~~, or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia Department of Environmental Quality~~Conservation and Recreation~~.~~

Control measure means any BMP or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

DEQ and Department mean the Virginia Department of Environmental Quality.

~~*Development, land development and land development project* as used within this chapter each refer to land improved or to be improved as a unit, under single ownership or unified control, such improvement(s) including all of the land disturbance, and the resulting landform,~~

associated with the construction of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and or the clearing of land for non-agricultural or non-silvicultural purposes. The term shall include the entire area within a common plan of development or sale any manmade change to, or construction on, a land surface that potentially changes its runoff characteristics.

Director, ~~as used in for the purposes of~~ Article V of this chapter, shall mean and include the city's director of public works and director of neighborhood development services, and the employees and agents authorized by either of them to exercise authority or to take enforcement action under the provisions of Article V. The term *director* as used within Articles II and III of this chapter, shall mean the director of neighborhood development services. Whenever the term "Director" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

~~*Discharge* means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, and also refers to that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.~~

Erosion and sediment control plan means a document containing materials and provisions for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of six thousand (6,000) square feet or less used for residential purposes.

Excavating means any digging, scooping, or other method(s) of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

General permit means the *State General Permit*, defined following below.

Grading means any excavating or filling, and any combination thereof, including the land in its excavated or filled conditions.

Illegal discharge and *illicit discharge* each means and refers to any discharge to the city's municipal storm sewer system ("MS4") that is not composed entirely of stormwater, except: (i) discharges pursuant to a VPDES permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this chapter.

Illicit connection means any connection to the city's municipal storm sewer system ("MS4") made without the express written approval of an authorized city official.

Land disturbance or Land-disturbing activity means any man-made change to the land surface that (i) actually or potentially changes its runoff characteristics, including, without limitation, clearing, grading, or excavation, or (ii) that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, without limitation, clearing, grading, excavating, transporting and filling. The

entire land area within a common plan of development or sale, as a whole, shall be considered to be a single land disturbing activity.

~~change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands in the city or adjacent jurisdictions, including, but not limited to, clearing, grading, excavating, transporting and fill of land, except that the term shall not include:~~

- ~~(1) Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work.~~
- ~~(2) Installation, maintenance or repair of any other underground public utility mains or lines, when such activity occurs on an existing hard surfaced road, street or sidewalk and the land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced.~~
- ~~(3) Construction, installation, maintenance or repair of any type of individual utility service connections.~~
- ~~(4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of a building to be served by a septic tank system.~~
- ~~(5) Repair or rebuilding of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of a railroad company.~~
- ~~(6) Disturbed land areas of less than six thousand (6,000) square feet in size.~~
- ~~(7) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.~~
- ~~(8) Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and established in accordance with the requirements of the Virginia Erosion and Sediment Control Handbook.~~
- ~~(9) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with § 10.1-1100 et seq. of the Virginia Code or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Virginia Code.~~
- ~~(10) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, § 10.1-604 et seq. of the Virginia Code, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.~~

Layout means a conceptual drawing sufficient to identify and provide for specific stormwater management facilities required at the time of approval.

Licensed professional means an individual who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

~~Linear development~~ means a land development that is linear in nature, such as (but not limited to): (i) the construction of electric and telephone utility lines and natural gas pipelines; (ii) the construction of railroad tracks, rights of way, bridges, communication facilities and related facilities; and (iii) highway construction projects.

Local erosion and sediment control program or VESCP means an outline of the various methods employed by the City to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, city ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Minor modification means, in relation to the State General Permit, an amendment to an existing State General Permit, before its expiration, not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor State General Permit modification or amendment is one that does not substantially alter State General Permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Mitigation plan means a plan, a component of a stormwater management/BMP plan, an erosion and sediment control plan, or an agreement in lieu of a plan, that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

MS4 means the city's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-870-10.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

~~Nonpoint source pollution~~ means pollution whose sources cannot be pin pointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

Operator means the owner or operator of any facility or activity subject to regulation under this chapter.

Owner means the owner(s) of the freehold of land, or the owner of a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property. As used herein, "owner" also refers to, in the appropriate context: (i) any person authorized to act as the agent for the owner, (ii) any person who

~~submits an erosion and sediment control plan or stormwater management plan for approval, or requests issuance of a permit, when required, authorizing land disturbing activities or land development to commence, and (iii) any person responsible for complying with an approved erosion and sediment control plan, agreement in lieu of a plan, or an approved stormwater management plan.~~

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Permit means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the city as a prerequisite to any land disturbing activity or development. [In relation to the provisions of articles II and III of this chapter the term shall mean an approval issued by the VSMP/-VESCP Administrator for the initiation of a land-disturbing activity in accordance with this chapter, after evidence of State general permit coverage has been received.](#)

Permittee means ~~(i) the person to whom a permit authorizing a land-disturbing activity activities is issued, and, in the appropriate context the term may refer to (ii) the person who certifies that an approved erosion and sediment control plan will be followed, or (iii) the person who certifies that an approved stormwater management plan will be followed.~~

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of ~~the Commonwealth~~this state, any interstate body, or any other legal entity.

~~*Pollutant* refers to, without limitation, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances and accumulations; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues resulting from construction of a building or structure; noxious or offensive matter of any kind; and other, similar substances that cause or contribute to water pollution.~~

Pollution Prevention Plan shall mean a plan for implementing pollution prevention measures during construction activities, which meets the requirements of 9VAC25-870-56.

Project shall have the same meaning as set forth above for the term *development*.

Public waters means and refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

Redevelopment for purposes of this chapter, means and refers to construction of buildings, ~~and~~ structures, fixtures or other improvements to land as replacement(s) for existing improvements.

Regulations means (1) in the context of the provisions of article II, the Virginia Erosion and Sediment Control Regulations set forth within 9VAC25-840-10 *et seq.* of the Virginia Administrative Code, or (2) in the context of the provisions of article III, the Virginia Stormwater Management Regulations set forth within 9VAC25-870-10 *et seq.* of the Virginia Administrative Code.

Residential development means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three (3) or more residential dwelling units.

Responsible land disturber or RLD means an individual ~~holding from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a responsible land disturber a certificate of competence issued by the Department, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Virginia Code § 54.1-400 et seq. who is responsible for the operations of carrying out land disturbing activity in accordance with an approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor or any other project or development team member; however, the identity of the RLD must be designated on the approved erosion and sediment control plan or permit.~~

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land disturbing activity. All of the land that is part of a development, or of common plan of development or sale shall be considered as a single site.

State means the Commonwealth of Virginia, inclusive of its departments, boards, agencies and divisions.

State Board means the Virginia State Water Control Board.

State General Permit means the state permit titled “*General Permit for Discharges of Stormwater From Construction Activities*” referenced within the Virginia Administrative Code at 9VAC25-880-1 *et seq.*, authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the State Board. Under a State permit, the State imposes and enforces requirements pursuant to the federal Clean Water Act and related regulations and the Virginia Stormwater Management Act and related regulations.

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

State Water Control Law means Chapter 3.1 (§62.1-44.2 *et seq.*) of Title 62.1 of the Virginia Code.

Storm sewer system means the city's municipal system of roads, streets, catch basins, retention and detention basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the city which are designed or used for collecting, storing or conveying stormwater, or through which stormwater is collected, stored or conveyed.

Stormwater and stormwater runoff means precipitation that is discharged across the land surface or through conveyances to one or more waterways. The term may include stormwater runoff, snow melt runoff, and surface runoff and drainage any surface flow, runoff and drainage consisting of water discharged across the land surface, or through conveyances, to one (1) or more waterways, from any form of natural precipitation.

~~Stormwater management facility~~ means a device that controls stormwater runoff and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

~~Stormwater management facility maintenance agreement~~ means an agreement that binds the owner or other designated parties to maintain and inspect stormwater management facilities constructed in accordance with this chapter, based on specific terms and conditions of the agreement.

~~Stormwater management plan~~ means any document(s) containing material that describes method(s) for complying with the requirements of article III of this chapter how existing runoff characteristics will be maintained within a land development project, that describes controls for the management of the rate of stormwater discharge, and that describes any best management practices provided for water quality protection. A stormwater management plan may include a narrative section, a map or site plan, pertinent calculations and specifications included with the plan.

Stormwater Pollution Prevention Plan or SWPPP means a document or set of documents prepared in accordance with good engineering practices, meeting the requirements set forth within 9VAC25-870-54, in which potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site are described, and control measures are identified.

Stream buffer means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

Subdivision shall have the same meaning as set forth within Sec. 29-3 of the City Code means the division, including resubdivision, of any lot, tract or parcel of land into two (2) or more lots, tracts or parcels, for the purpose, whether immediate or future, of sale or building development.

Total maximum daily load or TMDL means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs may be expressed in terms of either mass per time, toxicity, or other appropriate measures. The TMDL process provides for point source versus nonpoint source trade-offs.

Transporting means any moving of earth materials from one place to another place, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

VAC means the Virginia Administrative Code. References to specific sections of the Virginia Administrative Code appear in the following format: e.g., 9VAC25-870-10. Whenever reference to a specific VAC section is given, the provisions of that VAC section shall be deemed incorporated into this chapter by reference, as if set forth herein verbatim.

Virginia Erosion and Sediment Control Program or VESCP means a program approved by the State that has been established by the City for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and shall include such items, where applicable, as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in article II of this chapter, and evaluation consistent with the requirements of this chapter and related federal, State and local regulations.

Virginia Erosion and Sediment Control Program Authority or VESCP Authority shall mean the City of Charlottesville, acting pursuant to authority granted by the State to operate a VESCP.

Virginia Stormwater BMP Clearinghouse Website means a State website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Act means Article 2.4 (§§ 62.1-44.15:24 et seq.) of the State Water Control Law and the related state regulations set forth within 9VAC25-870-10 et seq.

VSMP or Virginia Stormwater Management Program means a program approved by the State Board after September 13, 2011, that has been established by the city to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in article III, and evaluation consistent with the requirements of article III.

VSMP Authority or Virginia Stormwater Management Program Authority means the City of Charlottesville, acting pursuant to authority granted by the State to operate a VSMP.

Water dependent facility refers to land development that cannot exist outside the stream buffer and must be located on a shoreline because of the intrinsic nature of its operation, including, without limitation: intake and outfall structures of water and sewage treatment plants and storm sewers; water-oriented recreation areas; and boat docks and ramps.

~~*Water quality volume* means the volume equal to the first one-half (½) inch of runoff multiplied by the impervious surface of the land development project.~~

~~*Watershed* means a defined land area drained by a river, stream or drainage ways, or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.~~

~~Wetlands non-tidal means wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the federal Clean Water Act.~~

Sec. 10-6. Program administration ~~Designation of program authority; powers and duties.~~

(a) ~~The city council hereby designates the department of neighborhood development services as its administrator for the programs referenced in authority for Articles II, III, and IV. Administration and enforcement of Article V shall be as set forth within sections 10-92 and 10-93.~~

(b) ~~The administrator program authority shall administer and enforce the provisions of this chapter, acting by and through its director ~~authorized city officials and employees~~. The director may enter into agreements or contracts with the local soil and water conservation district, an adjacent locality, or another public or private entity, to carry out or assist with the responsibilities of this chapter. The director of the department of neighborhood development services shall have authority to assign specific responsibilities or functions of the administrator to authorized agents of such department, such as another city official, employee, or an independent contractor, consistent with requirements of this chapter and applicable state laws and regulations.~~

(c) ~~The administrator program authority shall establish reasonable regulations and interpretive guidelines for the administration of this chapter, subject to approval of city council. Such regulations and guidelines shall be consistent with this chapter and all applicable federal and Sstate statutes and regulations ~~(including, without limitation, the provisions of Va. Code § 10.1-570 and § 10.1-603.7, and they shall be subject to the approval of city council.~~~~

(d) ~~Within one (1) year of the date of adoption of this chapter ~~†~~The administrator program authority shall assure that the erosion and sediment control program set forth in Article II is administered by a certified program ~~administrator~~ administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person. The administrator shall assure that persons reviewing stormwater management plans and conducting related inspections shall hold a certificate of competence issued by the Board.~~

(e) ~~The administrator program authority shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities and land developments.~~

(f) ~~The administrator program authority is authorized to cooperate with any federal or Sstate department, agency, or official in connection with plans for erosion and sediment control or stormwater management. The administrator program authority may also recommend to the city manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the city manager on behalf of the city.~~

Sec. 10-7. Saving provision.

The adoption of this chapter shall not abate any pending action, liability, or penalty of any person accruing or about to accrue, nor waive any right of the city under any provision in effect prior to the date of adoption of this chapter, unless expressly provided for in this chapter. ~~Any erosion and sediment control plan, runoff control permit and, to the extent they pertain to stormwater management, any final site plan or plat, approved prior to the date of adoption of this chapter shall remain in full force and effect, and all rights and remedies of the city in enforcing such plans, permits and plats are hereby preserved. As they pertain to land disturbing activity for development that is the subject of a site plan or subdivision plat approved prior to July 1, 2014, the requirements of this chapter in relation to such development shall be as prescribed within the Regulations, or as otherwise specified by state law.~~

Sec. 10-8. Appeals from decisions under this chapter.

(a) Any person who is aggrieved by a decision of the ~~administrator program authority~~ pursuant to this chapter shall have the right of review of such action by the city council. Any such appeal shall be filed in writing with the clerk of the city council within ~~ten (10) days~~ thirty (30) days of the date of such decision.

(b) An appeal received by the city council pursuant to this section shall be referred to the planning commission for review and findings of fact. The planning commission shall review the appeal at its next regular meeting following the date the notice of appeal is received by the clerk of council, and shall report its findings to city council. The city council shall review the appeal within thirty (30) days after the date of the planning commission meeting, at a regular or a special meeting of city council.

(c) The city council shall consider evidence presented by the owner, the ~~Administrator program authority~~, and any other aggrieved person.

(d) The council shall render its decision in writing and may affirm, reverse or modify the ~~administrator's program authority's~~ decision. The council's decision shall constitute the final decision of the city on the matter(s) which are the subject of the appeal.

(e) Any person aggrieved by a final decision of the city council pursuant to this section shall have the right of review of such decision by the circuit court of the city. Any such appeal shall be filed by the aggrieved person in writing with the circuit court within thirty (30) days of the city council's final decision.

(f) For the purposes of this section, "aggrieved person" is limited to the owner, a permittee, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

~~Note—This definition of "aggrieved person" is exactly the same as that currently set forth within section 10-2(c) of Chapter 10—a provision that dates back as far as the City Code of 1976 (§ 9-13). An identical provision appears in Albemarle County's Water Protection Ordinance, see § 17-210(C) of the County Code. The definition reflects long-settled principles~~

of legal standing, as articulated within various court opinions through the years. See, e.g., *Virginia Beach Beautification Commission v. BZA*, 231 Va. 415, 344 S.E.2d 899 (1986).

Sec. 10-9. Compliance with chapter required prior to prerequisite to issuance of permits authorizing for development involving land disturbing development activities.

(a) A person shall not commence, conduct or engage in any land-disturbing activity until he has submitted a permit application to the administrator and has obtained the administrator's approval of a permit authorizing commencement of land disturbing activity. A grading, building or other permit for activities involving land disturbing activities may be issued by the program authority only as provided herein:

(1) The applicant owner shall submit with his application for such a permit:

a. a proposed erosion and sediment control plan;

b. a proposed and/or stormwater management plan, if required;

c. a State General Permit registration statement, if required; as may be required by this chapter, for review and approval pursuant to this article, or an approved erosion and sediment control plan and/or stormwater management plan and certification that the plan(s) will be followed.

d. for the land that is proposed to be disturbed, (i) a valid, approved preliminary site plan that provides a layout, as defined in 9VAC25-870-10, or a valid approved site plan, (ii) a valid, approved preliminary subdivision plat that provides a layout, as defined in 9VAC25-870-10, or a valid, approved final subdivision plat, or (iii) for land use or construction not subject to the requirement of an approved site plan or subdivision plat, the applicant shall submit a written certification of the purpose of the proposed land disturbing activity together with a zoning administrator determination stating that the use sought to be established on the land is permitted under applicable zoning district regulations and will comply with applicable requirements of the city's zoning and other local ordinances;

e. any request for exception(s) from applicable technical requirements; and

f. payment of required application fee(s), pursuant to sec. 10-10.

The administrator permit-issuing department shall not issue any approval(s) permit for commencement of any land-disturbing activity until all such required submissions and plans have been received and approved and the required certification(s) are submitted.

(2) Prior to issuing a permit, the permit-issuing department shall require, or in the case of an agreement in lieu of a plan may require, the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the program authority, to ensure that measures could be taken by the city at the applicant's expense, should he fail, after proper notice, within the time specified to initiate or maintain appropriate corrective action which may be required of him by the approved plan as a result of his land-

disturbing activity. The administrator shall act on each plan included within the application, in accordance with the following:

- a. The administrator, or any duly authorized agent of the administrator, shall promptly review the materials submitted with an application. The administrator or his agent shall determine the completeness of the application within 15 calendar days of receipt, in accordance with the procedure referenced in 9VAC25-870-108(B).
 - b. The administrator or his agent shall act on a plan within the time period(s) and in accordance with the procedures referenced within 9VAC25-870-108(B). However, when a proposed erosion and sediment control plan is determined to be inadequate, notice of disapproval, stating the specific reasons for disapproval, will be communicated to the applicant within 45 days.
 - c. Approval or denial of a plan shall be based on compliance with the requirements of this chapter. Any decision shall be communicated in writing to the person responsible for the land-disturbing activity or his agent. Where available to the applicant, electronic communication will be deemed communication in writing. If a plan meeting all of the requirements of this chapter is submitted and no action is taken within the required time period, the plan shall be deemed approved. If a plan is not approved, the reasons for not approving the plan shall be provided in writing.
 - d. When all requirements have been satisfied and all required plans have been approved, the administrator shall issue a consolidated stormwater management and erosion and sediment control permit, when all of the following requirements have been satisfied:
 1. Upon the development of an online reporting system by DEQ, but no later than July 1, 2014, the administrator shall not issue a permit to authorize any land disturbing activity until evidence has been obtained of State General Permit coverage, where required; and
 2. The administrator must receive the performance guarantee(s) and other instruments and documentation specified in subparagraphs (3) through (6), following below; and
 3. All fees required by sec. 10-10 shall be paid by the applicant.
- (3) Prior to issuance of any approval or permit, the administrator shall require (or in the case of an agreement in lieu of a plan, may require) the applicant to submit a reasonable performance bond with surety, a cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator (individually, and collectively, "performance guarantee"), to ensure that measures could be taken by the city at the applicant's expense, should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the approved plan(s) and permit(s) or permit conditions as a result of his land-disturbing activity. Separate performance guarantees shall be established and required to assure compliance with the approved stormwater

management plan and with the erosion and sediment control plan, except as provided in subparagraph (c), below. A bond or other surety required by the permit-issuing department shall not exceed the total of the estimated cost to initiate, maintain and repair all structures, systems, and measures identified within an approved plan, and to comply with all other terms and conditions of the plan.

- a. The amount of the bond or other surety shall be based on unit prices for new public or private sector construction in the City of Charlottesville, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty five (25) percent of the estimated cost to initiate, maintain and repair all structures, systems, and measures identified within an approved plan, and to comply with all other terms and conditions of the plan.
- ab. Each The performance guarantee bond or other surety shall be effective provided from a date prior to the issuance of any permit or approval from the permit-issuing department or agency until sixty (60) days after completion of the requirements of approved plan(s) and permit(s) or permit conditions. the approved stormwater management plan have been completed, as determined by the program authority. The instrument(s) of security shall provide that the performance guarantee for stormwater requirements shall be and remain in effect until satisfactory completion of all permit conditions has been achieved. Within 60 days of the satisfactory completion of the requirements of the permit conditions, such security, or the unexpended or unobligated portion thereof, if any, shall be refunded to the applicant or terminated.
- be. If approved by the administrator program authority and the city attorney, the applicant owner may submit any required the performance guarantee bond or other surety as part of, or included in, any other performance guarantee(s) performance bond or surety required in connection with a site plan, subdivision plat or other required approval. In cases where any such consolidated performance guarantee is authorized, the administrator shall separately establish the specific amount(s) attributable to erosion and sediment control requirements, stormwater management requirements, construction of public facilities and improvements, and other activities for which a performance guarantee is to be provided.
- c. The instrument(s) of security shall provide the administrator and its authorized agents with a right of entry, for the purpose of initiating or maintaining appropriate actions that are required by the permit, or permit conditions associated with a land-disturbing activity when the applicant, a permittee, or other person responsible for carrying out the land disturbing activities or the requirements of a permit and permit conditions, after proper notice, has failed to take acceptable action within the time specified.
- d. This requirement for performance bonding/ security is in addition to all other provisions and requirements of this article, state law and state Regulations, relating to the issuance of permits, and is not intended to otherwise affect the requirements for such permits.

- e. If the administrator is required to take action upon a failure of the permittee, the administrator may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the performance guarantee held by the administrator.
 - f. The administrator may require submission of other materials and supporting documentation as the administrator deems necessary in order for the applicant to demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (4) ~~If the program authority is required to take corrective action pursuant to this article, then the city may collect from the owner the amount by which the reasonable cost of such corrective action exceeds the amount of the surety. Prior to issuance of any approval or permit for land disturbing activity involving one or more acres of land, the administrator shall require the applicant to submit a stormwater pollution prevention plan (SWPPP). The SWPPP shall include the content specified by 9VAC25-870-54, 9VAC25-870-55 and 9VAC27-870-56, as well as the requirements and general information specified by 9VAC25-880-70, Section II.~~
- a. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
 - ~~i.~~ b. The SWPPP must be maintained by the operator at a central location at the site of the development. If no onsite location is available, notice of the SWPPP's location must be posted near the main entrance at the development site. Operators shall make the SWPPP available for public inspection in accordance with 9VAC25-880-70, Section II, either electronically or paper copy.
- (5) ~~Within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity in any land development project or section thereof, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or terminated based upon the percentage of stabilization accomplished in the project or section thereof. Except as provided in sec. 10-56(d), prior to issuance of any approval or permit for land disturbing activity associated with development for which permanent stormwater management facilities are required, the administrator shall require the applicant to submit a proposed written instrument, in a form suitable for recordation in the city's land records, specifying long-term responsibility for and maintenance of the stormwater management facilities and other techniques specified within the proposed stormwater management plan for management of the quality and quantity of runoff.~~
- (b) No site plan shall be granted final approval, and no final subdivision plat shall be signed by any city board, commission, agency, department, official or employee, unless and until such final site plan or final subdivision plat includes improvements, facilities and

treatments identified within a stormwater management plan approved by the administrator in accordance with this chapter.

(c) No authorization or permit for any construction, land use or development involving any land-disturbing activity, including any grading permit, building permit, foundation permit, demolition permit, or other city-issued development permit, shall be issued by any city board, commission, agency, department, official or employee, unless and until a stormwater management plan has been approved and a permit has been issued by the administrator in accordance with this chapter.

Sec. 10-10. Fees for review and approval of plans.

(a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, actions, inspections, permits and approvals required by this chapter in connection with the review of plans, issuance of VSMP and VESCP Authority permits, issuance of State General Permit coverage, and implementation of the VSMP and VESCP related to land disturbing activities. Prior to the issuance of any permit authorizing commencement of any land disturbing activity, and prior to conducting any inspection or other action required by this chapter for which a fee is specified, the administrator shall assess, collect and administer the applicable fees and charges set forth within the most recent fee schedule adopted by city council.

(b) The city council hereby adopts and incorporates by reference the statewide fee schedule(s) enacted by the State Board pursuant to Virginia Code §62.1-44.15:28 and 9VAC25-870-700 et seq., and said fee schedule(s) shall be deemed included within the local fee schedule referenced in paragraph (a), above. Prior to the issuance of any permit authorizing the commencement of any land disturbing activity, the administrator shall assess, collect and administer the fees as set forth within 9VAC25-870-700-700 et seq., including, without limitation:

- (1) Fees for the modification or transfer of registration statements from the State General Permit issued by the State Board; provided, however, that if the State General Permit modifications result in changes to stormwater management plans that require additional review by the administrator, then, in addition to the State General Permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference between the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage. No such modification fee shall be assessed to (i) permittees who request Minor Modifications to a State General Permit, or (ii) permittees whose general permits are modified or amended at the initiative of DEQ (excluding errors in the registration statement identified by the administrator and errors related to the acreage of the site); and
- (2) Annual fees for maintenance of the State General Permit, including fees on expired permits that have been administratively continued. State General Permit maintenance fees shall be paid annually to the city, on or before the anniversary date of general permit coverage. State General Permit maintenance fees shall apply, and shall

continue to be paid, until State General Permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee for State General Permit coverage.

(3) Payment of the state's portion of the statewide permit fee shall not be required for coverage under the State General Permit, for construction activity involving a single-family detached residential structure, when such activity is exempted from such fee pursuant to regulations established by the State Board.

State General Permit coverage and maintenance fees may apply to each State General Permit holder. Persons whose coverage under the State General Permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities. All persons seeking approval of a stormwater management plan, all persons seeking coverage under the State General Permit, and all permittees who request modifications to or transfers of their existing registration statement for coverage under a State General Permit, shall be subject to the fees referenced within this paragraph, in addition to any separate fees that may apply under paragraph (a) of this section.

(c) Fees shall be paid when due, by applicants, permittees, and other persons responsible for carrying out conditions of a permit. An incomplete payment will be deemed a nonpayment. Interest shall be charged for non-payments and for late payments, at the rate set forth in Virginia Code §58.1-15, calculated on a monthly basis at the applicable periodic rate. A ten percent (10%) late payment fee shall be charged to any delinquent account that is more than 90 days past due. The city shall be entitled to all remedies available under the Virginia Code in collecting any past due amount.

Secs. 10-11—10-20. Reserved.

2. That City Code Chapter 10, Article II (Erosion and Sediment Control) be amended and re-ordained, as follows:

DIVISION 1. IN GENERAL

Sec. 10-21. Purpose and authority; applicability~~Permit required for land-disturbing activities.~~

(a) The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff, and by establishing procedures by which these requirements shall be administered and enforced.

(b) This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1 (State Water Control Law) article 2.4, Sec. 62.1-44.15:51 et seq. (Erosion and Sediment Control Law).

~~(a)~~(c) This article shall apply to any land disturbing activity within the city, except that state agency projects shall be subject to the requirements of Virginia Code § ~~10.1-56462.1-~~44.15:56. Each owner of land within the City shall comply with the requirements of this article, as provided herein:

- (1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his property;
- (2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and
- (3) When notified by the ~~program authority~~administrator that an erosion impact area exists on his land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.

(d) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to “this article”, and references to “provisions of this article” shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and II of this chapter.

~~No person shall engage in any land-disturbing activity within the city until he has acquired a permit from the zoning administrator.~~

Sec. 10-22. Determination of land disturbing activity.

(a) The determination of whether an activity is a land disturbing activity for purposes of this article shall be made by the administrator, as provided herein: Except as may otherwise be

required by federal or state law or regulations, the term “land disturbing activity” shall not include:

- (1) Disturbed land areas of less than 6,000 square feet;
- (2) Home gardens, individual home landscaping, repairs or maintenance work; ~~The program authority shall determine whether an activity is a land disturbing activity, including any claim by an owner that the activity is exempt from the requirements of this article.~~
- (3) Individual service connections; ~~If a land disturbing activity includes activity at a separate location, including but not limited to borrow and disposal areas, the program authority administrator may either:~~
 - a. ~~Consider the off-site activity as being part of the land disturbing activity, and require an erosion and sediment control plan to be submitted and approved; or~~
 - b. ~~If the off-site activity is already covered by an erosion and sediment control plan approved by the city, require the owner to provide proof of the approval and to certify that the plan will be implemented in accordance with this article.~~
- (4) Installation, maintenance, or repair of any underground public utility lines, when such activity occurs on an existing hard surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced; ~~If a property will be developed in phases, the determination of whether an activity constitutes a land disturbing activity shall be determined by considering the development of the property as a whole, regardless of the phasing of the development.~~
- (5) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of a building to be served by the septic tank system; ~~Land disturbing activity of less than six thousand (6,000) square feet on individual lots in a residential development shall not be exempt from this article if the total land disturbing activity in the residential development is equal to or greater than six thousand (6,000) square feet.~~
- (6) Surface or deep mining operations and projects, or oil and gas operations and projects, conducted in accordance with a permit issued pursuant to Code of Virginia Title 45.1; however, such activities shall not be conducted unless allowed by the city’s zoning ordinance;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Code of Virginia § 10.1-1100 *et seq.*, or is converted to bona fide agricultural or improved pasture use, as described in subsection B of § 10.1-1163. Such activities shall not be conducted unless allowed by the city’s zoning ordinance.

- (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
- (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
- (12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if there were no emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this article.
- (b5) Upon the determination by the ~~program authority~~ administrator that an activity is a land disturbing activity the owner shall ~~immediately~~ submit an erosion and sediment control plan to the administrator for review and approval, and shall otherwise take all actions necessary to comply with the requirements of this article.
- (c) Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either:
- (1) Consider the off-site activity as being part of the proposed land-disturbing activity; or
- (2) If the off-site activity is already covered by an approved erosion and sediment control plan, the administrator may require the applicant to provide proof of such approval and to certify that the plan will be implemented in accordance with the requirements of this article.
- (d) An erosion and sediment control plan shall be submitted and approved for a development and the buildings constructed within, regardless of the phasing of construction.

Sec. 10-23. Determination of erosion impact area.

(a) In order to prevent further erosion, the administrator may require submission and approval of an erosion and sediment control plan for any land determined to be an erosion impact area, regardless of the size of such area. The determination of whether an erosion impact area exists ~~on property~~ shall be rendered ~~by the administrator as provided herein:~~

(b) The ~~program authority~~ administrator shall determine whether an erosion impact area exists on a property ~~and the property and the owner thereof are subject to the requirements of this article.~~ The ~~program authority~~ administrator shall make this determination after an investigation brought either on his own initiative or upon the complaint of any citizen.

(c) Upon making a determination that an erosion impact area exists, the ~~program authority~~ administrator shall immediately notify the owner of the property, in writing, of its determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the city, or by personal delivery. The written notice shall (i) instruct the owner to submit an erosion and sediment control plan for review and approval as provided in this article, and (ii) state the date by which the plan must be submitted.

(d) Upon receipt of the notice required by this section the owner shall ~~immediately~~ submit to the ~~program authority~~ administrator for approval ~~an~~ conservation erosion and sediment control plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.

(e) For good cause shown, the ~~program authority~~ administrator may grant to an owner an extension of time to comply with the requirements of this section and this article.

Secs. 10-24—10-30 Reserved.

DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 10-31. Permit required for land disturbing activities ~~Applicability.~~

No person shall engage in any land-disturbing activity within the city until ~~he has acquired a permit from the zoning administrator~~ an erosion and sediment control plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code. The land disturbing permit is required in addition to any other approval required by this chapter, by the city's zoning or subdivision ordinances, or from the city's building official (including, without limitation, any building permit, foundation permit, or demolition permit).

~~This article shall apply to any land disturbing activity, except that state agency projects shall be subject to the requirements of Virginia Code § 10.1-564. Each owner shall comply with the requirements of this article, as provided herein:~~

- ~~(1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his property;~~
- ~~(2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and~~
- ~~(3) When notified by the program authority that an erosion impact area exists on his land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.~~

Sec. 10-32. Responsibilities of owner of land when work to be conducted by contractor.

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

Sec. 10-33. Conformity to state handbook and regulations.

Pursuant to Code of Virginia § 62.1-44.15:54 the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state Board, and the City's Design and Standards Manual, for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the Virginia Erosion and Sediment Control Regulations set forth within the Virginia Administrative Code at 9VAC25-840-10 et seq. and the Virginia Erosion and Sediment Control Handbook, including all amendments thereto. The regulations, references, guidelines, standards and specifications referenced within this paragraph shall be used (i) by an applicant when preparing and submitting an erosion and control plan for review and approval of the administrator under the provisions of this article, and (ii) by the administrator, in considering the adequacy of a submitted plan.

~~All plans and specifications submitted under this article shall be in conformance with the standards, specifications and criteria of the Virginia Erosion and Sediment Control Handbook and those regulations promulgated by the Virginia Soil and Water Conservation Board, including, without limitation, the criteria, techniques and methods set forth in 4 Virginia Administrative Code 50-30-40; provided, however, that pursuant to Virginia Code § 10.1-561 the following shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels:~~

- ~~(1) Stream restoration and relocation projects that incorporate natural channel design concepts;~~

~~(2) Any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or man-made channels, and shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over forty eight (48) hours; (ii) detain and release over a twenty four hour period the expected rainfall resulting from the one (1) year, twenty four hour storm; and (iii) reduce the allowable peak flow rate resulting from the one and one half, two, and ten year, twenty four hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition.~~

Sec. 10-34. Review and inspection Fees.

~~Fees A plan review and inspection fee shall be submitted at the time of filing any erosion and sediment control plan, and thereafter, as ~~This fee shall be an amount~~ specified within the most recent fee schedule approved by city council. Each re-submission of a plan following rejection by the program authority administrator shall constitute a new application requiring an additional application fee.~~

Sec. 10-35. Erosion and sediment control plan.

~~(a) No person shall engage in any land-disturbing activity until he has submitted to the administrator. Each owner subject to this article shall submit to the program authority for review and approval an erosion and sediment control plan, along with an application for a land disturbing permit in accordance with article I as provided herein.;~~

~~(b) (1) — The owner shall submit a completed application on a form provided by the program authority, together with four (4) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.~~

~~(c) (2) — The standards contained within the Regulations, and within the Virginia Erosion and Sediment Control Handbook, as amended, and the City's Standards and Design Manual, shall be used by the applicant in preparing and submitting an erosion and sediment control plan. The plan shall include specifications for temporary and permanent controls of soil erosion and sedimentation in such detail as the program authority shall deem reasonably adequate, considering the nature and extent of the proposed land disturbing activity, and a statement describing the maintenance responsibilities of the owner to assure that the land disturbing activity will satisfy the purposes and requirements of this article. The plan shall identify the responsible land disturber, as defined in this chapter, who shall be in charge of and responsible for carrying out the land disturbing activity.~~

~~(d) (3) — The program authority administrator may require additional information as may be necessary for its complete review of the plan.~~

~~(e) (4) — In lieu of paragraphs (1)–(3), above, if the land disturbing activity involves land also under the jurisdiction of another local erosion and sediment control program, the~~

~~owner may, at his option, choose to have a conservation plan approved by the Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation. The owner shall notify the program authority administrator of such plan approval by such board where land disturbing activity will involve land under the jurisdiction of more than one locality's program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state Board or its agent (DEQ) for review and approval, rather than to each locality.~~

~~(f) (5)~~—In lieu of paragraphs (1)—(3), above, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the DEQ board for review and approval consistent with guidelines established by the Bboard.

~~(g) (6)~~—Pursuant to Virginia Code § ~~40.1-56362.1-44.15:55~~(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies shall, and railroad companies shall and authorities created pursuant to Code of Virginia § 15.2-5102 may, file general erosion and sediment control specifications annually with the Board board for review and approval.

Sec. 10-36. Review and approval of erosion and sediment control plan.

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

- (1) The plan shall be submitted along with the application required by sec. 10-9 of article I, and shall be reviewed by the program authority administrator to determine its compliance with the requirements of this article and with applicable state laws and regulations.
- (2) During ~~its~~this review of the plan the program authority administrator may correspond with the owner from time to time to review and discuss the plan with the owner, and may require additional information shall inform from the owner ~~in writing of any modifications, terms, or conditions required to be included in the plan as necessary~~ in order for ~~the~~the plan to be approved.
- (3) ~~Except as provided in paragraph (4), below, the program authority shall approve or disapprove a plan in writing within forty five (45) days from the date a complete application was received. The decision of the program authority shall be based on the plan's compliance with the requirements of this article and with applicable state laws and regulations. If the plan is disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. The decision shall be communicated to the applicant by mail or delivery. The administrator shall review erosion and sediment control plans submitted to him, and shall either grant written approval or written notice of disapproval in accordance~~

with the time periods and other requirements set forth within Code of Virginia § 62.1-44.15:55 and article I of this chapter.

- (4) ~~If the program authority fails to act on the plan within forty five (45) days from the date the complete application was received by it, then the plan shall be deemed approved. Applicants for land-disturbing permits may be required to provide a performance bond, cash escrow or other financial guarantee, determined in accordance with Sec. 10-9 of this chapter, to ensure that measures could be taken by the administrator at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate measures required of him by the approved erosion and sediment control plan as a result of his land-disturbing activity.~~
- (5) If the owner is required to obtain approval of a site plan or subdivision plat for a development, the ~~program authority~~ administrator shall not approve an erosion and sediment control plan or authorize the commencement of any land disturbing activity, unless and until the site plan or plat has received final approval is approved as provided by law. ~~For purposes of this paragraph, a site plan or plat may be deemed approved by the program authority if its approval is conditioned upon the approval of an erosion and sediment control plan pursuant to this article, and the program authority determined that review and approval of the erosion and sediment control plan will not affect approval of the site plan or plat. The program authority may~~ Notwithstanding the foregoing, the administrator may approve an erosion and sediment control plan and authorized commencement of land disturbing activity, prior to approval of a required final site plan or final subdivision plat only in the following circumstances:
- a. To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
 - b. ~~To clear and grub stumps and other activity directly related to the selective cutting of trees, as may be permitted by law; To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have previously been approved by the operating public utility or public service corporation and have previously been approved by the city as being substantially in accord with the comprehensive plan, where required by Code of Virginia § 15.2-2232.~~
 - e. ~~To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have been previously approved by the operating utility and approved by the city as being substantially in accord with the comprehensive plan, if necessary;~~
 - d. ~~To fill earth with spoils obtained from grading, excavation or other similar, lawful activities;~~

- e. ~~To construct temporary access roads, provided that the area disturbed shall be returned to substantially its previous condition, with no significant change in surface contours, within thirty (30) days of the completion of such temporary use, or within thirteen (13) months of the commencement of any land disturbing activity on the land which is related to such temporary use, whichever period shall be shorter.~~
- f. ~~To establish burrow, fill, or waste areas, if permitted by the city's zoning ordinance.~~

Sec. 10-36.1. Variances.

The ~~administrator program authority~~ may waive or modify any of the standards that are deemed ~~by it to be inappropriate or~~ too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the ~~administrator program authority~~ shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the ~~administrator program authority~~. The ~~program authority administrator~~ shall respond in writing either approving or disapproving such a request. If the ~~program authority administrator~~ does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (3) The administrator shall consider variance requests judiciously, keeping in mind both the need of an applicant to maximize cost effectiveness and the public interest and need to protect off-site properties and resources from damage.

Sec. 10-37. Agreement in lieu of a plan.

~~(a) If land disturbing activity is for the purpose of establishing or modifying a single family detached dwelling, then, in lieu of an erosion and sediment control plan, program authority the administrator may enter into a contract with the property owner that specifies conservation measures that must be implemented in the construction of the single-family dwelling.~~

~~allow an agreement in lieu of a plan for the construction of such dwelling, provided:~~

- ~~(1) The single family dwelling is located on an individual lot which is not part of a subdivision;~~
- ~~(2) The single family dwelling is located within a residential development or subdivision, and the individual lots are being developed by different property owners; or~~
- ~~(3) The single family dwelling is located within a subdivision that no longer has an active erosion and sediment control plan; and~~

~~(4) The agreement in lieu of a plan identifies the responsible land disturber, as defined in this chapter, who shall be in charge of and responsible for carrying out the land disturbing activity.~~

(b) In determining whether to allow an agreement in lieu of a plan, the ~~program authority administrator~~ shall include as part of its consideration the potential threat to water quality and to adjacent land resulting from the land disturbing activity, as well as applicable provisions of state law and regulations. When an agreement in lieu of a plan is authorized and approved by the ~~program authority administrator~~, the ~~program authority administrator~~ and the owner shall have all of the rights, responsibilities and remedies set forth in this article as though such agreement in lieu of a plan was an erosion and sediment control plan.

(c) The administrator may waive the requirement for a responsible land disturber holding a certificate of competence, in connection with an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and shall provide the name of an responsible land disturber holding a certificate of competence, as provided by Code of Virginia § 62.1-44.15:55.

Sec. 10-38. Amendment of approved plan.

The ~~program authority administrator~~ may require changes to an approved erosion and sediment control plan, and require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this article;
- (2) The person responsible for carrying out the plan ~~owner~~ finds that, because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out and proposed amendments to the plan, consistent with the requirements of this article are agreed to by the ~~program authority administrator~~ and the ~~owner~~ person responsible for carrying out the plan; or
- (3) In the event that The land disturbing activity ~~was not~~ has not commenced during the 180 ~~one hundred eighty~~ day period following plan approval, or if land disturbing activity pursuant to an approved plan has ceased for more than one ~~hundred eighty~~ (180)-180 days, the administrator may evaluate the existing approved erosion and sediment control plan and the existing plan has been evaluated to determine whether ~~the plan~~ still satisfies the requirements of this article and state erosion and sediment control criteria, and to verify that all design factors are still valid. If the administrator finds the previously approved, and it has been determined that the plan is to be inadequate, In such a case, the land disturbing activity shall not be resumed until a modified plan shall be submitted for approval by the administrator prior to the commencement or resumption of land-disturbing activity a modified plan is submitted and approved as provided in this article.

Sec. 10-39. Duty to comply, maintain and repair.

Upon approval by the ~~program authority~~administrator of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land disturbing activities, or activities to correct an erosion impact area;
- (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;
- (3) Comply with all requirements of this article, and with applicable state laws and regulations; and
- (4) ~~Provide the name of Have~~ a responsible land disturber, as defined in article I of this chapter, who will be in charge of and responsible for carrying out the land disturbing activity.

Sec. 10-40. Inspection and monitoring.

(a) ~~As a condition of approval of an erosion and sediment control plan, the program authority~~administrator may require the person responsible for carrying out the plan owner to monitor the land-disturbing activity and report to the program authority as provided herein:

- (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentationation.
- (2) The condition requiring monitoring and reporting shall state: (i) the method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.
- (3) The person responsible for carrying out the plan will maintain records of inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) ~~The program authority shall inspect any land disturbing activity or erosion impact area as provided herein: The administrator shall periodically inspect the land disturbing activity in accordance with 9VAC25-840-60, to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation as provided herein. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.~~

- (1) ~~The program authority shall conduct periodic inspections of land disturbing activities and erosion impact areas to determine compliance with the approved erosion and sediment control plan, and to determine whether such approved plan and permit as implemented are adequate to satisfy the requirements of this article. Monitoring, reports and inspections required by the administrator shall be conducted in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58 and 62.1-44.15:60, and applicable provisions of state regulations.~~

- (2) ~~Except as provided in paragraph (3), below, inspections shall be conducted (i) during or immediately following initial installation of erosion and sediment controls; (ii) at least once in every two week period; (iii) within forty eight (48) hours following any runoff producing storm event, and (iv) upon completion of the land development project prior to the release of any surety. The inability of the program authority to conduct inspections within the time periods set forth within this paragraph shall not be deemed to be a failure of the program authority to perform a mandatory duty or a ministerial function, and no liability to the city, the program authority or to any official or employee thereof shall arise therefrom. If the administrator determines that there is a failure to comply with the approved plan, notice shall be served on the permittee or person responsible for carrying out the plan, in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58. Upon failure to comply within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.~~
- (3) ~~Notwithstanding paragraph (2), above, the program authority is authorized to establish an alternative inspection program which ensures compliance with an approved erosion and sediment control plan. Such alternative inspection program shall be: (i) approved by the Virginia Soil and Water Conservation Board prior to implementation; (ii) established in writing; (iii) based on a system of priorities which, at a minimum, address the amount of disturbed project area, site conditions, and stage of construction; (iv) documented by inspection records; and (v) maintained and available for public review in the department of neighborhood development services. Upon determination of a violation of this ordinance the administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. In cases where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Any such order shall be served in the same manner as a notice to comply. A stop-order shall have the effects, shall remain in effect, as set forth within Code of Virginia §§ 62.1-44.15:58. Upon completion and approval of corrective action, or obtaining an approved plan and any required permits, the order shall be lifted. Upon failure to comply with any such order within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.~~
- (4) ~~The program authority shall have the right to enter upon property subject to an erosion and sediment control plan for the purposes of conducting an inspection as provided in this section or an investigation pertaining to an erosion or sedimentation complaint. The owner shall be given notice of the inspection. Such notice may be either verbal or in writing. Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.~~

- (5) ~~The fees required for inspections conducted pursuant to this section are part of the required application fee. The fee required for inspections conducted following a runoff-producing storm event shall be paid by the owner within 30 days of the date shown on an invoice provided to the owner by the city following such inspection. Nothing in this section shall prevent the administrator from taking any other action authorized by this ordinance.~~

Sec. 10-41. Determination of noncompliance with plan; stop work orders.

Upon a determination by the ~~program authority~~administrator that an owner has failed to comply with an approved erosion and sediment control plan, the administrator shall provide notice to a permittee or person responsible for carrying out the erosion and sediment control plan, and may issue an order requiring that all or part of the land-disturbing activities be stopped, in accordance with the provisions of Code of Virginia § 62.1-44.15:58 and applicable ~~state regulations~~following procedures shall apply:

- ~~(1) The program authority shall immediately serve upon the owner a written notice to comply. The notice shall (i) instruct the owner to take corrective measures immediately, when immediate action is necessary to prevent erosion or sedimentation problems; (ii) state specifically the measures needed to come into compliance with the approved plan; and (iii) state a reasonable time for compliance. The notice shall be served by certified mail to the address provided by the owner in the application for approval of the plan, by personal delivery to the owner, or by personal delivery to an agent or employee at the site of the permitted activities who is supervising such activities.~~
- ~~(2) If the owner fails to take corrective measures stated in the notice to comply within the time specified in the notice, the permit issuing department may revoke any permit it has issued related to the land disturbing activity and the owner shall be deemed to be in violation of this article.~~
- ~~(3) If the owner fails, within the time specified in the notice, to take the corrective measures for compliance stated in the notice, the program authority, upon finding that such action is reasonably necessary to protect the public health, safety and welfare, may take all corrective measures it deems necessary in order to protect the public health, safety and welfare, and shall be entitled to recover the expenses of such action from the owner.~~
- ~~(4) Upon receipt of a sworn complaint of a violation of this article or of an approved erosion and sediment control plan, from an employee or representative of the program authority responsible for ensuring program compliance, the director of neighborhood development services or designee may, in conjunction with or subsequent to a notice of violation, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land disturbing activities have commenced without an approved plan, requiring that all of the land disturbing activities be stopped until an approved plan and any required permits have been obtained.~~

- ~~a.—Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands, sediment deposition in waters, or water quality problems within the watersheds of the Commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.~~
- ~~b.—A stop work order shall be served in the same manner as a notice to comply, and it shall remain in effect for seven (7) days from the date of service, pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court.~~
- ~~c.—If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of a stop work order, the director of neighborhood development services or his designee may issue an order to the owner requiring that all construction or other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by certified mail to the address specified in the permit application.~~
- ~~d.—The owner may appeal the issuance of any stop work order to the circuit court.~~
- ~~e.—Any person violating or failing, neglecting or refusing to obey an order issued by the director of neighborhood development services or his designee may be compelled in a proceeding instituted in the circuit court to obey the order and to comply therewith, by injunction, mandamus or other appropriate remedy.~~
- ~~f.—Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.~~
- ~~g.—Nothing in this section shall prevent the director of neighborhood development services or his designee from taking any other action authorized by this chapter or by any other provision of law.~~

Sec. 10-42. Certification of Pprogram personnel requirements.

(a) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer.

(b) Inspections of land-disturbing activities shall be conducted by a certified inspector.

(c) The city's erosion and sediment control program may be carried out by one or more persons; however, at all times the city's program, at a minimum, shall consist of a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.

(d) The certifications required by this section shall be those granted by the state Board, as set forth within Code of Virginia § 62.1-44.15:53.

~~As required by state law, the city's erosion and sediment control program shall meet, within one (1) year following the adoption of this section, the following minimum standards for effectiveness:~~

~~(1) A conservation plan shall not be approved until it is reviewed by a certified plan reviewer;~~

~~(2) Inspections of land-disturbing activities shall be conducted by a certified inspector; and~~

~~(3) The city's erosion control program shall contain a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.~~

Sec. 10-43. Penalties, injunctions and other legal actions.

(a) Any person violating the provisions of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.

(b) The following may apply to the circuit court for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist:

(1) The city; and

(2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing both the administrator and the person who has violated the provisions of this article, and the ~~program authority~~administrator, that a violation of this article has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated this article nor the ~~program authority~~administrator has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.

(c) In addition to any criminal penalties provided ~~under this section for a violation of this chapter~~, any person who violates any provision of this ~~article~~chapter may be liable to the city in a civil action for damages.

(d) Any person who violates any provision of this ordinance shall, upon a finding of the Charlottesville General District Court, be issued a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. The civil penalty for violations listed within the schedule set forth following below shall be as set forth within the schedule. The administrator may issue a summons for collection of any civil penalty.

(1) There is hereby established a schedule of civil penalties for certain violations of this ordinance, and any civil penalty assessed by a court applicable to any person who is found to have violated violates the sections referenced in the schedule shall be in accordance with the schedule. any regulation or order of the board, any condition of a permit issued under this article, or any provision of this article. Such person, upon a finding of an appropriate general district court, shall be assessed a civil penalty in accordance with this schedule. An appropriate official or employee of the program

authority, or a certified inspector for the city, may issue a summons for collection of the civil penalty and the action may be prosecuted by the city. Civil penalties shall be as set forth in the schedule below:

<u>Schedule of Violations Subject to Prescribed Civil Penalties</u>	Section	Penalty
Additional measures - failure to install additional measures as deemed necessary by the zoning administrator or his inspector once work has commenced	10-38 10-24	\$100.00
Bond - failure to obtain bond	10-23 10-36	\$100.00
E&S Conservation plan - failure to submit if required by program authority administrator	10-24 10-35	\$1000.00
E&S Conservation plan - failure to comply with approved plan	10-22 10-35 10-39	\$500.00 \$100.00
Corrections - failure to comply with mandatory corrections as issued on an E&S inspection notice or report	10-40 10-21 10-24	\$500.00 \$100.00
Existing conditions - failure to submit plan or provide controls after receipt of notice	10-21 10-23	\$500.00 \$100.00
Inspection - failure to request <u>at the time(s) required by approved plan</u>	10-39 10-24	\$100.00
Land disturbing permit or approved plan- commencement of land disturbing activities without an approved permit or plan	10-31 10-22	\$1,000.00
Land disturbing permit or approved plan - failure to comply with provisions	10-39 10-24	\$500.00 \$100.00

Live waterway - causing silt or debris to enter <u>when engaged in land disturbing activity without an approved plan and permit</u>	<u>10-31</u>	<u>\$500.00</u>
	10-21	\$100.00
Stop work order - failure to cease work after issuance	<u>10-40</u>	<u>\$1000.00</u>
	10-24	

(2) Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ~~thirteen~~ thousand dollars (~~\$310,000.00~~), except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of a civil penalty pursuant to this subsection (d) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor ~~under section 10-18~~. In any trial for a scheduled violation, it shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.

(e) Without limiting the remedies which may be obtained under ~~in~~ this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city against such person.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the administrator; any condition of a permit; or any provision of this article or associated regulations, ~~the zoning administrator or city manager issued under this chapter any condition of a permit issued under this chapter or any provision of this chapter, the zoning~~ administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000.00). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.

(g) Any civil penalties assessed by a court pursuant to this section shall be paid into the city treasury. However, ~~except that~~ where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

Secs. 10-44—10-49. Reserved.

3. **That City Code Chapter 10, Article III (Stormwater Management) is hereby repealed, and replaced with the following provisions:**

Sec. 10-50. Intent, purpose and authority.

(a) Pursuant to Virginia Code §§ 62.1-44.15:27 and 9VAC25-870-20, this article is adopted to establish a Virginia Stormwater Management Program that will integrate stormwater management requirements with the city's erosion and sediment control program, the city's MS4 permit, flood insurance, flood plain management, and related federal and state permits and requirements, into a unified program. This unified program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the city and those responsible for compliance.

(b) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and III of this chapter.

Sec. 10-51. Land disturbing permit required; exemptions.

(a) No person shall engage in any land-disturbing activity until a stormwater management plan has been approved and a land disturbing permit ~~for such activity~~ has been issued by the Administrator in accordance with Sec. 10-9 of the city code.

(b) Except as may otherwise be required by federal law, the following activities are exempt from the provisions of paragraph (a), above:

- (1) Where such uses are permitted by the City's zoning regulations: permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Where such uses are permitted by the City's zoning regulations: the clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or

improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

- (3) Where such use is permitted by the City's zoning regulations: single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Land disturbing activities that disturb less than six thousand (6,000) square feet of land area, but only if the land area to be disturbed is not part of a common plan of development or sale;
- (5) Discharges to a sanitary sewer or a combined sewer system;
- (6) Activities under a state or federal reclamation program to return an abandoned property to an open land use, or to an agricultural use where permitted by the City's zoning ordinance;
- (7) Routine maintenance performed to maintain the original line and grade, hydraulic capacity, or original construction of a project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subparagraph; and
- (8) Land disturbing activities conducted in response to a public emergency, where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven (7) days of the commencement of the land-disturbing activity and compliance with the administrative requirements of this chapter is required within 30 days of commencing the land-disturbing activity.

Sec. 10-52. Stormwater management program established.

Pursuant to Virginia Code §§ 62.1-44.15:27 and 62.1-44.15:49, the city hereby establishes a Virginia stormwater management program (VSMP) for land-disturbing activities and adopts the Regulations promulgated by the Board, specifying standards and specifications for such programs. No grading, building, or other city permit, shall be issued for a property unless a permit has been issued by the administrator pursuant to Sec. 10-9 of this chapter.

Sec. 10-53. Stormwater management plan required; contents.

(a) A person shall not conduct any land disturbing activity until he has submitted a stormwater management plan to the Administrator as part of the application required by sec. 10-9 and has obtained approval of the plan and a permit from the Administrator.

(b) Every stormwater management plan shall apply the stormwater management technical criteria set forth in sec. 10-54 to the entire land-disturbing activity. Individual lots within new residential, commercial or industrial subdivisions and developments shall not be considered separate land-disturbing activities, and the stormwater management plan for the entire subdivision or development shall govern the development of the individual parcels, including parcels developed under any subsequent owner(s).

(c) Every stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff; and shall include the following:

- (1) A general description of the proposed stormwater management facilities and the mechanism through which the permanent facilities will be operated and maintained after construction is complete;
- (2) Contact information, including the name, address, and telephone number of the owner and the city tax map reference(s) and parcel number(s) of the property on which the land disturbing activity is to be conducted;
- (3) A narrative that includes (i) a description of current site conditions and (ii) a description of final site conditions upon completion of development;
- (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
- (5) Information on the proposed stormwater management facilities, including:
 - (i) The type of facilities;
 - (ii) Location, including the address, latitude and longitude, and the sixth order hydrologic unit code in which the facilities are located;
 - (iii) Total area (expressed as acreage) treated;
 - (iv) Impervious area (expressed as acreage) treated;
 - (v) Amount of pollutants removed (expressed as a number of pounds of phosphorous per year); and
 - (vi) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with applicable water quality and quantity requirements. All stormwater runoff controls shall be designed and installed in accordance with the water quality and water quantity design criteria specified in sec. 10-54, and any additional standards or criteria set forth within the City's Standards and Design Manual;

- (8) A map or maps of the site that depicts the topography and other characteristics of the entire area of the land disturbing activity and proposed development, including:
- (i) All contributing drainage areas;
 - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - (iv) Current land use, including existing structures, roads, and locations of known utilities and easements;
 - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the development site on such adjacent parcels;
 - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
 - (vii) Proposed buildings, roads, parking areas, paved surfaces, utilities, and stormwater management facilities;
 - (viii) Proposed land use(s), with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, streets, paved areas, and public and private easements; and
 - (ix) A description of the proposed timing and/or phasing of land disturbing activities and development.

The land area depicted in the map shall include all land within the limits of a valid, approved preliminary or final site plan, or a valid, approved preliminary or final subdivision plat, for the proposed development, and the proposed land use(s) and improvements shown on such site plan or subdivision plat shall be the same as those depicted within the map.

- (9) Any other information, materials, requirements or provisions required by state Regulations, including, without limitation, 9VAC25-870-55 and the City's Standards and Design Manual.
- (10) If an operator intends to meet water quality and/or quantity requirements through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included and the requirements of Virginia Code §62.1-44.15:35 must be satisfied. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity, except as otherwise allowed by Virginia Code § 62.1-44.15:35.
- (11) Signature and seal by a professional, if any elements of the stormwater management plan includes activities within the scope of the practice of architecture, land surveying, landscape architecture, or engineering, or other activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Virginia Code.

(d) If land disturbing activity is for the purpose of establishing or modifying an individual single family detached dwelling, then, in accordance with applicable state Regulations, the administrator may enter into an agreement in lieu of a plan with a property owner. Any such agreement in lieu of a stormwater management plan shall refer to specific measures that shall be implemented by the property owner to comply with the requirements of this article for the construction of the dwelling.

Sec. 10-54. Technical criteria for regulated land disturbing activities.

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the city hereby adopts the following technical criteria:

- (1) The technical criteria set forth in Part II B of the Regulations, as amended, §§ 9VAC25-870-62 *et seq.* (“Part II B Technical Criteria”); and
- (2) The technical criteria set forth in Part II C of the Regulations, as amended, §§ 9VAC25-870-93 *et seq.* (“Part II C Technical Criteria”).

(b) The Part II B Technical Criteria shall apply to all regulated land disturbing activities, except as expressly set forth in subparagraphs (c) through (h), following below.

(c) Land disturbing activity shall be subject to the Part II C Technical Criteria, if coverage under the State General Permit was obtained, or land disturbance was otherwise lawfully commenced, prior to July 1, 2014.

(d) Land disturbing activity shall be considered grandfathered, and therefore subject to the Part II C Technical Criteria, as set forth within the provisions of 9VAC25-870-48.

(e) The Administrator may grant exceptions to the Part II B Technical Criteria or Part II C Technical Criteria, provided that (i) the exception is the minimum necessary to afford relief; (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved; (iii) granting the exception will not confer any special privileges, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason or justification for granting an exception. Notwithstanding the foregoing, the Administrator shall not have authority to approve the following:

- (1) Waiver of the requirement of a permit for any land disturbing activity;
- (2) Permission to use any BMP not found on the Virginia Stormwater BMP Clearinghouse Website; or a waiver or exception to the requirement for any control measure specifically approved by the Director of DEQ or the Board, except in accordance with Virginia Code §62.1-44.15:33(C). Notwithstanding the foregoing, the Administrator may approve the use of BMPs not found on the Virginia Stormwater BMP Clearinghouse Website for projects less than one (1) acre in size; or

- (3) Exceptions to, or waiver of, post-development nonpoint nutrient runoff compliance requirements, unless the Administrator determines that offsite options permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(f) Nothing in this section shall preclude construction of a stormwater management facility or BMP, or implementation of any technique or practice, to a more stringent standard at the developer's option.

Sec. 10-55. Permit conditions.

(a) Every land disturbing permit approved by the Administrator for activities regulated by this article shall be subject to the following conditions, which shall be deemed incorporated into such permit, as if set forth therein verbatim:

- (1) The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment;
- (2) The permittee shall at all times conduct land disturbing activities in accordance with the approved stormwater management plan and, when required, the SWPPP and all of its component parts and requirements;
- (3) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and all related appurtenances, that are constructed, installed or used to achieve compliance with the requirements of this article and the approved stormwater management plan. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures;
- (4) The permittee shall promptly furnish to the Administrator any information that the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit, or to determine the effect of a discharge on the quality of state waters, or such other information as the Administrator deems necessary to accomplish the purposes of this article;
- (5) The permittee shall allow the Administrator, or an authorized representative, to:
 - (i) Enter upon the site where regulated land disturbing activity or stormwater management facility is located, or where records are required to be kept;
 - (ii) Have access to and copy, at reasonable times, any records kept by the permittee in relation to the conduct and operations of any land disturbing activity and the design, specifications, installation, construction, and operation of stormwater management facility;
 - (iii) Sample or monitor, at reasonable times, for the purposes of determining compliance with requirements of this article, any substances or parameters at any location within the site;

- (6) Samples and measurements taken by the permittee for the purpose of monitoring shall be representative of the monitored activity. Monitoring results must be conducted according to test procedures and methods accepted by the State; analysis or analyses required to be performed by a laboratory shall be performed by an environmental laboratory certified under regulations adopted by the State's Department of General Services. Monitoring results shall be reported to the Administrator on a Discharge Monitoring Report (DMR) Form provided by the Administrator. If the permittee monitors any pollutant more frequently than required, using test procedures accepted by the State, the results of such monitoring shall be included in the calculation and reporting of data submitted within a required Discharge Monitoring Report;
- (7) The permittee shall retain records of all monitoring, including all monitoring information, calibration and maintenance records, and original strip chart recordings for continuous monitoring instrumentation, copies of monitoring reports, and records of all data used to complete any submission required by this article. In addition to the foregoing, records of monitoring shall include:
 - i. Date, exact place, and time of sampling or measurements;
 - ii. Identity of the individual(s) who performed the sampling or measurements;
 - iii. The date(s) on which analyses were performed;
 - iv. The analytical technique(s) or method(s) used;
 - v. Results of analysis/ analyses; and
 - vi. Copies of Discharge Monitoring Reports.
- (8) The permittee shall give advance notice to the Administrator:
 - i. of any planned physical alteration(s) or addition(s) to the site or to the stormwater management facilities described within the permit, when such alteration(s) or addition(s) may meet State criteria for determining whether a facility is a new source, or when such alteration(s) or addition(s) could significantly change the nature of, or increase the quantity of, pollutants discharged.
 - ii. of any planned changes to the stormwater management facilities described within the permit, and
 - iii. of any activity that may result in noncompliance with the requirements of this article or with any of the conditions set forth within this section;
- (9) The permit issued by the Administrator is not transferable to any other person, unless the permittee provides evidence to the Administrator that the requirements of 9VAC25-870-620 have been satisfied in relation to a transfer of any required State General Permit;
- (10) Reports of compliance or noncompliance with, or any progress reports in regard to, any compliance schedule established by the Administrator shall be submitted no later than 14 days following each schedule date;
- (11) The permittee shall immediately report any noncompliance which may endanger health or the environment. Information regarding any such noncompliance shall be provided orally within 24 hours after the permittee becomes aware of the circumstances. The oral report shall be followed by a written report, which must be received by the Administrator no later than 5 days after the permittee became aware of the circumstances. The written report shall contain a description of the

noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. Examples of noncompliance that require reports pursuant to this condition include, without limitation: any unanticipated bypass that exceeds an applicable effluent limitation; any upset that exceeds an applicable effluent limitation; and violation of a maximum daily discharge limitation for any pollutants required by the State to be reported within 24 hours.

- (12) Any noncompliance not reported under conditions (9) or (10), above, shall be reported by the permittee to the Administrator in writing at the time the next monitoring report is submitted to the Administrator. The report of noncompliance shall contain the same information required for reports made pursuant to condition (10), above;
- (13) Where the land disturbing activity is also subject to coverage under the State General Permit, or other State permit, the permittee shall comply with all conditions and requirements of such state permit(s), including, without limitation, those conditions set forth within 9VAC25-870-430. The permittee shall provide to the Administrator copies of submissions, reports, and information required to be given to the State, simultaneously with transmittal to the State. In addition to any remedies under state law and the Regulations, state permit noncompliance shall be grounds for enforcement action under this article, and for termination, revocation, reissuance or modification of the permit issued by the administrator pursuant to sec. 10-9 of article I;
- (14) All applications, reports and information submitted to the Administrator shall be signed and certified in the manner, and by such person(s) prescribed within 9VAC25-870-370;
- (15) In the event the permittee becomes aware that it failed to submit any relevant facts in any application to the Administrator for a permit, or that it submitted incorrect information to the Administrator in any application, or any other submission, report, or document required by this article, the permittee shall promptly submit the relevant facts or correct information to the Administrator;
- (16) All stormwater management control devices and facilities, and other techniques for management of the quality and/or quantity of stormwater runoff, shall be designed, installed, implemented, constructed and maintained in accordance with the approved stormwater management plan approved for the development and all other applicable requirements of this article; and
- (17) The permit issued by the Administrator may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, shall not operate as a stay of the permittee's obligation to perform the requirements of any condition referenced in this section.

(e) Within 60 days of the completion of the requirements of all of the permit conditions, the performance guarantee required by sec. 10-9(3), or the unexpended or unobligated portion thereof, will be refunded or terminated.

Sec. 10-56. Long-term maintenance of permanent stormwater facilities.

(a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
- (2) Include an express statement that the maintenance responsibility shall run with the land;
- (3) Provide a right of ingress and egress to and from stormwater management facilities and other techniques, sufficient to provide all necessary access to the property for purposes of maintenance and regulatory inspections;
- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Clearly recognize a right of enforcement by all appropriate public bodies, including state and local authorities.

(b) Except as provided below, the City shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a “facility”) designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the Administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, “maintenance, repair or replacement” shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.

- (1) In the event that any common interest community, as defined in Virginia Code §55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.
- (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city’s approval and acceptance

of such responsibility shall be the same as specified in subparagraph (b)(1), preceding above.

(c) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and –operated public storm sewer system, and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.

(d) If the Administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (a), above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

Sec. 10-57. Monitoring and inspections; information.

(a) The Administrator, or any authorized agent of the Administrator, shall inspect land-disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan and applicable permit conditions;
- (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
- (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.

(b) Following completion of the installation or construction of stormwater management facilities, the Administrator shall conduct periodic inspections, to determine whether measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. Such post-construction inspections shall be conducted by the Administrator at least once every five (5) years.

(c) A construction record drawing shall be submitted to the Administrator upon completion of the installation or construction of any permanent stormwater management facility or facilities, including, without limitation, permanent BMPs. The construction record drawing shall be signed and sealed by a licensed professional, as defined in sec. 10-5, and shall contain a certification of such professional that the stormwater management facility or

facilities have been constructed in accordance with the approved stormwater management plan.

(d) Consistent with the authority conferred within Virginia Code §62.1-44.15:39, the Administrator, or an authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any site or property, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.

(e) The Administrator may also enter any establishment or upon any property, public or private, at reasonable times and under reasonable circumstances, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity, when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(f) Pursuant to Virginia Code §62.1-44.15:40, the Administrator may require every permit applicant or permittee, any operator, or any other person subject to permit requirements, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

Sec. 10-58. Modification of approved stormwater management plans.

(a) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during any inspection.

(b) Any modification(s) of an approved stormwater management plan shall be allowed only after review and written approval of the Administrator. Following receipt of a complete request, supported by such information deemed necessary by the Administrator to determine compliance with the requirements of this article and article I, the Administrator shall have 60 days to act on the request, either by approval or by disapproval set forth in writing. The Administrator's review and decision shall be based on the requirements set forth within the Regulations, and those set forth within this article and within article I.

Sec. 10-59. Enforcement.

(a) If the Administrator determines that there is a failure to comply with a permit or any permit conditions, or if the Administrator determines there is an unauthorized discharge, the Administrator shall serve notice upon the permittee or other person responsible for carrying out the permit conditions, by any of the following: verbal warnings, written inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by mailing with confirmation of delivery to the address specified in the permit application, or by delivery at the site of the land disturbing activities, to the agent or employee supervising such activities.

- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued, or the permit may be revoked by either the Administrator or the Board.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order (“stop work order”) requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit, to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed. A stop work order shall be in writing, and shall become effective upon service on the person (i) by mailing, with confirmation of delivery, sent to the person’s address specified in the land records of the city, or (ii) by personal delivery by an agent of the Administrator. However, if the Administrator finds that any violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or is otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency stop work order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued a stop work order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.

(b) Any person violating or failing, neglecting, or refusing to obey any provision of this article, any order issued hereunder, or any permit condition, may be compelled in a proceeding instituted in the circuit court for the city of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy, as set forth within Virginia Code §§62.1-44.15:42 and 62.1-44.15:48(D). If the Administrator applies to a court to enjoin a violation or a threatened violation of the provisions of this article, the Administrator shall not be required to show that an adequate remedy at law exists.

(c) A person who violates this article may be subject to criminal prosecution and criminal penalties, as follows:

- (1) Any person who willfully or negligently violates any provision of this article, any regulation or order of the Board, any order of the Administrator, any order of DEQ, any permit condition, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.

(2) Any person who knowingly violates any provision of this article, any regulation or order of the Board, any order of the Administrator or of DEQ, or any permit condition, or any order of a court issued as herein provided, or who knowingly makes any false statement in any application, form or submission required by this article, or who knowingly renders inaccurate any monitoring device or method required to be maintained, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury, or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 or more than \$50,000 for each violation. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.

(3) Any person who knowingly violates any provision of this article, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years or more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this provision, be sentenced to pay a fine not exceeding the greater of one million dollars (\$1 million) or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment, for any subsequent conviction of the same person under this provision.

(d) Any person who violates any provision of this article, any order issued hereunder, or any permit condition, shall be subject to a civil penalty imposed by the Administrator, not to exceed \$32,500 per day for each violation. Each day a violation continues shall constitute a separate offense. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(1) Violations for which a penalty may be imposed under this paragraph (e) shall be as follows:

- (i) No state permit registration;
- (ii) No approved stormwater management plan;
- (iii) No SWPPP; an incomplete SWPPP; SWPPP not available for review at the site;
- (iv) No approved erosion and sediment control plan;
- (v) Failure to install stormwater BMPs or erosion and sediment controls;
- (vi) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (vii) Failure to conduct land disturbing activity in accordance with operational requirements established by Regulations or by this chapter;
- (viii) Failure to conduct required inspections;
- (ix) Incomplete, improper, or missed inspections; and
- (x) Discharges not in compliance with the requirements of Section 9VAC50-60-1170 of the State General Permit.

(2) Any civil penalties assessed by a court as a result of a civil summons issued by the Administrator shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

(e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, or any permit condition, the Administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d), above. Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

4. That the provisions of this Ordinance shall become effective July 1, 2014.

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CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date: April 21, 2014

Action Required: Allocation of Funds

Presenter: Brian Daly, Parks & Recreation Director
James E. Tolbert, AICP, Director of NDS

Staff Contacts: Brian Daly, Parks & Recreation Director
James E. Tolbert, AICP, Director of NDS
Tony Edwards, City Engineer

Title: **Repair of Downtown Mall Crossings - \$120,000**

Background: In 2007, the City undertook a major renovation of the Downtown Mall from 6th Street, East to Old Preston that had been developed over 25 years earlier. Work that was completed included the following:

- Replacement of all bricks, except the drainage runnels and soldier course at the building fronts, with longer aspect bricks on a sand bed rather than with mortar.
- Replacement of all electrical and utility lining and replacement.
- Replacement of pedestrian lights.
- Addition of drinking fountain
- Replacement of concrete banding with granite as had originally been designed by Lawrence Halprin.
- Addition of more flower pots
- Addition of newly design benches

As this project was designed, one of the guiding principles was to honor the design of Lawrence Halprin to the maximum extent possible. A primary focus was to replace the concrete banding with granite as he had designed. During the original construction the concrete was substituted for granite as a cost savings.

When the Mall was constructed it was built as a truly pedestrian space. It was never envisioned that 2nd Street and 4th Streets would be opened to vehicular use, particularly by tractor trailers and beer/beverage delivery vehicles. Those trucks are very heavy and do great damage to the bricks.

A significant decision that was made, with influence of the BAR, was to keep the mortared soldier course adjacent to the buildings and in the drainage runnels as a reflective element of the original mall work. While these provide an existing defined hard edge they also provide edges that can cause rocking of the longer aspect bricks and the granite.

The decisions about how the crossings were reconstructed was a decision reached after a public process, review by a design advisory committee, and approval of the Board of Architectural Review.

On July 21, 2008 at a regular meeting of the City Council, the following decisions were made by the Council regarding the design of mall improvements.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Charlottesville that the following design decisions are made:

- The project scope extends from 6th Street to Old Preston, the area of the original Halprin Project.
- Refurbish the existing fountains.
- Use existing lights – comply with dark skies and use LED lights if determined appropriate.
- No permanent café enclosures.
- Add newspaper box corrals as bid alternate
- No Sister City plaza.
- No additional public art.
- Do not alter tree patterns (nothing but two red maples and one stump to be removed).
- Yes to WIFI.
- Yes to use of Granite, but no new banding.
- Yes, add drinking fountains.
- Study for future possibility, a play area for children.
- Use 4 x 8 sand set bricks in the pedestrian crossings.
- Work to determine ways to employ the local community in the construction of the project.

BE IT FURTHER RESOLVED that the City Council of the City of Charlottesville instructs the design team to use 4 x 12 brick pavers that are set in sand. Council has determined that this is the optimum method for brick installation in light of the maintenance plan proposed by City Parks & Recreation and in an effort to honor the Lawrence Halprin design.

On October 21, 2008 the BAR considered several additional design elements of the mall including the vehicular crossings. The staff report for that meeting included the following:

A. Vehicular Crossing

The Vehicular Crossings of the Downtown Pedestrian Mall at 2nd St. West and 4th St. East have been developed by the Mall Design Advisory Committee. The Vehicular Crossings will have speed humps at the entrance and exit of the Mall crossing as a traffic calming feature. Further, the Mall Design Advisory Committee has concluded that, in keeping with the rhythm and progression of the accent bandings throughout the Mall, the existing outermost concrete bandings should be replicated beyond the limits of the vehicle crossing with the new granite accent banding. In an effort to differentiate the areas of the vehicle crossing from the pedestrian zones, the inner bands and quatrefoils will not be reinstalled in the new construction of the vehicle crossings. In order to both further define the limits of the vehicular crossings and to provide the ADA required detectable warning surfaces, a 2 foot wide precast concrete tactile warning surface will be installed on either side of the drive aisles. To further differentiate the vehicle crossings from the field of the Mall, the crossings will be constructed with 4" x 8" brick masonry unit pavers installed at an angle of 45 degrees from the Mall pattern centerline. This rotation of the pavers also serves to strengthen the flexible pavement by providing additional vertical face interaction for load transfer within the paver field. The original drainage runnel will be reconstructed with existing materials, as advised by the Mall Design Advisory Committee. Material selection (tactile warning surfaces and CIP concrete color, finish and texture) for the vehicle crossings will be in keeping with those used in the Mall Extension and 3rd Street in an effort to provide a sense of uniformity with new versus original construction.

Minutes from the October 21st meeting reflect that the crossing design was carried over to a future meeting.

Certificate of Appropriateness Application
BAR 07-12-03

Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular crossings design, fire lane, drinking fountains, brick and granite colors

Ms. Scala gave the staff report. MMM was last before the Board in August at which time approval was granted for: 4 x 12 bricks for the Mall with 4 x 8 bricks in the crosswalk; mortar set, reconstructed runnels and soldier courses on either side; the light fixtures; granite insert; newspaper boxes; and lighting levels. The applicant was to bring back to the Board: color samples of the brick and granite, which was seen by the Board on the Mall earlier in the day; tree preservation plan; the light poles – the applicant had decided to use the existing light poles; and additional design work for the vehicular crossings – a submittal had been provided. Two new drinking faucets were proposed. The designer had eliminated the interbanding and quatrefoil design.

Ms. Gardner, having considered the standards set forth within the City Code including City Design Guidelines for Public Improvements, moved to find that the proposed changes in items B, fire lane delineations, C, drinking fountains with the Halsey Taylor model 3420, brick color as submitted and granite samples as submitted satisfy the BAR's criteria and are compatible with this property and other properties in this district, and that the BAR approves the application as submitted. Mr. Hogg seconded the motion. Mr. Wolf wondered if they should make note they are deferring on item A. Ms. Gardner amended her motion to include that they find the design intention of item A, vehicular crossing to be compatible, but at this time are not satisfied with the level of design or detail as submitted and request that they come back to the Board for review. Mr. Hogg accepted the amendment. The motion carried unanimously.

At the next meeting of the BAR, on November 18, 2008 the vehicular crossing design was approved as shown below in the minutes:

Certificate of Appropriateness Application
BAR 07-12-03
Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular crossings design

Ms. Scala gave the staff report. This was last before the Board in October when fire

lane demarcation, drinking fountain, and brick and granite colors were approved. The design intention of the vehicular crossing was approved, but not the level of detail. The design now includes tactile strips in the runnel; the strips would be in a V-shape so as not to disrupt the work of the runnels. The applicant has provided three new alternate designs.

Mr. Joseph Schinstock of MMM, explained the design was an attempt to be sensitive to the Mall being included on the National Register and to serviceability issues.

This decision was confirmed in a letter, dated November 24, 2008 from Mary Joy Scala, Preservation and Design Planner, to MMM Design Group.

November 24, 2008

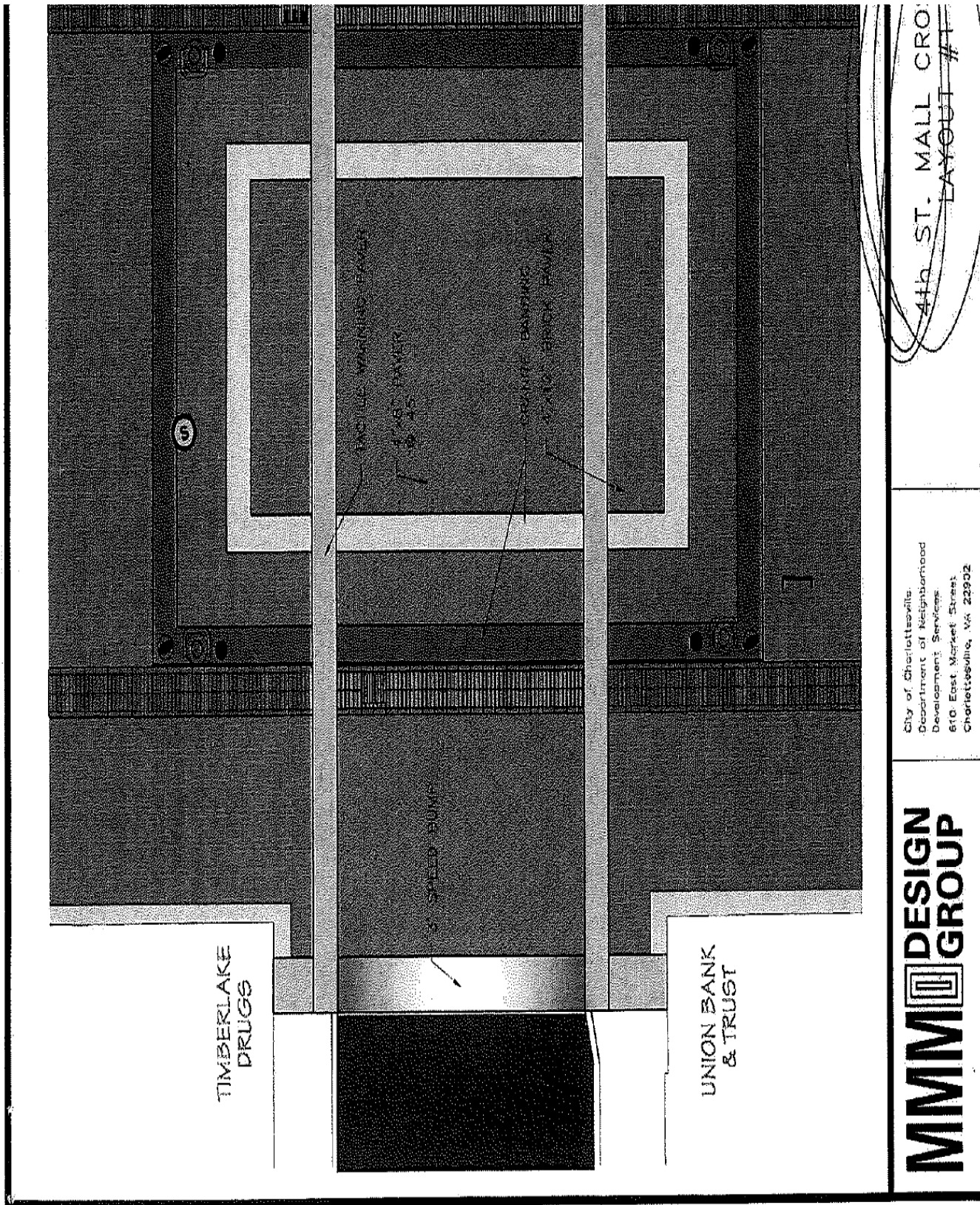
MMM Design Group
1025 5th Street, NE
Charlottesville, VA 22902
ATTN: Chris McKnight (email)

Certificate of Appropriateness Application
BAR 07-12-03
Charlottesville Downtown Pedestrian Mall
MMM Design Group, Applicant/City of Charlottesville, Owner
Vehicular Crossing Design

Dear Mr. McKnight:

The above referenced project was discussed before a meeting of the City of Charlottesville Board of Architectural Review (BAR) on November 18, 2008.

The BAR approved (8-1) the drawing received at the meeting described as 4th St. Mall Crossing Layout #1,” but keeping the 4”x8” crossing bricks in the same orientation as the mall bricks.



Attached to this report is a copy of the original sketch of the selected Option One as presented, along with three other options, to the design advisory group and a copy of the final drawing.

Over the last couple of years we have seen a deterioration of the bricks and the granite in both the 2nd Street and 4th Street crossings. After analysis by the City Engineer, MMM Design Group, and the Parks Maintenance staff, it is believed that the problems are caused by:

- The fact that the 30 year old drainage runnels were left in place with mortared joints.
- Longer aspect bricks adjacent to the runnels and granite tiles will continue to rock under traffic loads.
- Use of granite that is not as durable as concrete.
- Continued use of the crossings by heavy delivery vehicles.

It is clear to all who have been involved with this project since the beginning that no one is to blame for the failure at the crossings. Rather it is a combination of the factors outlined above – and most likely the daily traffic by heavy delivery vehicles. The design process for this project tried to satisfy many interests, and in doing so there were probably decisions made that have contributed to the current problems. There is now an opportunity to repair the problems, but doing so without restricting the heavy vehicles will be a wasted opportunity to enhance the chances of success.

Discussion: After the analysis staff worked with MMM Design to develop two alternative designs for reconstruction of the crossings. The difference in the two approaches is that one keeps the runnels and one does not. The runnels will be flat along with field brick pavers and 4” x 8” bricks will be used. The alternative chosen is the one that removes the runnels. Key facets of the planned approach are:

- Will eliminate the granite pavers and the runnels.
- Will use only the heavy duty 4x8 pavers laid on an asphalt sand setting bed.

Alignment with City Council’s Vision and Priority Areas: Approval of this agenda item aligns with the City Council visions to be “A Smart Citizen Focused Government”.

Citizen Engagement: At the meeting where this was previously discussed, City Council asked that staff meet with business owners on the Mall to ask their opinion of closing the crossings to large trucks. Unfortunately the meeting was not well attended, however a number of emails were received later. Many expressed a desire to not restrict vehicles such as UPS or FedEx, but very few were concerned about restriction of the larger trucks. There were also suggestions to create additional loading zones on Water and Market Street for commercial vehicles.

Budgetary Impact: The cost to make these repairs is estimated at \$100,000 to \$120,000. It is recommended that funding come from the Capital Contingency.

Recommendation: Staff recommends approval of the allocation of \$120,000 from the Capital Contingency to repair the 2nd Street and 4th Street Downtown Mall Crossings as proposed with the attached plan. In addition staff recommends that the crossings be restricted to not allow trucks over two axels in size at any time. Concurrent with this work, staff will be making changes to the loading zones around the Downtown Mall to provide some spaces for commercial vehicles only and to extend the available hours for loading in some locations. The only exception would be the CAT trolley. Work will be scheduled at a time to be as descriptive as possible. During construction the crossings will be closed to vehicles.

Alternatives: To not repair the crossings.

Attachments: 2008 Plan
2013 Specifications/Estimate

RESOLUTION

Repair of Downtown Mall Crossings \$120,000

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby transferred in the following manner:

Transfer From

\$120,000

Fund: 426 Funded Program: CP-080

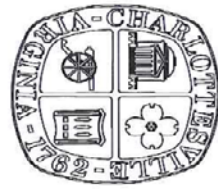
G/L Account: 59999

Transfer To

\$120,000

Fund: 426 Funded Program: P-00144

G/L Account: 59999



CITY OF CHARLOTTESVILLE, VIRGINIA
 DEPARTMENT OF PARKS AND RECREATION
 1300 PEN PARK ROAD
 CHARLOTTESVILLE, VA 22901

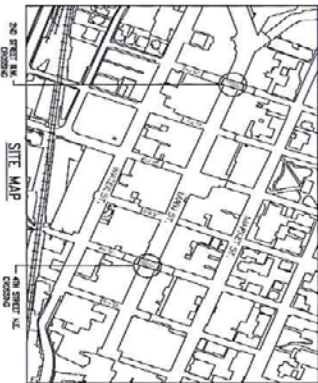
REPAIRS TO THE PEDESTRIAN MALL VEHICULAR CROSSINGS

SCOPE OF WORK:

1. THE WORK CONSISTS OF REPAIRING EXISTING CROSSING AND IMPROVING THE PEDESTRIAN CROSSING AT 2ND STREET AND 4TH STREET IN THE DISTRICT.
2. THE WORK WILL INCLUDE REPAIRING EXISTING AND IMPROVING THE PEDESTRIAN CROSSING AT 2ND STREET AND 4TH STREET IN THE DISTRICT.
3. THE WORK WILL INCLUDE REPAIRING EXISTING AND IMPROVING THE PEDESTRIAN CROSSING AT 2ND STREET AND 4TH STREET IN THE DISTRICT.
4. THE WORK WILL INCLUDE REPAIRING EXISTING AND IMPROVING THE PEDESTRIAN CROSSING AT 2ND STREET AND 4TH STREET IN THE DISTRICT.

DRAWING INDEX

- | | |
|------|--|
| 0000 | TITLE SHEET |
| 0001 | PROJECT PROVISIONS & MATERIALS |
| 0002 | EXISTING CONDITIONS & PROPOSED PLAN - 2ND STREET, N.E. |
| 0003 | EXISTING CONDITIONS & PROPOSED PLAN - 4TH STREET, N.E. |
| 0004 | CONSTRUCTION - 2ND STREET, N.E. |
| 0005 | CONSTRUCTION - 4TH STREET, N.E. |
| 0006 | TYPICAL DETAIL DRAWINGS |
| 0007 | TYPICAL DETAIL DRAWINGS |



16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

LEGEND:

	EXISTING CURB AND GUTTER
	EXISTING CONCRETE FINISH
	EXISTING ASPHALT FINISH
	EXISTING SIDEWALK
	EXISTING UTILITY LINES
	PROPOSED CURB AND GUTTER
	PROPOSED CONCRETE FINISH
	PROPOSED ASPHALT FINISH
	PROPOSED SIDEWALK

GENERAL CONSTRUCTION NOTES:

1. THE WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE CODES, RULES AND REGULATIONS.
2. THE WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE CODES, RULES AND REGULATIONS.
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13. THE WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE CODES, RULES AND REGULATIONS.
14. THE WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE CODES, RULES AND REGULATIONS.
15. THE WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE CODES, RULES AND REGULATIONS.

C000
 SHEET 1 OF 8

REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS
 TITLE SHEET

NO.	DATE	REVISIONS

PAVING REMOVAL

1. EXISTING
2. REMOVE
3. REMOVE
4. REMOVE
5. REMOVE
6. REMOVE
7. REMOVE
8. REMOVE
9. REMOVE
10. REMOVE
11. REMOVE
12. REMOVE
13. REMOVE
14. REMOVE
15. REMOVE
16. REMOVE

MATERIALS:

1. PORTLAND CEMENT CONCRETE
2. PORTLAND CEMENT CONCRETE
3. PORTLAND CEMENT CONCRETE
4. PORTLAND CEMENT CONCRETE
5. PORTLAND CEMENT CONCRETE
6. PORTLAND CEMENT CONCRETE
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13. PORTLAND CEMENT CONCRETE
14. PORTLAND CEMENT CONCRETE
15. PORTLAND CEMENT CONCRETE
16. PORTLAND CEMENT CONCRETE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PORTLAND CEMENT CONCRETE	100	CY	150.00	15000.00
2	PORTLAND CEMENT CONCRETE	200	CY	150.00	30000.00
3	PORTLAND CEMENT CONCRETE	300	CY	150.00	45000.00
4	PORTLAND CEMENT CONCRETE	400	CY	150.00	60000.00
5	PORTLAND CEMENT CONCRETE	500	CY	150.00	75000.00
6	PORTLAND CEMENT CONCRETE	600	CY	150.00	90000.00
7	PORTLAND CEMENT CONCRETE	700	CY	150.00	105000.00
8	PORTLAND CEMENT CONCRETE	800	CY	150.00	120000.00
9	PORTLAND CEMENT CONCRETE	900	CY	150.00	135000.00
10	PORTLAND CEMENT CONCRETE	1000	CY	150.00	150000.00

17. REMOVE

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
1	PORTLAND CEMENT CONCRETE	100	CY	150.00	15000.00
2	PORTLAND CEMENT CONCRETE	200	CY	150.00	30000.00
3	PORTLAND CEMENT CONCRETE	300	CY	150.00	45000.00
4	PORTLAND CEMENT CONCRETE	400	CY	150.00	60000.00
5	PORTLAND CEMENT CONCRETE	500	CY	150.00	75000.00
6	PORTLAND CEMENT CONCRETE	600	CY	150.00	90000.00
7	PORTLAND CEMENT CONCRETE	700	CY	150.00	105000.00
8	PORTLAND CEMENT CONCRETE	800	CY	150.00	120000.00
9	PORTLAND CEMENT CONCRETE	900	CY	150.00	135000.00
10	PORTLAND CEMENT CONCRETE	1000	CY	150.00	150000.00

REPAIR PROCEDURES:


1. EXISTING
2. REMOVE
3. REMOVE
4. REMOVE
5. REMOVE
6. REMOVE
7. REMOVE
8. REMOVE
9. REMOVE
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13. REMOVE
14. REMOVE
15. REMOVE
16. REMOVE

ESTIMATED QUANTITIES

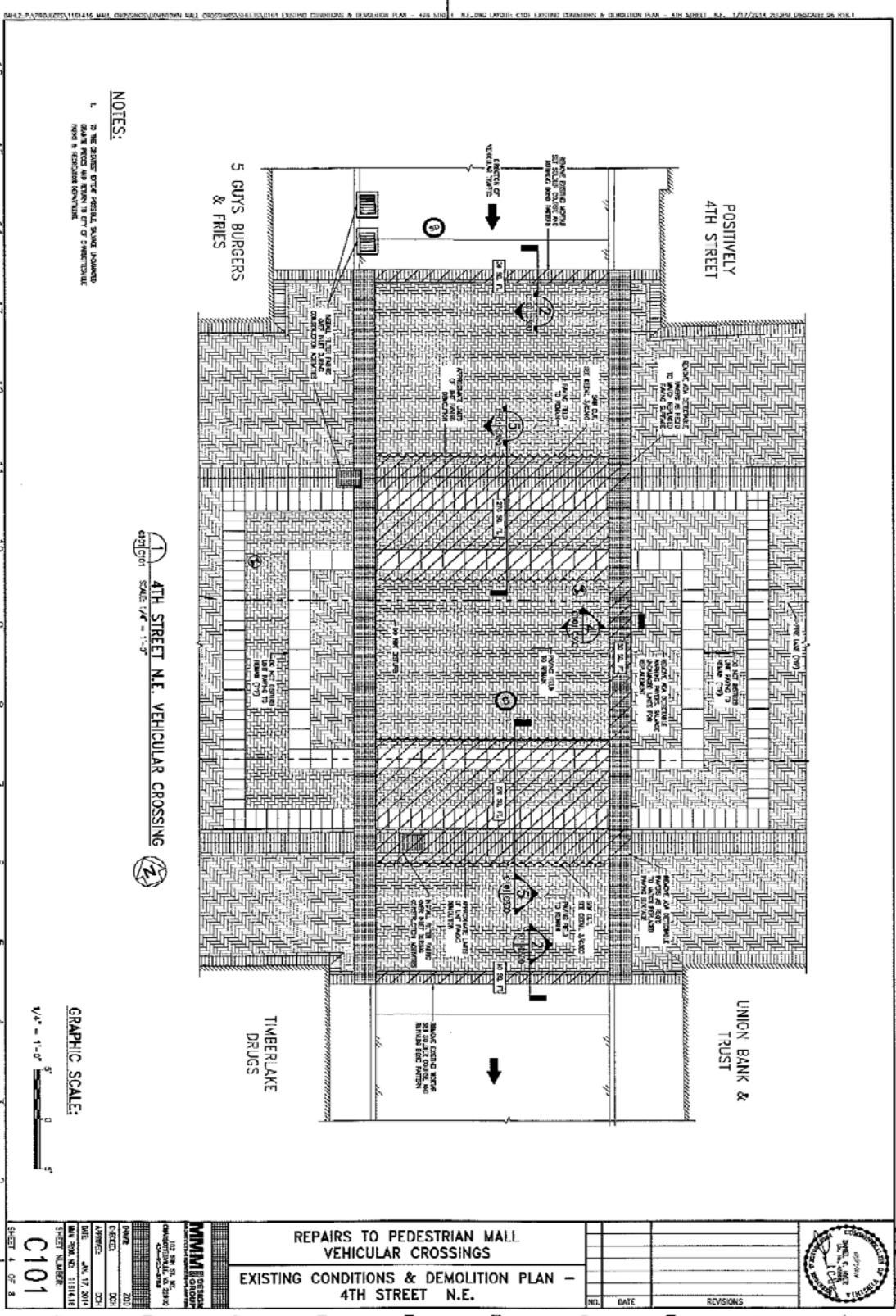
ITEM	DESCRIPTION	QUANTITY	UNIT
1	PORTLAND CEMENT CONCRETE	100	CY
2	PORTLAND CEMENT CONCRETE	200	CY
3	PORTLAND CEMENT CONCRETE	300	CY
4	PORTLAND CEMENT CONCRETE	400	CY
5	PORTLAND CEMENT CONCRETE	500	CY
6	PORTLAND CEMENT CONCRETE	600	CY
7	PORTLAND CEMENT CONCRETE	700	CY
8	PORTLAND CEMENT CONCRETE	800	CY
9	PORTLAND CEMENT CONCRETE	900	CY
10	PORTLAND CEMENT CONCRETE	1000	CY

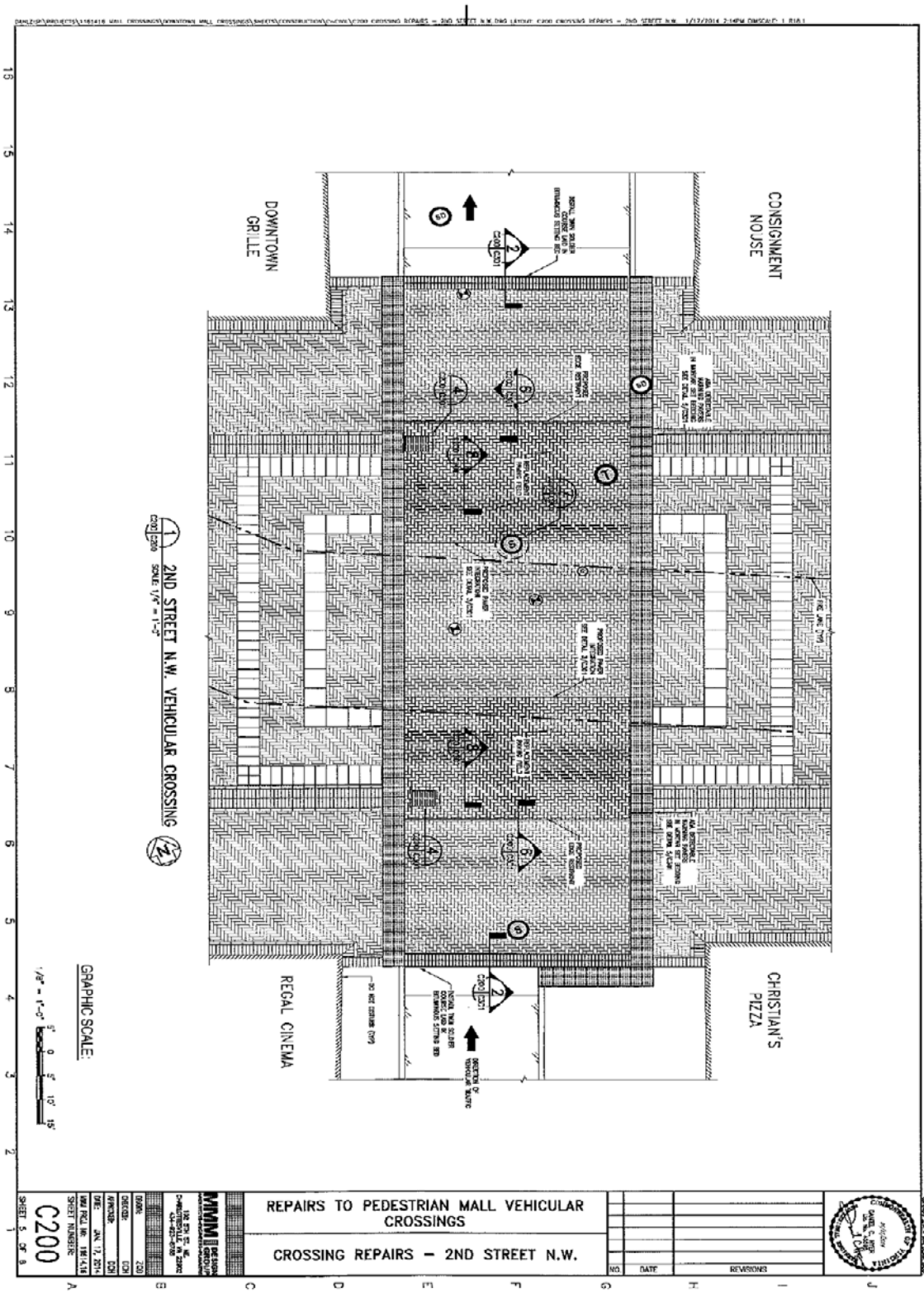
**REPAIRS TO PEDESTRIAN MALL
VEHICULAR CROSSINGS**

PROJECT PROCEDURES & MATERIALS



NO.	DATE	REVISIONS

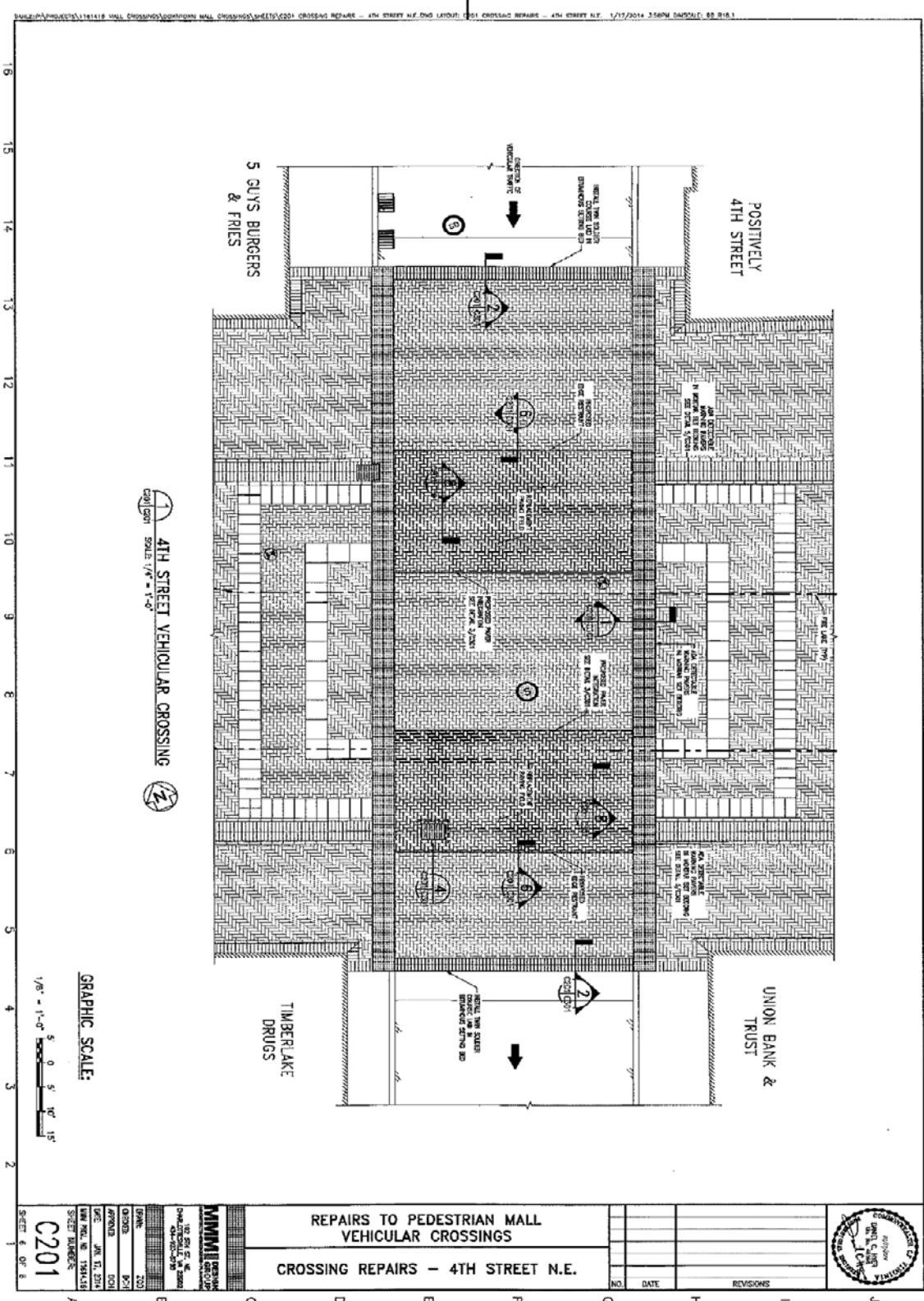


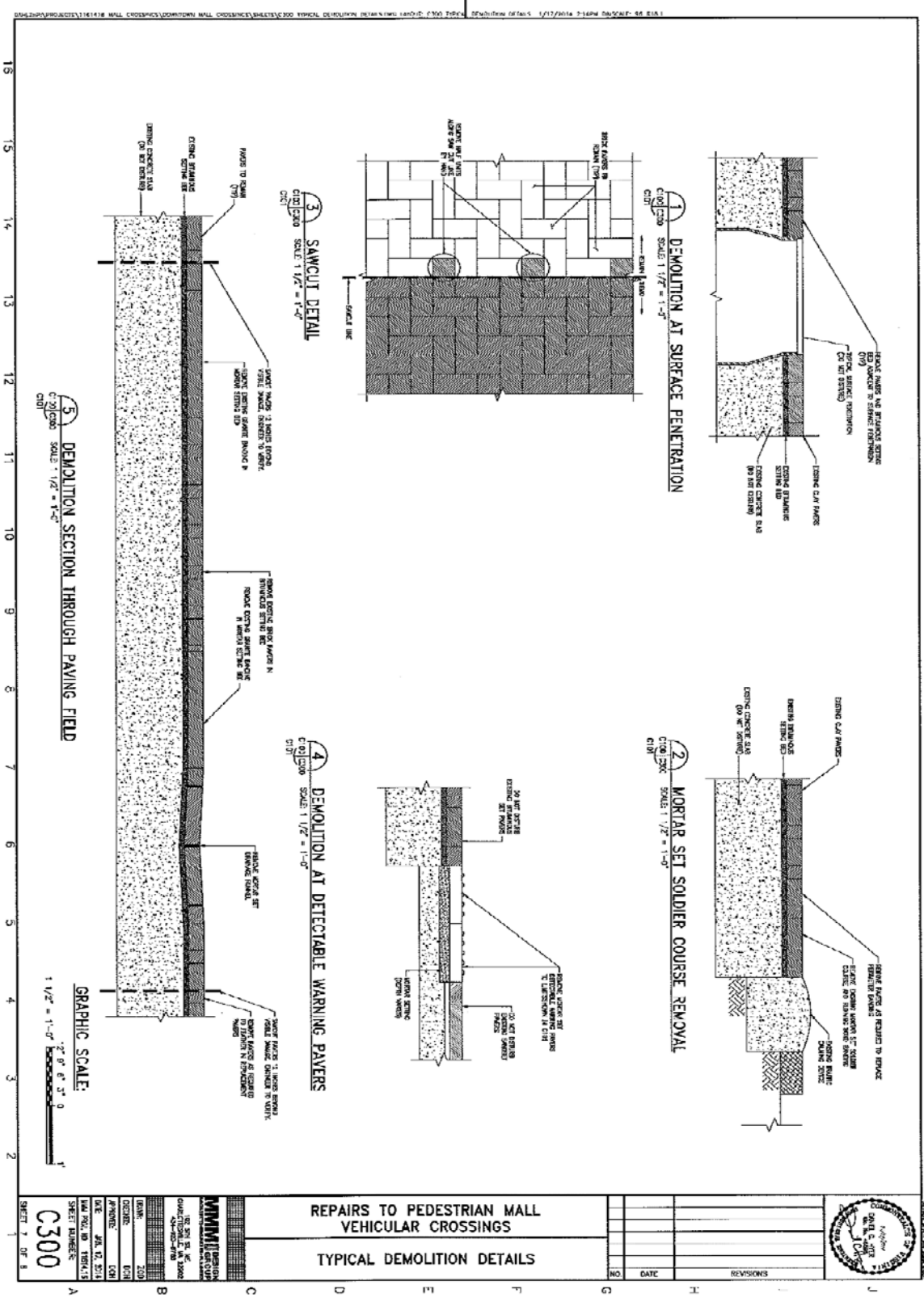


1 2ND STREET N.W. VEHICULAR CROSSING
SCALE 1/8" = 1'-0"

GRAPHIC SCALE:
1/8" = 1'-0"

<p>REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS</p> <p>CROSSING REPAIRS - 2ND STREET N.W.</p>		<p>NO. DATE REVISIONS</p>	
<p>100 S.W. 21st St., Suite 200 Fort Lauderdale, FL 33315 Tel: 754.463.1111 Fax: 754.463.1112 www.danielsoffep.com</p>			





NO.	DATE	REVISIONS

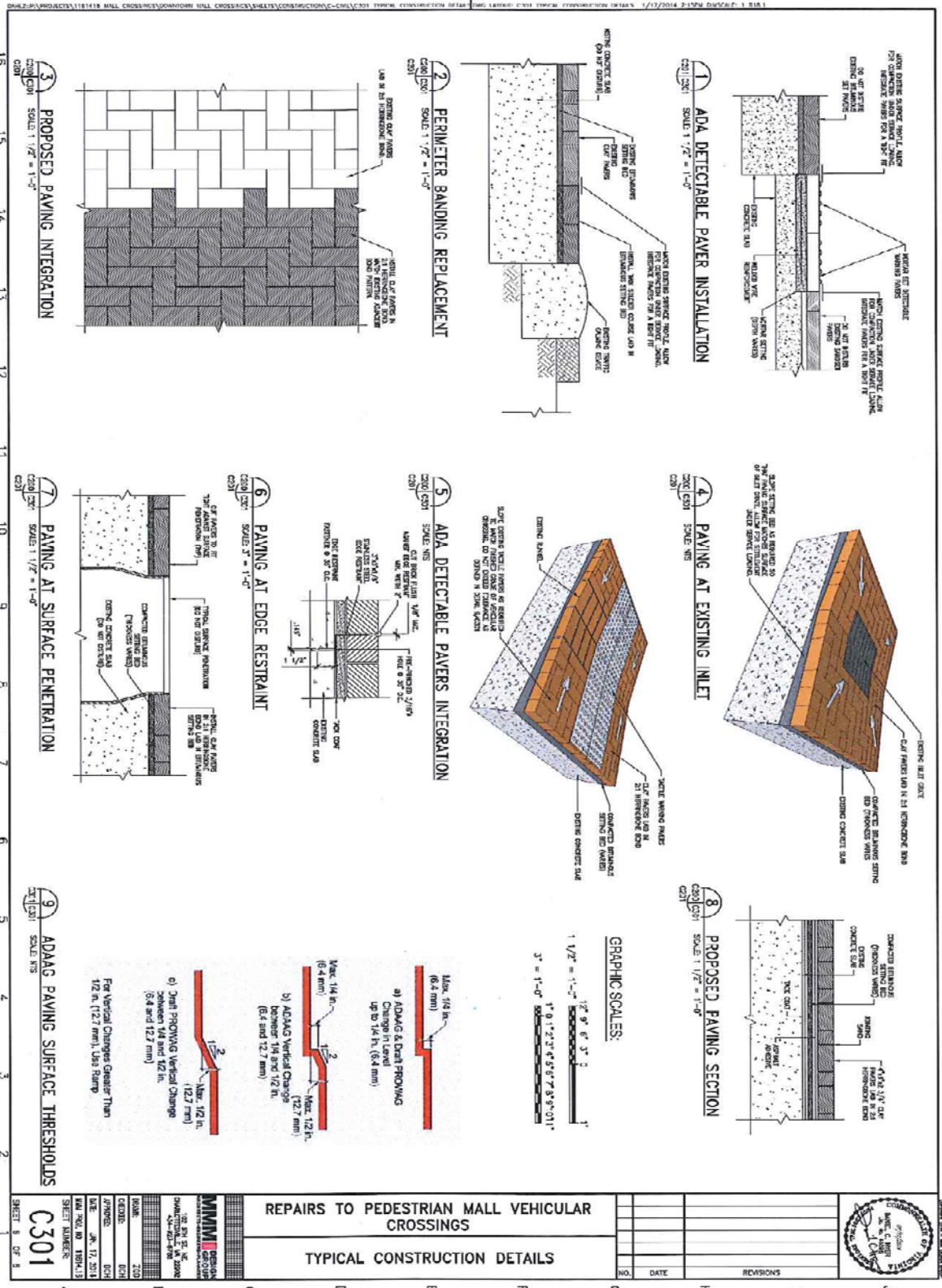
REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS

TYPICAL DEMOLITION DETAILS

MMMI
 METRO MICHIGAN MUNICIPAL IMPROVEMENTS
 1000 WEST WASHINGTON
 ANN ARBOR, MI 48106
 TEL: 313.321.3000
 FAX: 313.321.3000

PROJECT: REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS
DATE: JAN. 17, 2011
DRAWN BY: J. B. BROWN
CHECKED BY: J. B. BROWN
SCALE: 1 1/2" = 1'-0"

SHEET NUMBER: **C300**
SHEET 1 OF 8



NO.	DATE	REVISIONS

REPAIRS TO PEDESTRIAN MALL VEHICULAR CROSSINGS

TYPICAL CONSTRUCTION DETAILS

DATE: 2/09	SCALE: 1/2" = 1'-0"
DESIGNER: ECH	CHECKED: DCH
DATE: JAN. 17, 2014	SCALE: 1/2" = 1'-0"
PROJECT NO: 108413	SHEET NUMBER: C301
SHEET 9 OF 9	

PROJECT CODE:
GROSS AREA (GSF):

REPAIR COST ESTIMATE

PREPARED BY: DCH
DATE PREPARED: 1/17/2014

PROJECT TITLE: Repairs to the Pedestrian Mall Vehicular Crossings
PROJECT LOCATION: Charlottesville VA

BASIS OF ESTIMATE
Code A - No Design Completed
Code B - Preliminary Design
x Code C - Final Design
Other: Schematic Design

SYSTEM DESCRIPTION	QUANTITY	MATERIAL	LABOR	EQUIPMENT	TOTAL
39 - SITE IMPROVEMENTS		\$ 14,740.50	\$ 11,171.25	\$ 1,825.00	\$ 27,736.75
42 - SITE DEMOLITION		\$ 524.00	\$ 7,032.33	\$ 3,620.33	\$ 11,176.67
ENGINEER CA SERVICES		\$ -	\$ 3,000.00	\$ -	\$ 3,000.00
SUB-TOTAL COST ESTIMATE		\$ 15,264.50	\$ 21,203.58	\$ 5,445.33	\$38,913.42
GEOGRAPHICAL + ESCAL. FACTORS		1.00	1.00	1.00	
SUB-TOTAL		\$ 15,265	\$ 21,204	\$ 5,445	\$41,913.42
5.3% SALES TAX		\$ 809	\$ -	\$ -	\$ 809
SUB-TOTAL		\$ 16,074	\$ 21,204	\$ 5,445	\$42,722.43
LABOR 28%		\$ -	\$ 5,937.00	\$ -	\$ 5,937.00
SUB-TOTAL		\$ 16,074	\$ 27,141	\$ 5,445	\$ 48,659
OH and PROFIT 15%		\$ 2,411.03	\$ 4,071.09	\$ 816.80	\$ 7,298.91
SUB-TOTAL		\$ 18,485	\$ 31,212	\$ 6,262	\$ 55,958
ESTIMATING CONTINGENCY (10%)		\$ 1,848.45	\$ 3,121.17	\$ 626.21	\$ 5,596
TOTAL COST ESTIMATE		\$ 20,333.00	\$ 34,332.84	\$ 6,888.34	\$61,554.18

SYSTEM DESCRIPTION	QUANTITY		MATERIAL		LABOR		EQUIPMENT		TOTAL COST
	NO UNITS	UNIT OF MEAS.	PER UNIT	TOTAL	PER UNIT	TOTAL	PER UNIT	TOTAL	
39 - SITE IMPROVEMENTS									
Prime Coat	15.0	GAL	3.50	\$ 52.50	3	\$ 45.00	\$ -	\$ -	\$ 97.50
Bituminous Bedding	1300.0	SF	1.50	\$ 1,950.00	1.25	\$ 1,625.00	\$ 1.25	\$ 1,825.00	\$ 5,200.00
Tack Coat	30.0	GAL	3.50	\$ 105.00	3	\$ 90.00	\$ -	\$ -	\$ 195.00
Clay Paving Units (4x8x2-3/4)	1150.0	SF	\$ 6.50	\$ 7,475.00	\$ 7.00	\$ 8,050.00	\$ -	\$ -	\$ 15,525.00
Jointing Sand	1.0	LS	\$ 38.00	\$ 38.00	\$ 200.00	\$ 200.00	\$ -	\$ -	\$ 238.00
Stainless Steel Edge Restraint (3x3x1/8)	100.0	LF	\$ 40.00	\$ 4,000.00	\$ 6.00	\$ 600.00	\$ 2.00	\$ 200.00	\$ 4,800.00
Steel Fasteners	50	EA	\$ 8.00	\$ 400.00	\$ -	\$ -	\$ -	\$ -	\$ 400.00
Replace ADA Detectable Pavers	40.0	EA	\$ 8.00	\$ 320.00	\$ 12.50	\$ 500.00	\$ -	\$ -	\$ 820.00
ADA Detectable Pavers Attic Stock	25.0	EA	\$ 8.00	\$ 200.00	\$ 1.25	\$ 31.25	\$ -	\$ -	\$ 231.25
Welded Wire Fabric	1.0	LS	\$ 200.00	\$ 200.00	\$ 30.00	\$ 30.00	\$ -	\$ -	\$ 230.00
SUB-TOTAL THIS SECTION				\$ 14,740.50		\$ 11,171.25		\$ 1,825.00	\$ 27,736.75

SYSTEM DESCRIPTION	QUANTITY		MATERIAL		LABOR		EQUIPMENT		TOTAL COST
	NO UNITS	UNIT OF MEAS.	PER UNIT	TOTAL	PER UNIT	TOTAL	PER UNIT	TOTAL	
42 - SITE DEMOLITION									
Unit Paver Removal - Mortar Set	740.0	SF	\$ -	\$ -	\$ 3.50	\$ 2,590.00	\$ 3.00	\$ 2,220.00	\$ 4,810.00
Unit Paver Removal - Bituminous Set	610.0	SF	\$ -	\$ -	\$ 3.50	\$ 2,135.00	\$ 1.50	\$ 915.00	\$ 3,050.00
Bituminous Setting Bed Removal + Prep Slab	118.0	SY	\$ -	\$ -	\$ 4.00	\$ 472.00	\$ 3.00	\$ 354.00	\$ 826.00
Mortar Setting Bed Removal	13.3	SY	\$ -	\$ -	\$ 8.50	\$ 113.33	\$ 2.50	\$ 33.33	\$ 146.67
Saw-cutting (up to 3" deep)	200.0	LF	\$ 0.12	\$ 24.00	\$ 0.61	\$ 122.00	\$ 0.49	\$ 98.00	\$ 244.00
Flagger - Traffic Control	80.0	HR	\$ -	\$ -	\$ 20.00	\$ 1,600.00	\$ -	\$ -	\$ 1,600.00
Signage	1.0	LS	\$ 500.00	\$ 500.00	\$ -	\$ -	\$ -	\$ -	\$ 500.00
SUB-TOTAL THIS SECTION				\$ 524.00		\$ 7,032.33		\$ 3,620.33	\$ 11,176.67

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date:	April 7, 2014
Action Required:	Appropriation and Approval
Presenter:	Melissa Thackston
Staff Contacts:	Melissa Thackston, Grants Coordinator
Title:	Approval and Appropriation of CDBG & HOME funds for FY 2014-2015

Background and Discussion: This agenda item includes project recommendations and appropriations for the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funds to be received by the City of Charlottesville from the U.S. Department of Housing and Urban Development.

In Fall 2013, the City of Charlottesville advertised a Request for Proposals based on the priorities set by Council on September 3, 2013 for Economic Development; Workforce Development; and Neighborhood Stabilization (to include Homeowner Rehabilitation and Homeownership Assistance). The City received 4 applications totaling over \$200,000 for housing projects; 6 applications totaling over \$92,000 for social projects; 3 applications for facility improvements totaling \$57,000; and 5 applications totaling over \$250,000 for economic development projects. A summary of applications received is included in this packet.

Throughout the winter of 13-14, the CDBG Task Force reviewed and recommended housing and social projects for funding; the Strategic Action Team on Economic and Workforce Development reviewed and recommended economic development projects for funding. On March 11, 2014, these items came before the Planning Commission and Council for a joint public hearing. The Planning Commission accepted the report and unanimously recommended the attached budget for approval by City Council.

CDBG and HOME Project Recommendations for FY 14-15: The CDBG and HOME programs have an estimated \$404,223.91 and \$83,500 respectively for the 2014-2015 program year. The CDBG total reflects the \$400,000 Entitlement Grant, \$631.85 in Reprogramming, and \$3,592.06 in previous years' entitlement available after program income has been applied. The HOME total consists of an estimated \$67,500, which is the City's portion of the Consortium's appropriation, in addition to \$16,000 for the City's 25% required match and \$0 in program income. Minutes from the meetings are attached which outline the recommendations made. It is important to note that all projects went through an extensive review as a result of an RFP process.

- A. **CDBG Housing and Facilities Programs:** Council did not set any money aside for these projects.

- B. Priority Neighborhood: Council set aside FY 14-15 CDBG funds for the Block by Block area of 10th and Page as the Priority Neighborhood. A Priority Neighborhood Task Force is currently being recruited and specific project recommendations focusing on infrastructure and pedestrian safety improvements will be forthcoming. No social programming is eligible under this set-aside, as social programs are funded separately and are subject to HUD regulations, which allow for a maximum of 15% to be spent on such activities.
- C. Economic Development: Council set aside FY 14-15 CDBG funds for Economic Development activities. The Strategic Action Team reviewed proposals for funding.

Project recommended for funding include:

- Community Investment Collaborative, scholarships to low-income entrepreneurs
- Seedplanters, technical assistance and grants to women entrepreneurs
- Office of Economic Development Small Business Development
- Computers4Kids, websites for qualified businesses
- Barrett Early Learning Center improvements

Funds are proposed to be used to provide technical assistance, micro-enterprise loans, and starting capital to at least 15 qualified Charlottesville businesses and to help at least 20 individuals plan and hopefully launch their own new micro-enterprises. Estimated benefits also include facility improvements to one childcare center serving low-mod children.

- D. Social Programs: The CDBG Task Force has recommended several social programs. Each program, they felt, was consistent with the goals set by City Council including Workforce Development. Funding will enable the organizations to provide increased levels of service to the community.

Projects recommended for funding include:

- Charlottesville Abundant Life Ministries, match money for asset savings
- Community Attention, health care internships for area youth
- Computers4Kids, teen camps and workshops
- OAR, funds to help recently released offenders transition
- Department Social Services, VIEW Career Training

Estimated benefits include 10 adults and 30 young adults who will receive job training and workforce development skills, 5 individuals will be aided as they save money towards a house or education expense, and 200 recently released offenders will receive support services to help reduce recidivism.

- E. Administration and Planning: To pay for the costs of staff working with CDBG projects, citizen participation, and other costs directly related to CDBG funds, \$80,000 is budgeted.
- F. HOME Funds: The CDBG Task Force has recommended housing programs that are

consistent with those from prior years. The main areas of focus are based on Council's priority for homeowner rehabilitation and homeownership assistance.

Projects recommended for funding include:

- Habitat for Humanity Downpayment Assistance
- Piedmont Housing Alliance Downpayment Assistance
- AHIP, funds to provide small homeowner rehabs and repairs.
- Building Goodness in April, funds to provide homeowner rehabs and repairs with Darden School volunteers.

Estimated outcomes are 6 small homeowner rehabs and downpayment assistance to 4 households.

- G. Program Income/Reprogramming For FY 2013-2014, the City has \$3,592.06 in previous CDBG entitlement funds that have been made available due to the receipt of program income to be circulated back into the CDBG budget. The City does not currently have any HOME PI to be circulated back into the HOME budget. There are also completed CDBG projects that have remaining funds to be reprogrammed amounting to \$631.85. These are outlined in the attached materials.

Community Engagement: A request for proposals was held for housing, economic development, and social programs. Applications received were reviewed by the CDBG Task Force or SAT. Priority Neighborhood recommendations will be made by the 10th and Page BxB CDBG Task Force.

No public comments have been received to date.

Alignment with City Council's Vision and Priority Areas: Approval of this agenda item aligns directly with Council's vision for Charlottesville to have **Economic Sustainability** and **Quality Housing Opportunities for All**.

Budgetary Impact: Proposed CDBG projects will be carried out using only the City's CDBG funds. The HOME program requires the City to provide a 25% match. The sum necessary to meet the FY 2014-2015 match is \$16,000, which will need to be appropriated out of the Charlottesville Housing Fund (CP-0084) at a future date.

Recommendation: Staff recommends approval of the CDBG and HOME projects as well as the reprogramming of funds. Planning Commission recommended approval of the attached budget with any percent changes to the estimated amounts being applied equally to all programs on March 11, 2014. All Planning Commissioners present at the meeting voted. (Rosensweig recused) Staff also recommends approval of the appropriations. Funds will not be available or eligible to be spent until HUD releases funds on July 1, 2014. If the funds are not released on that date, funds included in this budget will not be spent until HUD releases the entitlement.

Alternatives: No alternatives are proposed.

Attachments: 2014-2015 Proposed CDBG and HOME Budget
Summary of RFPs submitted
Appropriation Resolutions for CDBG & HOME and reprogrammed funds
Minutes from CDBG Task Force meetings

2014-2015 CDBG BUDGET ALLOCATIONS
RECOMMENDED BY CDBG TASK FORCE and SAT: 1/23/14 and 2/7/14
RECOMMENDED BY PLANNING COMMISSION: 3/11/14
RECOMMENDED BY CITY COUNCIL: 4/7/14 (pending)

I.	PRIORITY NEIGHBORHOOD		
	A. 10 th and Page – Block by Block Area - TBD		\$132,223.91*
II.	ECONOMIC DEVELOPMENT		
	A. Community Investment Collaborative Scholarships		\$ 7,500
	B. Seedplanters Women Entrepreneur Academy		\$15,000
	C. Office of Economic Development Small Business Development		\$50,500
	D. Computers 4 Kids Business Websites		\$46,500
	E. Barrett Early Learning Center Improvements		\$12,500
		ECONOMIC DEVELOPMENT TOTAL:	\$132,000
III.	SOCIAL PROGRAMS		
	A. CALM - IDA Match		\$ 5,000
	B. Community Attention- Youth Internships		\$ 5,000
	D. C4K- Teen Camps and Workshops		\$18,500
	E. OAR- Reentry Program		\$15,000
	F. DSS- VIEW Career Training		\$16,500
		SOCIAL PROGRAMS TOTAL:	\$60,000 (15% EN)
IV.	ADMINISTRATION AND PLANNING:		
	A. Admin and Planning		\$80,000 (20% EN)
		GRAND TOTAL:	\$404,223.91
		ESTIMATED NEW ENTITLEMENT AMOUNT:	\$400,000.00
		ESTIMATED EN AVAILABLE AFTER PI APPLIED:	\$ 3,592.06
		REPROGRAMMING:	\$ 631.85

* Funding includes program income/reprogrammed funds

2014-2015 HOME BUDGET ALLOCATIONS

A.	Habitat for Humanity	\$30,000
B.	PHA, Down Payment	\$10,000
C.	AHIP, Small Homeowner Rehabs	\$30,000
D.	Building Goodness in April	\$10,000
D.	Administration and Planning – funds from the Planning District	\$ 3,500
		TOTAL:
		\$83,500
		ENTITLEMENT AMOUNT:
		\$67,500
		PROGRAM INCOME:
		\$0
		LOCAL MATCH:
		\$16,000*

* HOME Admin and Planning Funds not matched locally

CDBG RFP SUBMISSIONS - FY 2014-15

Organization, (Program Title)	Applicant	Program Description	Funding Requested
AHIP	Jen Jacobs	Emergency and Small Reparis	\$80,000
Building Goodness in April	Brian Gooch	Homeowner Rehabs	\$20,000
Habitat for Humanity	Dan Rosensweig	Downpayment Assistance	\$80,000
PHA	Karen Reifenberger	Downpayment Assistance	\$25,000

\$205,000

Organization, (Program Title)	Applicant	Program Description	Funding Requested
CALM	Rydell Payne	IDA Accounts	\$10,000
Community Attention	Rory Carpenter	Youth Internship Program in health care	\$10,000
C4K	Michaela Muttom	Job Readiness/Workforce Development Workshops	\$25,542
OAR	Pat Smith	Reentry Program	\$20,000
CRHA	Connie Dunn	IT support and maintenance	\$4,500
Social Services	Kelly Logan	VIEW workforce development	\$21,964

\$92,006

Organization, (Program Title)	Applicant	Program Description	Funding Requested
Barrett Early Learning Center	Hodari Hamilton	Building Improvements	\$40,000
CRHA	Connie Dunn	Key Fob access	\$8,000
CRHA	Connie Dunn	Security Cameras	\$9,000

\$57,000

Organization, (Program Title)	Applicant	Program Description	Funding Requested
Blossoms Child Care (proposed)	Laketa Kelley	Funds to start a child care program	\$70,000
Community Invest. Collob	Stephen Davis	Entrepreneurship-training	\$60,000
C4K	Michaela Muttom	Online Entrepreneurs Program	\$43,131
OED	Jason Ness	ACE program	\$50,500
Seedplanters	Kaye Monroe	DreamBuilders Women Entrepreneurs	\$27,000

\$250,631

Housing Programs	Public Facilities	Economic Development	Social
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**A RESOLUTION
 APPROPRIATING FUNDS FOR
 THE CITY OF CHARLOTTESVILLE'S 2014-2015
 COMMUNITY DEVELOPMENT BLOCK GRANT - \$400,000**

WHEREAS, the City of Charlottesville has been advised of the approval by the U.S. Department of Housing and Urban Development of a Community Development Block Grant (CDBG) for the 2014-2015 fiscal year in the total amount of \$404,223.91 that includes the estimated new entitlement from HUD of \$400,000, previous entitlement made available through program income of \$3,592.06, and reprogramming of \$631.85.

WHEREAS, City Council has received recommendations for the expenditure of funds from the CDBG Task Force, the SAT, and the City Planning Commission; and has conducted a public hearing thereon as provided by law; now, therefore

BE IT RESOLVED by the City Council of Charlottesville, Virginia, that the sums hereinafter set forth are hereby appropriated from funds received from the aforesaid grant to the following individual expenditure accounts in the Community Development Block Grant Fund for the respective purposes set forth; provided, however, that the City Manager is hereby authorized to transfer funds between and among such individual accounts as circumstances may require, to the extent permitted by applicable federal grant regulations.

PURPOSE	AMOUNT
PRIORITY NEIGHBORHOOD	
10 th and Page – Block by Block Area – TBD	\$132,223.91
ECONOMIC DEVELOPMENT	
Community Investment Collaborative Scholarships	\$ 7,500
Seedplanters Women Entrepreneur Academy	\$15,000
Office of Economic Development Small Business Development	\$50,500
Computers 4 Kids Business Websites	\$46,500
Barrett Early Learning Center Improvements	\$12,500
SOCIAL PROGRAMS	
CALM - IDA Match	\$ 5,000
Community Attention- Youth Internships	\$ 5,000
C4K- Teen Camps and Workshops	\$18,500
OAR- Reentry Program	\$15,000
DSS- VIEW Career Training	\$16,500
ADMINISTRATION AND PLANNING:	
Admin and Planning	\$80,000
TOTAL	\$404,223.91

The amounts so appropriated as grants to other public agencies and private non-profit, charitable organizations (subrecipients) are for the sole purpose stated. The City Manager is authorized to enter into agreements with those agencies and organizations as he may deem advisable to ensure that the grants are expended for the intended purposes, and in accordance with applicable federal

and state laws and regulations; and

The City Manager, the Directors of Finance or Neighborhood Development Services, and staff are authorized to establish administrative procedures and provide for mutual assistance in the execution of the programs.

**A RESOLUTION
 APPROPRIATING FUNDS FOR
 THE CITY OF CHARLOTTESVILLE'S 2014-2015
 HOME FUNDS – \$67,500**

WHEREAS, the City of Charlottesville has been advised of the approval by the U.S. Department of Housing and Urban Development of HOME Investment Partnership (HOME) funding for the 2014-2015 fiscal year;

WHEREAS, the region is receiving an award for HOME funds for fiscal year 14-15 of which the City will receive an estimated \$67,500 to be expended on affordable housing initiatives such as homeowner rehab and downpayment assistance.

WHEREAS, it is a requirement of this grant that projects funded with HOME initiatives money be matched with local funding in varying degrees;

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the local match for the above listed programs will be covered by the Charlottesville Housing Fund account CP-0084 in SAP system) in the estimated amount of \$16,000; the resolution for this appropriation will come forward after July 1, 2014. Program income from previous FYs amounts to \$0 available for FY 14-15. The total of the HUD money, program income, and the local match, \$83,500 will be distributed as shown below. Administrative funds for the year total \$3,500, which do not require a City match.

HOME Program Funds	HOME FUNDING	% MATCH REQUIRED	LOCAL MATCH	TOTAL
Habitat for Humanity DP	\$24,000	25%	\$6,000	\$30,000
PHA, DP	\$ 8,000	25%	\$2,000	\$10,000
AHIP, Small Rehabs	\$24,000	25%	\$6,000	\$30,000
BGiA, Small Rehabs	\$ 8,000	25%	\$2,000	\$10,000
Administration & Planning	\$ 3,500	0%	\$ 0	\$ 3,500
	\$67,500		\$16,000	\$83,500

* includes Program Income which does not require local match.

**APPROPRIATION
 AMENDMENT TO COMMUNITY DEVELOPMENT BLOCK GRANT ACCOUNT
 Reprogramming of Funds for FY 14-15**

WHEREAS, Council has previously approved the appropriation of certain sums of federal grant receipts to specific accounts in the Community Development Block Grant (CDBG) funds; and

WHEREAS, it now appears that these funds have not been spent and need to be reprogrammed, and therefore,

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that appropriations made to the following expenditure accounts in the CDBG fund are hereby reduced or increased by the respective amounts shown, and the balance accumulated in the Fund as a result of these adjustments is hereby reappropriated to the respective accounts shown as follows:

Program Year	Account Code	Purpose	Proposed Revised Reduction	Proposed Revised Addition	Proposed Revised Appropriation
11-12	P-00001-04-83	ARC Facility Improvements	\$626.85		\$0
12-13	P-00001-02-59	CRHA Comp. Lab Maint.	\$5.00		\$0
14-15	P-00001-04-01	Applied to new programs		\$631.85	\$631.85
		TOTALS:	\$631.85	\$631.85	\$631.85

CDBG Task Force Meeting Notes
December 5, 2013
12:00
Economic Development Conference Room

Members Present:

Sarah Lawson
Marnie Allen
Sarah Malpass
Kathy Johnson Harris
Matthew Slaats (12:40)

Staff:

Melissa Thackston

1. Review Process

The Task Force will begin review applications at today's meeting and asking questions for applicants. Decisions regarding which applications to fund will begin on the Dec. 16 meeting with final decisions occurring over the January meetings as necessary.

2. Staff Updates

Staff provided updates regarding estimated funding and changes to the HOME program. Social projects are estimated to have \$60,000 and housing projects are estimated to have \$80,000 funding available for the Task Force to award. HUD has recently issued the HOME Final Rule. The new rule significantly changes what is required for downpayment assistance projects and staff is extremely hesitant to use HOME funds for these types of projects in the future. This year, only HOME funds are available for housing projects; therefore staff is recommending the Task Force does not consider downpayment assistance projects.

3. General Questions

None.

4. Preliminary Discussion of Applications

Task Force members began reviewing applications and discussing any questions or additional information they would like from applicants. For all applications, they would like data on outcomes from previous years relating to number benefited and also more meaningful data such number that became employed, long-term impacts, etc.

Members discussed the two remaining housing applications for homeowner rehab. There was concern that AHIP and BGiA were duplicating services. Members felt both are strong and valid organizations but that with limited funding only AHIP

should be funded since they have better capacity and operate all year. Members would like to see more collaboration between agencies if possible.

5. Other Business (if any)

SAT CDBG ED Meeting Notes
December 6, 2013
9:00 am
City Space Small Conference Room

Members Present:

David Ellis (leave early)
Mike Murphy (leave early)
Diane Kuknyo (arrive late)
Hollie Lee
Jason Ness
Tierra Howard
Melissa Thackston

1. Review Process

Melissa provided a brief overview of CDBG Economic Development funds and the applications received. CRHA applications will be funded with CHF monies available to the agency as appropriate and will not be considered at this time. Since Council did not award any funds towards facility improvement projects, Barrett's application could only be funded if money awarded towards ED projects remains available after SAT members make their recommendations.

2. Discussion of Applications

Members reviewed and recommended funding for the applications received.

Laketa Kelly, Blossoms Childcare: Members appreciated the effort put forth by this application, but at this time do not think the business is far enough along to receive funding. Members suggested Ms. Kelly contact CIC or Seedplanters to further develop the business plan. Members would like to see the business up and running and with a location secured before considering investing CDBG funds.

Community Investment Collaborative: Some members had concerns about who they are serving and if it is truly the low-mod population of Charlottesville. It was noted that CIC currently has a large cash balance and a request for \$60,000 is too much given their available assets. All members supported awarding \$7,500 support the cost of 20 scholarships for those under 80% AMI.

Computers4Kids: Melissa had concerns that as currently proposed, the application is not eligible under ED funds as it is more a Public Service/Social project. Members liked the idea and said they would support funding the portions that relate to the direct cost to the businesses. Melissa and Jason will work with C4K to revise the application to qualify as an ED project.

Seedplanters: Some members were concerned that the budget could be cut down to be more reasonable. It was noted that the largest line item was staff time and that the amount requested for the awards event seemed too large. Members felt that a benefit cost of \$1200-1500 per person was more reasonable. Members supported funding this application at \$15,000.

OED ACE: Members liked that this application directly helped existing businesses versus other applications that were geared towards helping people start businesses. Hollie and Jason explained how they partnered with a consultant to help identify what each business needs in terms of marketing and capacity building and they works with that business to meet those needs. No one from OED participated in the discussion of how much funding to award. Members supported fully funding this application.

Barrett Early Learning Center: Members had some concerns about the long term sustainability of the center including its enrollment and budget. It was suggested that while not a business but a non-profit, BELC should be required to complete business planning, perhaps working with OED. It was also suggested that the City place a deed on the building in the amount of funding awarded for a set period of time to secure its investment. It was also noted that supporting this application was in keeping with the SAT recommendations regarding childcare options. Members supported funding this application with any remaining available funding.

Based on the discussion funding recommendations are as follows:

CIC:	\$7,500
OED:	\$50,500
Seedplanters:	\$15,000
C4K:	TBD
Barrett:	Remaining funding available

CDBG Task Force Meeting Notes
December 16, 2013
2:00
NDS Conference Room

Members Present:

Sarah Lawson

Marnie Allen

Sarah Malpass (via phone)

Mary Alex

Lisa Green

Staff:

Melissa Thackston

1. Review applicant data

Members reviewed previous meeting minutes and responses/additional data provided by applicants.

There were some concerns from members not present at the last meeting about the decision not to fund BGiA, particularly since it is run by Darden students and is a great way for them to learn about non-profit work and the challenges faced by the low-mod population.

2. Continue Discussion of Social Applications and Preliminary Budget

Members went over each application and refined which ones were higher funding priorities. Some were ranked as 'Tier 1', meaning that members would like to see these applications funded above others, though not necessarily at full funding levels.

CALM: Concern that they only serve Fifeville residents. If funded, members would like to see it open citywide. There was some confusion about how this program differs from the regular VIDA program. Do these participants not qualify for VIDA? What debts are they paying off and what are the small matches? The application briefly answers some of these questions.

C4K: Members stated that they fully favor funding this application. It hits a lot of areas and a lot of priorities. Members like that they teach actual workforce skills and that the parents have to be involved. Members ranked this a Tier 1 application.

OAR: Members feel that they do tremendous work and make an important change in the community for a little bit of money. This also fits Council's larger priority as a 'City of Second Chances.' Members appreciated the anecdotes that were shared and feel that they show OAR staff forms true relationships. Members ranked this a Tier 1 application.

CAYIP: At the previous meeting, members expressed strong support for this application. There was some concern that they do not really have hard data or track what happens to the youth that participate. Some members would like to see them do a better job tracking in the future. Other members wanted to see more than just low skills jobs and employers participating, such as those businesses and jobs identified in Economic Developments target industries study. Members agreed that it is a really worthwhile and important program; they would just love to see it expand.

DSS VIEW: Members really liked that this program offers actual training for folks trying to move off the system. Members ranked this as a Tier 1 application.

3. Other Business (if any)

Staff updated members on the status of Action Plan/Budget Amendments for prior year projects. The FY 12-13 HOME funds and CHDO funds were supposed to both go towards the creation of affordable housing in a project known as Evangeline. That project has since fallen through. The HOME funds are now being awarded to AHIP and the CHDO funds to PHA for use in the CALM development between 5th and Prospect. Unallocated Economic Development funds from FY 13-14 are being reprogrammed to facility improvements at Barrett Early Learning Center as that is a need that has been identified and is project ready to help the City meet its timeliness goals. It was suggested that since AHIP is receiving this extra money, some FY 14-15 money be set aside for BGiA, and there was consensus to do so.

Members had a discussion about the need for flexible and affordable childcare options for low-income families. They would like to see programs that support childcare recommended as a priority for funding to Council for FY 15-16.

CDBG Task Force Meeting Notes
January 9, 2014
10:00
NDS Conference Room

Members Present:

Sarah Lawson
Marnie Allen
Sarah Malpass
Matthew Slaats
Mary Alex
Lisa Green

Staff:

Melissa Thackston

1. Finalize Social Budget

Members presented different funding options and weighed the pros and cons of each. Suggested options included reducing every application by about \$5,000; funding those listed as Tier 1 at 75% and those as Tier 2 at 50%; or equal percentage reduction for all applicants. Members agreed they preferred awarding more funds/percent towards applications that were deemed Tier 1. There was concern that with a 50% reduction Tier 2 applicants would not receive enough funds to carry out their projects, but staff thought they would based on prior funding amounts.

Members wanted to convey to all applicants that they would like to see better long-term tracking in future applications and that any funds awarded need to be made available to all City residents.

Lisa Green made a motion to recommend the following budget to the Planning Commission and City Council; Marnie Allen seconded; the motion was approved 6-0.

Recommended Social Budget:

Computers4Kids	\$18,500
OAR	\$15,000
DSS VIEW	\$16,500
CALM IDA	\$ 5,000
CAYIP	\$ 5,000

2. Finalize Housing Budget Deferred to 1/23 meeting.
3. Other Business (if any) None

CDBG Task Force Meeting Notes
January 23, 2014
2:00
NDS Conference Room

Members Present:
Sarah Lawson
Mary Alex

Staff:
Melissa Thackston (via phone)
Kathy McHugh
Margot Elton

1. Finalize Housing Budget

Different funding options were presented and members weighed the pros and cons of each. Suggested options included determining an amount for downpayment projects and an amount for rehab projects and then deciding how to split the funds among agencies. One member felt that AHIP and Habitat should be considered Tier 1 applications. She thought that AHIP represented more people and had stronger measurable and outcomes and that Habitat was able to reach a greater need. Members agreed that they liked all four applicants and would like to see all receive some level of funding. Staff did not have any concerns about any of the agencies receiving funds in the amounts suggested.

The following budget was suggested and agreed upon by the members that were present:

Habitat for Humanity:	\$30,000
AHIP:	\$30,000
BGiA:	\$10,000
PHA	\$10,000

Members did not wish to put any conditions or stipulations on the recommendations.

Recommendations will be emailed to the full CDBG TF for a vote.

2. Finalize Contingency recommendation based on actual funding amount.

Members decided it would be best to keep things simple and add/subtract funding on a pro-rata percentage equally to all funded agencies.

3. Other Business (if any) None

SAT CDBG ED Meeting Notes
February 7, 2013
9:00 am
OED Conference Room

Members Present:

David Ellis
Kelly Logan
Diane Kuknyo
Hollie Lee
Jason Ness
Tierra Howard
Chris Engel
Melissa Thackston (via phone)

1. Staff Update

Melissa provided members of the SAT with a brief review of the previous discussion and an update on the revised application from Computers4Kids.

2. Discussion of C4K Application

Members reviewed the revised C4K applications. Members felt this version was more clearly an Economic Development project and liked that C4K would be able to utilize its resources to provide websites for existing businesses. Members felt this project should be given full funding.

3. Vote on Final Budget

A motion was made, seconded, and approved (4-0-4) to fund the following agencies at the following amounts:

CIC:	\$7,500
OED:	\$50,500
Seedplanters:	\$15,000
C4K:	\$46,500
Barrett:	\$12,500

It was pointed out that the only agencies receiving full funding were those that would be helping current, existing businesses versus those that would be helping entrepreneurs.

The staff of OED and Melissa Thackston abstained from voting.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: April 21, 2014

Action Required: Approval of Ordinance (1st reading) – Request to waive 2nd reading

Presenter: S. Craig Brown, City Attorney

Staff Contacts: S. Craig Brown, City Attorney

Title: *Revision to Ordinance – Sale of 1279 Kenwood Lane*

Background: On December 16, 2013, City Council approved the sale of Lot 12A at 1279 Kenwood Lane to Hugh Scott and Susannah Wood (Purchasers), who planned to build a single-family home on the lot. As a condition of sale, Council required that the single-family home also contain an accessory apartment.

Discussion: The Purchaser's attorney requested the usual title search and title insurance commitment on the property, and discovered a problem with the required accessory apartment. This property is in the Arlington Heights Subdivision created in 1957, and one of the recorded restrictive covenants for that subdivision limits the use of the property to one detached single family dwelling. Since the proposed accessory apartment would violate that covenant, the Purchasers are asking that the requirement for an additional apartment be removed. That would require the adoption of a revised ordinance by City Council.

The Purchasers have also asked Council to consider waiving the second reading of this ordinance because their financing options are time-sensitive and they need to close on this transaction as quickly as possible.

Community Engagement: Not applicable.

Budgetary Impact: Revising the ordinance will allow the sale to move forward and the City to receive revenue of \$101,850 from the sale.

Recommendation: Staff recommends removing the requirement for the accessory apartment, and revising the Purchase Agreement to reflect this change.

Alternatives: City Council may choose to retain the property instead of offering it for sale.

Attachments: Proposed Ordinance
Ordinance adopted December 16, 2013 (w/ copy of Plat)

**AN ORDINANCE
TO REMOVE A CONDITION IN THE SALE/PURCHASE AGREEMENT
FOR LOT 12A AT 1279 KENWOOD LANE BY REVISING AN ORDINANCE
ADOPTED BY COUNCIL ON DECEMBER 16, 2013**

WHEREAS, by Ordinance adopted December 16, 2013 (the “2013 Ordinance”), City Council approved the sale of Lot 12A at 1279 Kenwood Lane to Hugh D. Scott, III and Susannah Wood for the purchase price of \$101,850.00; and

WHEREAS, Council required certain modifications to the Purchase Agreement, one of which was that the single-family home to be constructed on Lot 12A must contain an accessory apartment, as defined and allowed under the City’s Zoning Ordinance; and

WHEREAS, the Purchaser’s attorney has notified the City that the requirement for an accessory apartment prevents clear title to be conveyed because the title commitment revealed that all of the lots in the Arlington Heights Subdivision, created in 1957, are subject to a recorded restriction that prohibits construction of any building other than one single family home; and

WHEREAS, the City Attorney has recommended that Council remove the accessory apartment requirement from the Purchase Agreement in order to allow the conveyance to move forward; now, therefore,

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that the 2013 Ordinance relating to the sale of city-owned land at 1279 Kenwood Lane, a copy of which is attached to this ordinance, is hereby revised to remove the accessory apartment requirement as a condition of approval, and the City Attorney is hereby directed to revise the Purchase Agreement accordingly. All other terms and conditions of the 2013 Ordinance shall remain unchanged.

ORDINANCE
AUTHORIZING THE SALE/CONVEYANCE OF CITY-OWNED LAND
LOCATED AT 1279 KENWOOD LANE
TO HUGH D. SCOTT, III AND SUSANNAH G. WOOD

WHEREAS, the City of Charlottesville is the owner of property located at 1279 Kenwood Lane, Charlottesville, Virginia, currently designated as Parcel 32 on City Tax Map 43B; and

WHEREAS, the City has proposed a subdivision of the Property, to create a new lot, consisting of approximately 14,563 square feet (0.334 acre) fronting on Kenwood Lane (the "Property"), as shown on the attached subdivision plat (review copy) prepared by Thomas B. Lincoln, and the City has begun the process necessary for preparation and approval of a final subdivision plat for the Property; and

WHEREAS, in September 2013 the City solicited proposals from persons interested in acquiring and developing the Property ("Request for Proposals"), and the City has received six (6) purchase offers/ proposals, including a proposal dated October 16, 2013, from Hugh D. Scott and Susannah G. Wood, together, which proposal was amended November 11, 2013 to clarify the correct names of Purchaser as being "Hugh D. Scott, III" and Susannah G. Wood; and

WHEREAS, following review of all proposals received and consideration of the merits of each, and upon consideration of the recommendation of staff, this Council finds that the proposal submitted by Hugh D. Scott, III and Susannah G. Wood is the most meritorious for reasons including, without limitation, the offered purchase price of \$101,850 (i.e., \$105,000, less and except a real estate sales commission of 3% payable to Purchaser's real estate agent); and

WHEREAS, as required by Virginia Code Section 15.2-1800(B) a public hearing on the proposed sale of the Property was advertised and was held on December 2, 2013, and the public has thereby been given an opportunity to comment on the proposed conveyance of the Property;

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council:

THAT the October 16, 2013 proposal, as amended November 11, 2013 ("Proposal") received from Hugh D. Scott, III and Susannah G. Wood (together, "Purchaser") is hereby accepted by Council, and Council hereby approves a sale of the Property to the Purchaser under the terms and conditions set forth within the Request for Proposals and the Purchaser's Proposal, subject to the following modifications:

- (1) The southeast boundary of the Property will be adjusted to provide a fifteen (15) foot wide access between Kenwood Lane and the remainder of the property retained by the City;
- (2) The rear boundary of the Property will be adjusted so that the Property will still contain approximately 14,563 square feet (0.334 acres), after the adjustment to the southeast boundary; and,
- (3) The single family home built on the Property will contain an accessory apartment, as defined and allowed under the City's Zoning Ordinance.

THAT closing shall not take place until a subdivision plat for the property, revised to reflect the modifications stated herein, has received final approval through the City's normal approval process and timeline.

THAT the City Manager is hereby authorized to execute a contract for the sale of the Property by the City to the Purchaser, under the terms and conditions referenced above, and in a form approved by the City Attorney; and

THAT the Mayor of the City of Charlottesville is hereby authorized to execute a deed, in a form approved by the City Attorney, conveying the Property to the Purchaser. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said property conveyance.

Approved by Council
December 16, 2013



Clerk of Council

GREENBRIER PARK
 CITY OF CHARLOTTESVILLE, VIRGINIA
 CTMP 42B-85
 28.29 AC.
 D.B. 344 P. 278
 D.B. 265 P. 379, 381 PLAT
 ZONED: PPO

28.29 ACRES EXISTING
 + 1.410 ACRES LOT 12B
 29.700 ACRES NEW TOTAL

CTMP 43B-32
 LOT 12
 BLOCK A
 SECTION ONE
 ARLINGTON HEIGHTS
 CITY OF CHARLOTTESVILLE

VA.SP. GRID NORTH
 NAD 83 SOUTH ZONE



APPROXIMATE LIMITS
 OF 100 YEAR FLOODPLAIN
 PER CHARLOTTESVILLE GIS

FLOOD ZONE A

FLOOD ZONE X
 (UNSHADED)

LOT 12B
 1.410 AC.
 61,401 SQ.FT.

LOT 13
 BLOCK A
 SECTION ONE
 ARLINGTON HEIGHTS
 CTMP 43B-33
 DAVID L. LABERNZ,
 KENNETH DARRELL MORAN
 AND MELINDA MORAN
 INST. #2012001344, P. 4 PLAT
 ALB. CO. D.B. 332 P. 375, 378 PLAT

GRAPHIC SCALE: 1" = 60'



LEGEND:
 IF = IRON FOUND
 IS = IRON SET
 SBL = SETBACK LINE
 SSMH = SANITARY SEWER MANHOLE
 = WATERLINE

715' TO INTX
 LESTER DRIVE

KENWOOD
 LANE
 50' WIDE
 D.B. 332
 P. 375,
 378 PLAT

LOT 12A
 0.334 AC.
 14,563 SQ.FT.
 ZONED: R1

N 3908957.42306
 E 11491880.41433

SCALE: 1" = 60'
 SHEET 3 OF 4

LOT 11
 BLOCK A
 SECTION ONE
 ARLINGTON HEIGHTS
 CTMP 43B-31
 THELMA W. HALL
 INST. #2009004989,
 D.B. 313 P. 347
 ALB. CO. D.B. 332 P. 375, 378 PLAT

SOUTHERN RAILWAY COMPANY

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**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: April 21, 2014

Action Required: Approval of Resolution

Presenter: James E. Tolbert, AICP, Director of NDS
David Blount, TJPDC

Staff Contacts: James E. Tolbert, AICP, Director of NDS
Maurice Jones, City Manager

Title: **Transportation Enhancement Grant - \$300,000 Cash Flow
Loan to TJPDC**

Background: Approximately three years ago the Thomas Jefferson Planning District Commission (TJPDC) applied for a Transportation Enhancement Grant on behalf of the City and a private developer of the property at the intersection of JPA and Emmet. The grant was to pay for a realignment of the intersection to increase pedestrian safety.

Discussion: This item is before City Council so you can consider a request by the TJPDC for a short term, no interest loan of \$300,000 to assist them with cash flow as they manage the grant. With construction expected to be substantially complete in 90 days, and with reimbursement from VDOT typically lagging 60-90 days behind requests, THPDC would face significant reductions in its cash flow over the short term of this project. Their intent is to repay the loan with the VDOT reimbursements.

Alignment with City Council Vision and Priorities: Approval of this agenda item aligns directly with the City Council Vision to be:

- A Smart Citizen Focused Government
- A Connected Community

City Council Agenda Memo

*RE: Transportation Enhancement Grant
\$300,000 Cash Flow Loan to TJPDC*

Page 1 of 4

Citizen Engagement: While there has been no direct citizen engagement on this particular item, the project has been the subject of much engagement. When the road improvement was first proposed almost 15 years ago, there were numerous meetings with citizens and the University. Additionally when the Special Use Permit was approved there were neighborhood meetings and a public hearing.

Budgetary Impact: If approved, \$300,000 would be paid to the TJPDC from the CIP contingency. Those funds would be repaid within 6 months of the final project completion.

Recommendation: Staff recommends approval of the resolution to allocate \$300,000 from the CIP Contingency to the Thomas Jefferson Planning District Commission as a loan for the construction of improvements to the JPA/Emmet Street intersection. These funds will be repaid by the TJPDC with the project reimbursements received from VDOT. A letter agreement between the TJPDC and the City will be executed by the City manager to outline repayment terms.

Alternatives: Council could choose not to approve the resolution.

Attachments: Resolution
TJPDC Request Letter
Approved Plan

RESOLUTION
Transportation Enhancement Grant – Cash Flow Loan to TJPDC
\$300,000

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby transferred in the following manner:

Transfer From

\$300,000 Fund: 426 WBS: CP-080 G/L Account: 599999

Transfer To

\$300,000 Fund: 426 WBS: P-00809 G/L Account: 599999



Regional Vision • Collaborative Leadership • Professional Service

April 7, 2014

Mr. Maurice T. Jones, City Manager
City of Charlottesville
605 East Main Street
PO Box 911
Charlottesville, VA 22902

RE: Loan Request for Construction Phase of the Emmet/JPA Bicycle and Pedestrian Improvements

Dear Mr. Jones:

In 2011, the Thomas Jefferson Planning District Commission (TJPDC) agreed to serve as the Sponsor for improvements at the Emmet/JPA intersection, at the City's request. TJPDC submitted a successful application for \$300,000 in Transportation Enhancement Program (TEA) grant funding on November 1, 2011. The application included the attached extract of the October 17, 2011 City Council meeting approving the request, and the October 25, 2011 letter from James Tolbert, indicating the City has approved the design, agrees to maintain all improvements in the public right-of-way, supports TJPDC's application, and has appropriated \$75,000 to the project.

As the Sponsor for the project, TJPDC is responsible for all activities necessary to complete the work. TJPDC is also required to administer all aspects of the project, to meet all funding obligation and expenditure timeline requirements, to submit reimbursement requests to the Virginia Department of Transportation (VDOT) and to ensure Civil Rights compliance. The contractor for this project, Digs, Inc., was selected through a competitive bid process and the \$320,050 construction contract, dated March 25, 2014, is in place. Project costs also include inspection and testing, a construction contingency, and staff costs for TJPDC and VDOT, to comprise the full \$375,000 of grant and match funds available.

The construction contract calls for substantial completion within 90 days of the Notice to Proceed (which should occur within the next two weeks) and completion of the project within another 30 days. The contractor will bill TJPDC once per month, with payments to the contractor due within 10 days. A payment to the contractor must be made prior to TJPDC requesting a reimbursement from VDOT for the TEA grant funds. Our experience with reimbursement through VDOT is there is at least a 60-day turnaround from invoice submission to reimbursement; thus we expect 90% to 100% of payments to be made to the contractor prior to receipt of any reimbursement.

Therefore, in order to handle the cash-flow demands of this short-term project, TJPDC requests that the City of Charlottesville provide a no interest loan to TJPDC of \$300,000 for a period of not more than six (6) months. Billie Campbell, Senior Program Manager, and I are glad to address any questions you may have or to provide any additional information you may desire about this project and this request.

Thank you for your consideration of this request.

Sincerely,

Dayid Blount
Acting Executive Director

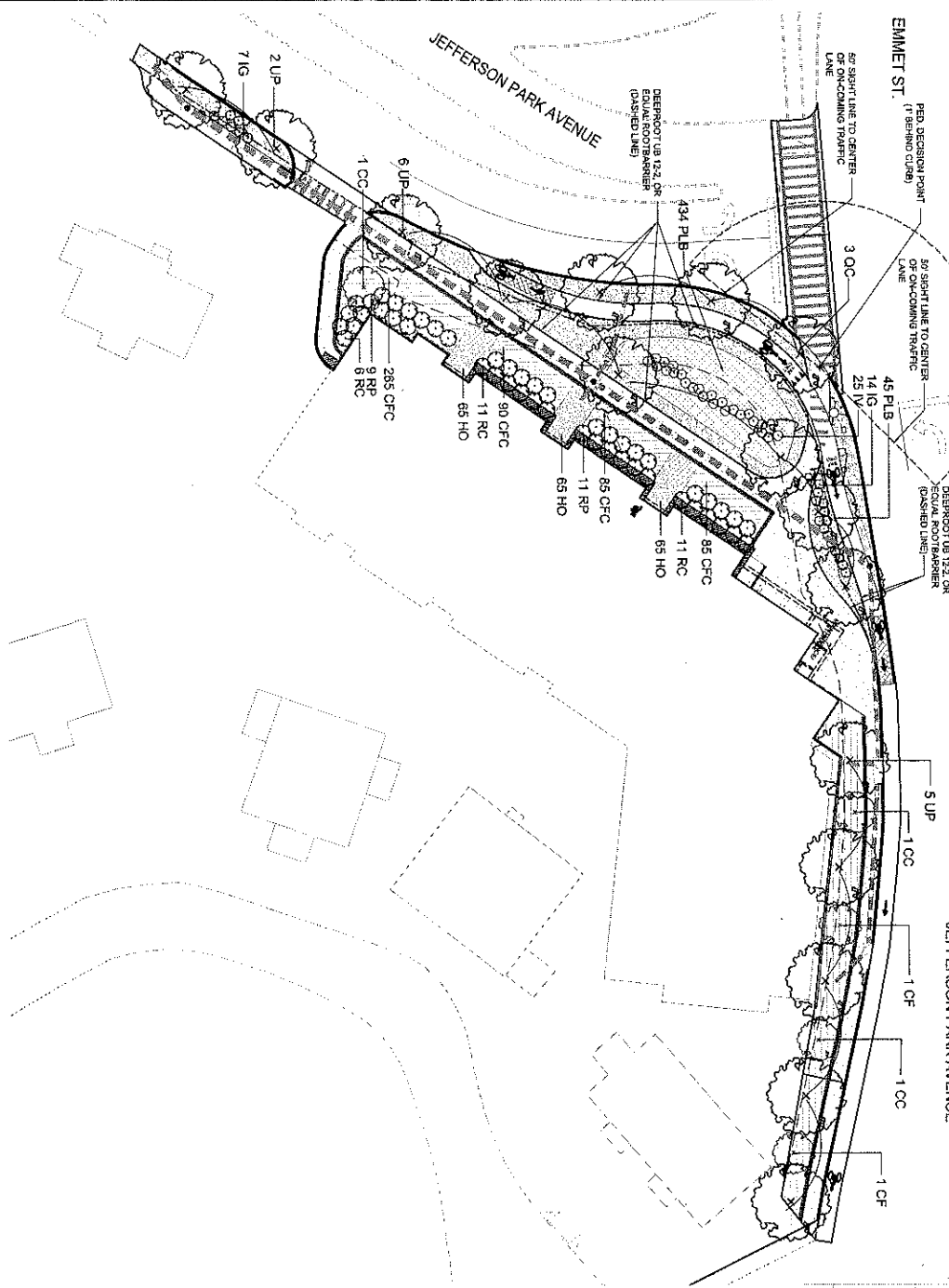
Enclosures as noted

City of Charlottesville Albemarle County Fluvanna County Greene County Louisa County Nelson County

401 East Water Street • Post Office Box 1505 • Charlottesville, Virginia 22902-1505
Telephone (434) 979-7310 • Fax (434) 979 1597 • Virginia Relay Users: 711 (TDD) • email: info@tjpd.org • web: www.tjpd.org

General Landscape Notes

1. CONSTRUCTION TO USE EXISTING CURBS AND CURBLINE AS MUCH AS POSSIBLE. NEW CURBS SHALL BE CONSTRUCTED TO EQUAL EXISTING CURBLINE OR CONSTRUCTION TO BE TO BE SHOWN.
2. ALL CURB AND GUTTER REPAIRS SHALL OCCUR WITHIN THE LINE OF EXISTING CURBS. CONSTRUCTION SHALL BE COMPLETED WITHIN THE LINE OF EXISTING CURBS. ALL EXISTING CURBS SHALL BE REPAIRED TO ORIGINAL CONDITION. ALL EXISTING CURBS SHALL BE REPAIRED TO ORIGINAL CONDITION. ALL EXISTING CURBS SHALL BE REPAIRED TO ORIGINAL CONDITION.
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Legend and Plant Schedule

DESCRIPTION	PLANT NAME	PLANT SIZE	PLANT QUANTITY
STREET TREES	PLANT NAME	PLANT SIZE	PLANT QUANTITY
LANDSCAPE PLANTINGS	PLANT NAME	PLANT SIZE	PLANT QUANTITY
STREET TREES	PLANT NAME	PLANT SIZE	PLANT QUANTITY
LANDSCAPE PLANTINGS	PLANT NAME	PLANT SIZE	PLANT QUANTITY

Street Tree Provisions

1. STREET TREES TO BE PLANTED AT 12-14' O.C. FROM CURBLINE.
2. STREET TREES TO BE PLANTED AT 12-14' O.C. FROM CURBLINE.
3. STREET TREES TO BE PLANTED AT 12-14' O.C. FROM CURBLINE.

Landscape Maintenance Notes

1. ALL PLANTINGS TO BE MAINTAINED AT ALL TIMES.
2. ALL PLANTINGS TO BE MAINTAINED AT ALL TIMES.
3. ALL PLANTINGS TO BE MAINTAINED AT ALL TIMES.

NOTE ON REVISIONS: THIS SCALE DIMENSIONS AND DIMENSIONS NOT TO BE EXCEEDED BY USE OF SCALE. TO THE EXTENT POSSIBLE, ALL DIMENSIONS SHALL BE MAINTAINED TO THE EXTENT POSSIBLE. TO THE EXTENT POSSIBLE, ALL DIMENSIONS SHALL BE MAINTAINED TO THE EXTENT POSSIBLE. TO THE EXTENT POSSIBLE, ALL DIMENSIONS SHALL BE MAINTAINED TO THE EXTENT POSSIBLE.

BP-05

EMMET ST. / JEFFERSON PARK AVE. BIKE/PEB IMPROVEMENTS
 THOMAS JEFFERSON PLANNING DISTRICT COMMISSION
 PROJECT NUMBER: EN12-104-262, P101, C01; UPC NUMBER: 103578; FHWA # STP-5104-(221)
 REVISIONS LANDSCAPE PLAN 11.15.13

waterstreet:llp