



CITY COUNCIL AGENDA
October 17, 2022
CERTIFICATIONS

J. Lloyd Snook, III, Mayor
Juandiego Wade, Vice Mayor
Sena Magill, Councilor
Michael K. Payne, Councilor
Brian R. Pinkston, Councilor
Kyna Thomas, Clerk

4:00 PM OPENING SESSION

Register at www.charlottesville.gov/zoom. This portion of the meeting is held electronically. Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call (434) 970-3182 or submit a request via email to ada@charlottesville.gov. The City of Charlottesville requests that you provide a 48-hour notice so that proper arrangements may be made.

Call to Order/Roll Call Approval for Magill to participate electronically due to medical condition 4-0 (PINKSTON/WADE)

Agenda Approval APPROVED 5-0 (PINKSTON/WADE)

Work Session

1. Discussion: FY2024 City Budget Development

5:30 PM CLOSED SESSION pursuant to Sections 2.2-3711 and 2.2-3712 of the Virginia Code (TBD)

Vote to meet in closed session APPROVED 5-0 (PINKSTON/WADE)

Vote to certify closed session APPROVED 5-0 (PINKSTON/WADE)

6:30 PM BUSINESS SESSION

Moment of Silence

Announcements

Recognitions/Proclamations

- Proclamation: Metastatic Breast Cancer Awareness Day - October 13, 2022

Consent Agenda* APPROVED 5-0 (PINKSTON/WADE)

2. Minutes: September 6 Council meeting
3. Resolution: Appropriating Fiscal Year 2023 Fire Programs Aid to Locality (Firefund) - \$186,776.00 (2nd reading)
#R-22-129
4. Resolution: Appropriating Funding from the Virginia Department of Social Services for the Supplemental Nutrition Assistance Program Education & Training Program (SNAP E&T) Laptop Loaner Program - \$15,400 (2nd reading)
#R-22-130
5. Resolution: Appropriating American Rescue Plan funds from the Commonwealth for Utility Bill Assistance - \$29,524.18 (2nd reading)
#R-22-131
6. Resolution: Approving Compromise of Claim: Wastewater Leak Credit \$31,516.31 for 525 Ridge Street - Management Services Corporation (1 reading)
#R-22-132
7. Resolution: Update Council Meeting Procedures to update electronic participation provisions (1 reading)
#R-22-133
8. Resolution: Resolution to Appropriate Funds for the Charlottesville/Albemarle Adult Drug Treatment Court Grant Award - \$240,000 (1 of 2 readings)
9. Resolution: Virginia Juvenile Community Crime Control Act Grant (V.J.C.C.C.A.)- \$452,704 (1 of 2 readings)

City Manager Report

- Report: Quarterly Financial Update

Community Matters

Action Items

10. **Public Hearing/Ord.:** #O-22-134 **Vacation of Public Utility Easement at 209 Maury Avenue (1 reading)**
APPROVED 5-0 (PAYNE/PINKSTON)
11. **Ordinance:** #O-22-135 **To amend, re-ordain and re-enact Section 14-19 of the City Code, to clarify the businesses subject to taxation at the rate specified within Subclassification H of Section 14-19 (approved on 1 reading with at least 4/5 vote)** **APPROVED 5-0 (PAYNE/PINKSTON)**
12. **Ordinance:** #O-22-136 **To amend, re-ordain and re-enact Chapter 30, Article 9 of the City Code (Transient Occupancy Tax), to incorporate state legislative changes pertaining to collection of tax revenues from lodging intermediaries, and to update definitions of terms used in Article 9 (approved on 1 reading with at least 4/5 vote)** **APPROVED 5-0 (PAYNE/PINKSTON)**
13. **Ordinance:** #O-22-137 **To amend, re-ordain, and re-enact Chapter 30, Article 17 of the City Code (Cigarette Tax) (approved on 1 reading with at least 4/5 vote)**
APPROVED 5-0 (PINKSTON/WADE)
14. **Ordinance:** To amend, re-ordain, and re-enact Chapter 30, Article 4 of the City Code (Real Estate Tax Relief for the Elderly and Disabled Persons) (1 of 2 readings)
15. **Resolution:** Appropriating \$700,000 from the CIP Contingency to Avon Fuel Station Replacement Project (1 of 2 readings)
16. **Resolution:** #R-22-138 **Dogwood Housing Loan Extension (1 reading)**
APPROVED 5-0 (PINKSTON/WADE)
17. **Resolution:** #R-22-139 **Approving Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) Guidelines (1 reading)** **APPROVED 5-0 (PINKSTON/PAYNE)**
18. **Resolution:** Appropriating \$107,203.32 for Jefferson School African American Heritage Center Rent Agreement (1 of 2 readings)
19. **Resolution:** Appropriating American Rescue Plan (ARP) Funds \$565,000 (1 of 2 readings)
20. **Resolution:** Appropriating Funds for Bag Distribution in Connection with Plastic Bag Tax - \$20,000 (1 of 2 readings)

General Business

Other Business

Community Matters (2)

Adjournment

RESOLUTION
Appropriating the amount of \$186,776.00 received from the Virginia Fire Fund for
Expenditure in Fiscal Year 2023

WHEREAS, the City’s Fire Department has received notification that the City of Charlottesville has received an allocation of aid-to localities, in the amount of \$186,776.00, from the Virginia Fire Programs Fund, which may be used to pay for training, protective clothing and equipment, and other expenditures authorized within Code of Virginia Section 38.2-401(B);

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that, upon receipt of this aid from the Commonwealth, a total of \$186,776.00 is appropriated for expenditure in accordance with the provisions of Virginia Code Sec. 38.2-401(B), using the following funds and accounts:

Revenues - \$186,776

\$186,776 Fund: 209 I/O: 1900010 G/L Account: 430110

Expenditures - \$186,776

\$186,776 Fund: 209 I/O: 1900010 G/L Account: 599999

RESOLUTION

Appropriating Funding Received from the Virginia Department of Social Services for the SNAP E&T Laptop Loaner Program in the amount of \$15,400

WHEREAS, the Charlottesville Department of Social Services has received an allocation of \$15,400 in the Fiscal Year 2023 budget from the Virginia Department of Social Services to be used for purchasing laptops for clients participating in the SNAP E&T program who do not have computers.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$15,400, upon receipt by the City, is hereby appropriated for expenditure within the FY23 budget in the following manner:

Revenue – \$15,400

Fund: 212	Cost Center: 9900000000	G/L Account: 430080	\$15,400
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Expenditures - \$15,400

Fund: 212	Cost Center: 3301009000	G/L Account: 520990	\$15,400
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RESOLUTION

Appropriating the Amount of \$29,524.18 of American Rescue Plan Funds Received from the Commonwealth of Virginia for Residential Utility Bill Assistance

WHEREAS the City of Charlottesville has received a second award from the Commonwealth of Virginia of American Rescue Plan Funds dedicated for financial assistance with residential utility bills;

WHEREAS the assistance is limited to residential customers with arrearages greater than 60 days for the time period between March 12, 2020 and August 31, 2021;

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$29,524.18 is hereby appropriated in the following manner, for expenditure in accordance with federal ARP requirements:

REVENUES

Fund 207 I/O 1900446 G/L Account 430127

EXPENDITURES

Fund 207 I/O 1900446 G/L Account 599999

RESOLUTION

Approval of a Compromise of Claim in the Form of a Leak Credit of \$31,516.31 for Wastewater Charges to the Utility Account of 525 Ridge Street – Management Services Corporation.

WHEREAS, the Director of Finance, City Attorney, and City Manager concur that circumstances associated with a leak at 525 Ridge Street warrant a credit in the amount of \$31,516.31 for wastewater charges, and in accordance with City Code Sec. 11-132(4), City Council has authority to grant such a compromise of claim; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the Director of Finance is hereby authorized to apply a credit of \$31,516.31 to the utility account of 525 Ridge Street – Management Services Corporation.

RESOLUTION
Approving Amendments to the City Council Rules and Procedures

BE IT RESOLVED by the Council of the City of Charlottesville, THAT City Council's Rules and Procedures are amended to incorporate the most-current flexibility allowed by the Virginia Freedom of Information Act, allowing use of various means of electronic communication for conducting City Council meetings.

Charlottesville City Council Rules and Procedures

These *Charlottesville City Council Rules and Procedures* are designed to help City Council conduct its affairs in a timely and efficient manner, while encouraging a robust and meaningful dialogue with members of the community.

I. MEETINGS

A. Generally

1. Regular meetings. Council will adopt a schedule for its regular meetings at its first regular meeting in January each year. Changes to the date, time or location(s) of regular meetings during the calendar year may be made by resolution of Council.
2. Other meetings.
 - a. "Town Hall Meetings" may be regularly scheduled meetings, such as the "Our Town" meeting series, or may be scheduled as a special meeting by Council on a particular topic. A town hall meeting is a type of meeting at which councilors answer questions from the public.
 - b. "Work Sessions" are a type of special meeting at which Council may discuss one or more specific topics in depth among themselves, or at which Council desires to receive an in-depth presentation from staff or an outside party on a particular topic. Council may vote on matters discussed at a Work Session (FOIA does not prohibit voting,) but generally the purpose of a Work Session is to inform councilors on a topic and for councilors to give staff or others general direction. Work Sessions may take place within a regular meeting or may be scheduled as a special meeting.
 - c. Special meetings, including emergency meetings, may be scheduled and held in addition to the schedule of regular meetings. Public notice and procedural requirements for special meetings are governed by the Virginia Freedom of Information Act (FOIA) and the City Code.

For special meetings, the purpose and nature of the meeting will dictate whether public comment will be allowed. Time for public comment may or may not be allocated depending on the nature of the meeting and at the discretion of Council.

3. At its annual meeting, City Council may fix the day or days to which a regular meeting will be continued, if the mayor (or vice-mayor, if the mayor is unavailable or unable to act) issues a declaration that weather or other conditions are such that it is hazardous for members to attend the regular meeting. If no such provisions are set out in the annual resolution establishing regular meeting dates, then the declaration shall state the date and time to which

the meeting shall be continued and public notice of the continued meeting shall be given contemporaneously with notice given to city councilors. (See Va. Code 15.2-1416 (weather))

4. All virtual meetings—per Virginia Code §2.2-3708.3(C) City Council is not allowed to hold all-virtual meetings.

B. Agenda and Materials

1. The City Manager shall prepare a proposed agenda nine business days before the meeting for review by the Mayor. The proposed agenda for a regular meeting, and related agenda packets/ materials, shall be “finalized” on the Wednesday immediately preceding the regular meeting date (the proposed agenda does not actually become final until approved by City Council at the meeting). The Clerk may update materials provided for a regular meeting once, on the Friday preceding the regular meeting date.
 - a. Any staff or council member who seeks to add items to a meeting agenda should notify the City Manager and the Mayor at least ten business days before the date of the meeting. Last minute submissions are discouraged but may occur from time to time when a matter that requires action expeditiously was not known in time to be presented during the normal agenda development process.
 - b. Citizens may suggest an item for consideration on a Council meeting agenda by submitting the suggestion in writing to the City Manager at least ten business days prior to the meeting.
 - c. Subject to applicable FOIA requirements, last minute additions to a regular meeting agenda shall be prepped and provided to councilors, but City Council must vote as to whether the item will be added to the agenda, during the “approval of the agenda” portion of the meeting.
2. The Order of Business at each regular meeting of Council shall be as follows (the opening session of each meeting will begin at the regular meeting start-time specified in the Annual Meeting Resolution, as amended. Additionally, times may be also identified within a meeting agenda as approximate starting time(s) for specific portions of the agenda):
 - a. Opening Session (Call to Order; Roll Call/ Establish Quorum; Approve Agenda; Reports)
 - b. Closed Session (following the Reports Session)
 - c. Business Session (following the Closed Session)
 - Special Recognitions by the Mayor, Council or City Manager (if any), Awards and Proclamations (Council may also project awards, recognitions, and announcements on the television/video screens in lieu of reading/ announcing them.)
 - Boards and Commissions Appointments
 - Consent Agenda (including, without limitation: approval of minutes; routine ordinances or resolutions; final/second readings of appropriations, ordinances or resolutions; other routine items)
 - City Manager’s Report, including any responses to prior Community Matters
 - Community Matters (16 speaker maximum; see Section D of these Procedures)
 - Action Items, and any related Public Hearings (items on which action is requested from Council). Public hearings are heard as the first items of business in the Action Items section.

- Discussion Items, and any related Public Hearings (items on which Council will conduct a public hearing, hold a discussion among themselves, receive a presentation, etc., but on which no action will be taken at that meeting)
- Community Matters 2, additional public comment period at the end of the meeting

3. The City Manager will provide appropriate agenda materials for the Council. The proposed Agenda and agenda packets/materials for upcoming City Council meetings shall be made available for public inspection by appointment in the Clerk of Council's Office at the same time the materials are furnished to councilors. Posting on the City's website is not required by FOIA, but agenda packets/ materials timely received by the date set for finalizing an agenda shall also be posted on the City's website. Reasonable efforts will be made by the Clerk of Council to post late-received submissions on the City's website but time commitments of the Clerk may not permit re-formatting and re-publication of materials on the website, particularly when multiple late submissions are involved. (Va. Code §2.2-3707(F), FOIA Advisory Council AO-05-12)

4. Council may defer any item for which all relevant information has not been provided to the Clerk within the times set forth within these procedures.

5. Agenda Items

- Consent Agenda:* the consent agenda may be used for eligible items and may include, but is not limited to, routine and noncontroversial appropriations, grant applications, contracts, resolutions, ordinances, second readings, and the minutes. Any item may be removed at the request of a councilor. If any councilor requests that an item be removed from the consent agenda for further discussion, the item shall be added to the end of the regular action item agenda for discussion and action. If a councilor requests a separate vote on an item but does not wish to have further discussion on the item, the item will be voted upon after the remainder of the consent agenda is acted upon.

Approval of Consent Agenda: Those items not removed from the consent agenda shall be acted upon by a single vote of Council.

- Once the Agenda is approved at the beginning of the meeting, all of the Agenda items shall be heard in the order in which they appear on the approved Agenda. A majority of councilors may agree to take out of sequence any listed on the approved agenda. At any time, a regular meeting may be adjourned from day to day, or from time to time, or from place to place (but not beyond the time fixed for commencement of the next regular meeting, until all of the business set forth on a regular meeting agenda is completed. Notice of any meeting continued under this provision shall be reasonable and shall be given to the public in accordance with FOIA. (Va. Code § 15.2-1416(C))
- Each agenda item shall be given an approximate time limit. Generally, the total time allocated to any agenda item that does not include a scheduled public hearing shall not exceed twenty (20) minutes, unless the presiding officer, after consultation with the other councilors, determines otherwise.
- Opening presentations for agenda items shall be limited to ten (10) minutes, unless the

presiding officer, in consultation with the other councilors, determines otherwise.

- e. For each agenda item, an individual or councilor shall be designated as the main Presenter who will introduce the item to Council; however other presenters may also be recognized during Council's consideration of an Agenda Item (for example, and without limitation: rezoning applicants or their consultants, staff members, City/staff consultants, etc.) After presentation of the item, councilors may ask clarifying questions of any presenter, if necessary. If a public hearing is scheduled, the public hearing will be conducted before any motion is initiated by a councilor.

C. Transaction of Business

1. General.

- a. Unless otherwise specifically provided by law, Council may conduct business and vote upon any matter properly before it, at any meeting at which a quorum is present.
- b. Informal discussion of a subject is permitted while no motion is pending.
- c. In making motions and transacting its business, Council shall follow the rules set forth within these Meeting Procedures. If a question of procedure arises that cannot be resolved by the provisions within these Procedures, the Parliamentarian will consult Robert's Rules of Order and apply them to a resolution of the question.
- d. If in speaking, any member violates these Rules, the presiding officer will call the member to order. If there is no appeal, the decision of the presiding officer shall be submitted to. If the decision is in favor of the member who was called to order, they may proceed; otherwise, they shall not proceed except by leave of the Council. (City Code §2-70)

2. Motions, generally.

- a. Any member, including the presiding officer, may make a motion. A member may make only one motion at a time.
- b. Except as otherwise noted, all motions require a second; a motion dies for lack of a second.
- c. Except as otherwise noted, each member is required to obtain the floor, by addressing the presiding officer, before making motions or speaking either to other councilors or to members of the public.

3. Substantive Motions.

- a. A substantive motion is any motion that deals with the merits of an item of business and that is within the Council's legal powers, duties and responsibilities.
- b. A substantive motion is out of order while another substantive motion is pending.

4. Procedural Motions.

- a. A procedural motion is a motion that Council may use to "act upon" a substantive motion, by amending it, delaying consideration of it, and so forth. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.
- b. Only the following procedural motions, and no others are in order. Procedural motions are

listed below in their order of priority. If a procedural option is not listed below, then it is not available:

- i. Appeal a Procedural Ruling of the Presiding Officer (an appeal is in order immediately after a decision is announced and at no other time; the maker need not be recognized by the presiding officer, the motion does not require a second, and if made in a timely manner, the motion may not be ruled out of order.)
- ii. Motion to Adjourn, to be made without preliminary remarks, and to be decided without debate
- iii. Take a brief recess
- iv. Suspend the rules (City Code Sec. 2-66: 4/5 vote is required)
- v. Defer consideration of a Substantive Matter (“lay on the table”), to be decided without debate
- vi. To postpone, either indefinitely, or to a day or hour certain
- vii. Call the question, subject to the provisions of City Code s2-76 (not in order until each member has had an opportunity to speak once; the motion is not amendable or debatable)
- viii. Motion to amend (a motion may be amended no more than twice; once a motion has received a second, it is up to the entire group to decide whether or not it should be changed by amendment; prior to receiving a second, a motion may be amended with the permission of the person who made the motion)
- ix. Substitute motion (no more than one substitute motion may be made; if a substitute motion is adopted and replaces the original motion, no further substitute motions may be made)
- x. Withdrawal of motion (a motion may be withdrawn by its maker any time before it is amended, or before the presiding officer puts the motion to a vote, whichever occurs first)
- xi. Motion to reconsider, subject to the restrictions set forth within City Code §§2-73 and 2-74 (provided, however, that this motion may not be used in a land use decision involving a rezoning or a special use permit)
- xii. Other motions expressly referenced in City Code §2-72.

See City Code §2-72

5. Debate.

- a. In the event that conflicts arise among members as to the order for speaking, the presiding officer shall apply the following rules: the maker of a motion is entitled to speak first, if he/she/they wishes to do so; a member who has not spoken on an issue shall be recognized before someone who has already spoken.
- b. The presiding officer may participate in the debate prior to declaring a matter ready for a vote.
- c. Council members shall not engage in electronic communications among themselves during a meeting, regarding any motion that is on the floor for debate.
- d. In making a motion, a member shall endeavor to state the basis of the motion within a period not more than 5 minutes. In debating a motion, or in proposing amendments or substitute

motions, each member shall try to state the basis of that procedural motion within a period of less than 3 minutes. In asking a question of a speaker, Council members should take not more than 3 minutes to phrase the question. When a question is under debate, no motion shall be entertained unless specifically provided for, except for the motions listed in City Code §2-72.

- e. In debate, speakers shall be collegial in their language and shall avoid all reference to personalities. No member shall interrupt another without the consent of the presiding officer, except when making a point of order.
6. Voting
- a. The presiding officer shall call the question, either: (i) after a motion to call the question has received a second and has been voted upon, or (ii) at their discretion, any time after each member has had at least one opportunity to speak during debate. After the vote is taken, the presiding officer shall announce that the motion is adopted or failed and the vote count.
 - b. If any member abstains from voting, the reason for the abstention shall be included in the minutes of the meeting.
 - c. In the event that a substantive matter does not require a recorded vote, then the presiding officer may call for approval of that matter by voice vote or acclamation. (Generally this process should be used only when a matter is simple, clear to all present and requires no discussion.)

7. Mayor as Presiding Officer

The Mayor shall preside at all meetings of City Council (“presiding officer”). The Vice Mayor shall be the presiding officer in the Mayor's absence.

Meetings of City Council shall be governed according to these Meeting Procedures, except where provided otherwise by the Virginia Code or the Code of the City of Charlottesville. Matters not addressed within by one of those sources shall be resolved in accordance with Robert’s Rules of Order.

- a. The City Attorney shall serve as the Parliamentarian for the purposes of interpreting these Meeting Procedure, and the Code of Virginia (1950), as amended, and Robert’s Rules of Order, as may be directed by the presiding officer, or as required as a result of a point of order raised by one or more councilors.
- b. No rule set forth within these Meeting Procedures can be suspended except by the consent of four Council members. Suspension of the rules may be made by a motion. (*City Code section 2- 66*)
- c. At each Council meeting, the presiding officer shall preserve order and decorum, and shall have the authority:
 - i. To decide questions of order (City Code Sec. 2-69);
 - ii. To determine whether a speaker is compliant with these Rules of Procedure, and to entertain and rule on objections from other members on this ground;
 - iii. To entertain and answer questions of procedure;

- iv. To call a brief recess at any time;
 - v. To adjourn in an emergency
- d. A decision by the presiding officer on any matter listed in c.i. through c.iii. above may be appealed to Council upon the question “Shall the decision of the chair be sustained as the decision of the council?”. Such a motion is in order immediately after the presiding officer announces his/her/their decision, and at no other time. Upon an appeal, no debate shall be allowed if the question pertains to a question of “decorum”, and the question shall immediately be voted upon. But if the question relates to the priority of business, or to relevancy or applicability of propositions, the appeal may be debated among councilors prior to a vote. (City Code Sec.2-69)
- e. The presiding officer shall ensure that individuals address their comments to City Council at appropriate times, in accordance with the meeting agenda and these Rules of Procedure. Otherwise, no person shall address City Council until leave to do so has been granted by the City Council or until invited to do so by the presiding officer. Remarks shall at all times be addressed directly to Council, and not to staff, the audience, or the media. (*City Code sec. 2-71*)
- f. Remarks and actions that disrupt the progress of the Council meeting, and remarks from persons other than Councilors, the City Manager, the City Attorney, or a Presenter for an Agenda Item are not permitted, other than within the portions of a meeting Agenda set aside for “Community Matters”, comment on a Consent Agenda item, or a public hearing.
- The presiding officer shall call an individual to order, including a councilor, when that individual goes afoul of these rules. The following are examples of remarks and behavior that are not permitted:
- i. Interrupting a speaker who is addressing Council at the speaker’s microphone, or interrupting a speaker who has otherwise been invited to address Council during Community Matters or a PublicHearing;
 - ii. Interrupting a councilor who is speaking;
 - iii. Shouting, and talking (either individually or in concert with others) in a manner that prevents a speaker or a Councilor from being heard or that otherwise hinders the progress of the meeting;
 - iv. Blocking paths for emergency exit from the meeting room; engaging in any conduct that prevents a member of the audience from seeing or hearing councilors during a meeting; standing on chairs or tables within the Council meeting room;
 - v. Threats of violence toward councilors, City staff or members of the public;
 - vi. Engaging in conduct that is a criminal offense under the City Code or the Virginia Code;
 - vii. Campaigning for elected office;
 - viii. Promotion of private business ventures.
8. During a City Council meeting the presiding officer shall have control of the Council Chambers and the connecting halls and corridors within City Hall, and any other venue where a Council meeting is being held. In case of any conduct described in section f, above, the presiding officer

may take measures deemed appropriate, including but not limited to suspending the meeting until order is restored, ordering areas to be cleared by the Sergeant at Arms, or requiring any individual to exit the meeting room and adjacent premises (connecting halls and corridors.)

9. Any person who has been expelled from a Council meeting shall be barred by the presiding officer, from reentering the Council meeting from which he/she/they was expelled, subject to appeal to Council or motion passed by Council.

D. Community Matters, Public Hearings and Other Comment Opportunities

1. *Community Matters* – Time shall be reserved during each regular City Council meeting for Community Matters. The purpose of Community Matters is to offer individuals an opportunity to state a position, provide information to City Council, comment on the services, policies and affairs of the City, or present a matter that, in the speaker’s opinion, deserves the attention of City Council.
 - a. At Council’s regularly scheduled meetings, two Community Matters opportunities will be afforded for members of the public. One Community Matters opportunity will be offered early in the meeting, prior to taking up matters on a consent agenda, action items agenda, or items for discussion agenda. At this first Community Matters period, up to sixteen (16) individuals may speak, as follows:
 - i. up to 8 individuals selected randomly from a list of people who have signed up in advance, and
 - ii. up to 8 individuals who have raised their hand as directed by the presiding officer at the designated time during the meeting on a first-come/first-served basis.

A second Community Matters session will be offered as the final agenda item at each regular meeting, during which individuals who did not speak during the first Community Matters period may be given an opportunity to address Council.
 - b. Each person who speaks during a Community Matters segment will have up to three (3) minutes.
 - i. Speakers may concede their allotted time; the person whose name is written on the speaker sheet must be the person who begins speaking, although they may be accompanied by others to the podium and may share their time with them. Each speaker shall begin by clearly stating his/her/their name and place of residence (or, if speaking on behalf of a business, by giving the location of the business).
 - ii. Written materials presented at Community Matters must be given to the Clerk prior to speaking and will be distributed to the Council. For distribution of hard copies to Councilors, eight copies should be provided; however, electronic distribution is preferred and may be sent to council@charlottesville.gov. PowerPoint presentations cannot be accommodated during Community Matters.
 - iii. After an individual completes his/her/their remarks to Council, any councilor or the City Manager may respond as they see fit. To assure the orderly progress of the meeting, the presiding officer shall ensure that, collectively, responses to any individual’s remarks will not exceed a period of approximately two (2) minutes.

- iv. Remarks that cannot readily be addressed within the councilors'/City Manager's 2-minute response time may be referred to the City Manager by the presiding officer, with a request that the City Manager bring back a response at the meeting immediately following the present meeting.
2. *Public hearings* – From time to time, Council will conduct public hearings on specific topics as required by law or as Council otherwise deems appropriate. The purpose of a public hearing is for Council to receive public comments on a specific topic.
 - a. The presiding officer will offer meeting participants the opportunity to raise their hand to speak during the public hearing on a first-come/first-served basis. During hybrid meetings with in-person and electronic participation, the presiding officer will acknowledge in-person and remote speakers alternately.
 - b. During a public hearing, speakers must limit their comments to the specific application or matter for which the public hearing has been scheduled.
 - c. No person may speak more than once during any public hearing. Each person who speaks during a public hearing will have up to three (3) minutes.
 - d. Prior to opening a Public Hearing, Council may, by motion, limit the number of speakers who will be heard, and/or reduce the time for each speaker to two (2) minutes, upon determining that the session could not be commenced in a timely manner.
3. *Town Hall meetings* – Town Hall meetings are generally conducted in an open format. Council may conduct a Town Hall meeting in a manner that is free-form (no limit on the time for making a comment or stating a question, or for councilors' responses,) or Council may establish an agenda or list of topics that will apply for a particular Town Hall meeting, and times or guidelines for speakers' questions and councilors' responses. Any parameters that will apply to a Town Hall will be established by the Mayor (or Vice Mayor, if they will be serving as presiding officer) prior to the meeting or by vote of Council after calling the Town Hall meeting to order and prior to opening the floor. Prior to commencing the session, attendees shall be notified of any applicable time limits or speaker guidelines, either by posted signs, a written agenda or verbal announcement by Council at the beginning of the meeting.
4. *Written Comments* – To provide an additional mechanism to communicate with Council, an "Online Matters by the Public" form is provided on the City website for electronically submitting comments. These comments are distributed to all Council members. Citizens may also contact Councilors via their City email addresses (available on the City's website) or by written correspondence sent in care of the Clerk of Council.
5. *Consent Agenda Comments*-After the Clerk of Council concludes reading the Consent Agenda, the presiding officer will ask if anyone in attendance at the City Council meeting wishes to speak on matters listed on the Consent Agenda. Individuals may speak only once during this segment and will have up to three (3) minutes. Remarks shall be limited to matters listed on the Consent Agenda.

E. Recess

1. During regular meetings, Council will take a brief recess every two hours. The presiding officer will announce the recess at an appropriate time, or any member may, by point of order, remind the presiding officer that a brief recess is due.
2. The Council's goal at regular meetings is to adjourn no later than 11:00p.m.

F. Miscellaneous

1. Persons with disabilities may request reasonable accommodations by contacting ada@charlottesville.gov or (434) 970-3182. Persons are encouraged to make requests in advance.
2. All regular City Council meetings are broadcast live on Charlottesville's TV10. Streaming video of the meetings is available for viewing online at the time of the meeting and as an archived video on the next business day following a meeting. Archived meetings can be downloaded in audio or video format from the City website. Charlottesville TV 10 runs repeats of the most recent meeting throughout the month on Mondays, Wednesdays, and Fridays at 7:00 p.m. and Tuesdays, Thursdays, and Saturday mornings at 9:00 a.m. until the next meeting is held. A DVD copy of the meeting may be requested the week after the meeting; a nominal fee may apply. Contact the Clerk of Council at clerk@charlottesville.gov or (434) 970-3113 to inquire.
3. These City Council Meeting Rules and Procedures will be posted on the City's website.
4. These Council Meeting Rules and Procedures are adopted by the Council pursuant to the Charter of the City of Charlottesville and Section 2-66 of the City Code, and effective upon adoption these Rules supersede prior rules. The rules and procedures set forth within this document do not create substantive rights for third parties or participants in proceedings before City Council, and City Council reserves the right to suspend or amend the rules in the manner provided in the City Code. The failure of City Council to strictly comply with the provisions of this document shall not invalidate any action of City Council.

G. Policy for Electronic Participation by Councilors in Council meetings

1. *Purpose and Applicability.* It is the policy of the City Council of the City of Charlottesville that individual members of the Council may participate in Council meetings by electronic means as permitted by Virginia Code Section 2.2-3708.3 (B). The purpose of the policy is to comply with the requirements of Section 2.2-3708.2 of the Code of Virginia and to allow for and govern participation by one or more councilors in Council meetings by electronic communication means. All proceedings pursuant to this policy shall be performed in accordance with Virginia Code Section 2.2-3708.3 (B), as that statute may hereafter be amended. This policy shall apply to the entire City Council membership without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

2. *Quorum Required.* The City Council may consider a request for participation by electronic communication means only if a quorum of the Council is physically assembled at the primary or central meeting location, and there is an arrangement for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
3. *Permissible Reasons for Electronic Participation.* Participation by a Councilor in a meeting by electronic communication means shall only be allowed for one of the reasons set forth within Virginia Code Section 2.2-3708.3 (B) (1), (2), or (4). Each councilor shall be limited each calendar year to participation by electronic means for personal reasons (Virginia Code Section 2.2-3708.3(B)(4)) in two meetings, or twenty-five percent (25%) of the meetings held by City Council per calendar year, rounded up to the next whole number, whichever is greater.
4. *Approval.* Individual participation from a remote location shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act. If a Councilor's participation from a remote location is challenged, then the City Council shall vote whether to allow such participation. If the City council votes to disapprove the councilor's participation because such participation would violate this policy, such disapproval shall be recorded in the Council's minutes with specific reasons cited for the disapproval.
5. *Approval Process.* No councilor may participate in a meeting by electronic communications means unless the Councilor requests and the Council approves the participation in accordance with this policy.
 - a A councilor may request to participate in a meeting by electronic communication means if the Councilor notifies the Mayor and the Clerk of Council on or before the day of the meeting that the councilor is unable to attend due to the following:
 - i. Personal (Va. Code §2.2-3708.3(B)(4)): an emergency or personal matter, provided that the Councilor identifies with specificity the nature of the emergency or personal matter, or
 - ii. Temporary or Permanent Disability, or Medical Condition (Va. Code §2.2-3708.3(B)(1) or (2)): a councilor has a temporary or permanent disability or other medical condition that prevents the councilor's physical attendance, or a medical condition of a member of a councilor's family requires the councilor to provide care that prevents the councilor's attendance.
 - b The councilor must also notify the Clerk of Council of the remote location from which the councilor would participate by electronic communication means.
 - c At the meeting, the Clerk of Council shall announce the information received from the absent councilor. If the Council member's request is in all respects compliant with this policy, then by motion and majority vote of the quorum of councilors physically assembled at the central meeting location, City Council may approve or disapprove the absent councilor's request. If participation by a member through electronic communication means is approved the Clerk of Council shall record in the minutes of the meeting the remote

location from which the Councilor participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2 of Va. Code §2.2-3708.3(B), the Clerk of Council shall also include in the meeting minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 4 of Va. Code §2.2-3708.3(B), the Clerk of Council shall also include in the meeting minutes the specific nature of the personal matter cited by the member.

- d Upon adoption of a motion to approve the councilor's participation by electronic communication means, the councilor shall be allowed to fully participate in the meeting by electronic communication means.

- e If a councilor's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy set forth above, such disapproval shall be recorded in the minutes with specificity, inclusive of the following information:
 - i. the motion;
 - ii. the vote thereon;
 - iii. the specific nature of the emergency or personal matter or temporary or permanent disability or other medical condition;
 - iv. the remote location from which the councilor would participate in the meeting; and
 - v. the specific aspect of this policy that would be violated by the Councilor's proposed participation by electronic communication means, as summarized by the quorum of councilors physically present.

II. THE COUNCIL – MANAGER RELATIONSHIP

- A. Per City Code §2-157 and in the interests of efficient management, if Council members seek answers from City staff, they should generally attempt to do so through the City Manager. In any event, when asking questions of staff, Council members should advise the City Manager of same.

- B. Members of the City Council, including the Mayor, shall represent the official policies or positions of the City Council to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Council members shall explicitly state they do not represent their body or the City, nor will they allow the inference that they do. No member of City Council may purport to speak on behalf of the City on matters that have not been voted on by Council or that do not represent official City policy unless authorized by vote of the City Council.

- C. If a Councilor chooses to convene a gathering that will involve an expenditure of any City funds, the group that is gathered must be a board, commission, committee, subcommittee, task force, advisory group, or other entity—however designated—created by City Council to perform delegated functions of Council or to advise the City Council. The Councilor will advise the City Manager, the Clerk of Council and other councilors of the date, time and purpose of any gathering that will involve expenditure of City funds. A Councilor may expend or commit expenditure of City funds in accordance with Section III, below.

If a Councilor wishes to convene a gathering that will involve the use of City meeting space or the assistance of non-Council staff, the gathering must be approved by the City Manager, with notice given to the Clerk of Council and other councilors of the date, time, place and purpose of the gathering.

- D. If any councilor convenes or plans to attend an event or gathering to which any other councilors may also be invited, he/she/they shall advise the Clerk of Council and the City's FOIA Officer at least one day in advance of the time and place of the event or gathering.
- E. Council members shall respect and adhere to the Council/Manager structure of Charlottesville City government as outlined in the Charlottesville City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards and Commissions, and the public. Except as provided by the City Code, Council members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

Ref. City Charter, §5.01, §5.02

Ref. City Code §2-36; 2-39; 2-146 through 2-158

- F. At the first meeting of January in each even numbered year, an Organizational Meeting shall be conducted to select the Mayor and Vice Mayor. The City Manager shall preside at the Organizational Meeting. The City Manager shall accept nominations from Councilors for the position of Mayor. The City Manager will then accept a motion to close the nomination process.

After a motion to close the nomination process is approved by the Council, each councilor will be provided five minutes to speak about the Mayoral nominees. After all Councilors have concluded their remarks, the Clerk of Council will then call the roll and each Councilor shall state their choice for the position of Mayor. At the conclusion of the Council's Mayoral election, the City Manager shall accept nominations from councilors for the position of Vice Mayor. The City Manager will then accept a motion to close the nomination process. After a motion to close the nomination process is approved by the Council, each councilor will be provided five minutes to speak about the Vice Mayoral nominees.

After all councilors have concluded their remarks, the Clerk of Council will then call the roll and each Councilor shall state their choice for the position of Vice Mayor. The Mayor and Vice Mayor shall be elected for terms of two years.

- G. At a work session conducted in January of each even numbered year, the City Manager and Clerk of Council will coordinate a Council orientation for all City Councilors providing training and education on City operations and City Council Policies and Procedures.

III. CITY COUNCIL EXPENDITURES

- A. Each fiscal year, as part of Council's approval of the annual budget for the City, or as amended during the year, Council appropriates a certain amount of public funds for expenditure by "City Council/ Clerk of Council" and for "City Council Strategic Initiatives". Public funds appropriated in these categories may be expended by City Council in accordance with this Council Procedure document, as follows:
1. ***Council-authorized purchases and expenditures***—public funds within City Council's budget appropriation, including any discretionary funds contemplated to be expended for uses specifically designated by individual councilors within Council's budget appropriation, may be expended for lawful purposes specifically approved by a vote of City Council, including, without limitation:
 - i. Charitable donations authorized by state statute;
 - ii. Compensation to individuals serving on a City-Council created advisory agency, as defined in Va. Code §2.2-3101 (task force, commission or other group - regardless of name). (Note: If City Council creates an advisory agency, City Council may specifically authorize members of the advisory agency to be compensated for their attendance at regularly scheduled meetings and in training. Compensation may be paid to an individual member, only if the City Council action which established the advisory agency: (i) specifically authorizes the amount of compensation to be paid, (ii) designates the manner in which compensation may be paid (City-issued check, cash-equivalent (e.g., gift card), or other form of payment), and (iii) identifies the fund or budget expenditure line item from which the compensation is to be paid.) Ref. Va. Code §15.2-1411.
 - iii. Purchases of goods or services for a City Council meeting, function, or retreat, or purchase of office supplies, travel reservations for an individual councilor, etc., arranged by the Clerk of Council in his/her/their role as "decentralized buyer" for the City (for example: a facilitator for a Council workshop; catering and meals for a City Council meeting or retreat; consulting services for a City Council initiative, etc.).
 - iv. Emergency travel expenses, which may be arranged and authorized by the City Manager, in circumstances where an individual councilor's credit card fails to function while the councilor is traveling on City business.
 - v. Payment for the expenditures listed in (i)-(iii), above, shall be arranged by the Clerk of Council or City Manager, on behalf of City Council, using the credit card issued by the City to the Clerk or by other form of payment used by the City in the normal course of business. Individual councilors' credit cards shall not be used to pay for those expenditures.

2. ***Reimbursement of individual councilors' and Council-staff members' City-business expenses***—pursuant to Va. Code §15.2-1414.6 each individual Councilor is eligible to be reimbursed for any expenses incurred by such individual councilor for official City business (“Reimbursables”). Any such Reimbursables must be itemized and documented by stamped “paid” receipts to the extent feasible.
- i. Following are examples of authorized Reimbursables:
 - registration fees, meals and/or travel and parking expenses for attendance at official functions, general assembly sessions, or ceremonies/special events to which City Council, or an individual councilor, or a Council staff member, is invited or is required to attend;
 - individual dues for membership in organizations related to Council duties, and travel to seminars and meetings of those organizations (e.g., VML, Virginia First Cities, National League of Cities, etc.);
 - meals or refreshments for an individual councilor himself/herself/themself, while meeting with one or more constituents, if receipts are supported by documentation meeting IRS standards for allowable business expenses (identification of the purpose of the meeting, the topic(s) discussed, the person(s) participating in the meeting, etc.);
 - home office supplies for individual councilors, such as copier paper, “cloud” storage for records, office furniture, pens, etc.
 - ii. In lieu of incurring a Reimbursable expense and then submitting a reimbursement request to the City, any individual Councilor or Council staff may use a City credit card issued to such councilor/ staff member to purchase Reimbursables. Requirements for documentation of purchases made with a City-issued credit card, as well as daily per-diems and mileage reimbursement rates, shall be the same as established by the City Manager/ Director of Finance for Cityemployees.
 - iii. No credit card issued to an individual City Councilor shall be used to purchase any goods, services or items other than:
 - a) Reimbursables,
 - b) Tokens of sympathy or appreciation for the Clerk of Council and his/her/their staff, the City Manager and his/her/their deputies and assistants, and the Finance Director and his/her/their deputies and assistants, to recognize birthdays, work anniversaries, sympathy for the loss of a family member, and similar circumstances). The value of a credit card transaction for any such purchase shall not exceed \$50, and
 - c) Goods, services or items approved by City Council, as a body, to be purchased with an individual councilor’s card (*for example, City Council may vote to authorize an individual councilor who is leading an City- Council sponsored trip to charge certain group expenses to the City credit card issued to that councilor*).
 - iv. If any individual councilor desires to use a City credit card that is issued to him/her/them, but is not sure whether or not a particular purchase constitutes a Reimbursable, as defined above, it shall be the responsibility of the councilor to seek guidance (from Council, as a body, the Clerk of Council, the Finance Director, or the City Attorney’s Office) prior to

using the credit card to make the purchase.

Inquiry shall be made regardless of whether similar purchase(s) have previously been made prior to the adoption of these Council Rules and Procedures.

3. ***Prohibited Expenditures, by Credit Card and Otherwise***: the following expenditures of City funds are PROHIBITED and are UNAUTHORIZED as to every individual councilor and each member of Council's staff:

No City funds shall be used to obtain, purchase, or pay for any of the following—whether the purchase or payment is made or obtained by means of a City-issued credit card, expense reimbursement request, City-issued check, cash or cash equivalent (gift card) or otherwise:

- i. Alcoholic beverages,
- ii. Smoking products and paraphernalia,
- iii. Personal items and services (i.e., goods, services or items *other than* Reimbursables) for an individual councilor or any other individual,
- iv. Gifts or donations to any individual(s),
- v. Non-essential services and gratuities: mini-bar fees, service gratuities in excess of 20% for meals or transportation services, movies, personal telephone calls made from a hotel phone, etc.,
- vi. Vehicle fuel,
- vii. Cash (cash advances, wire transfers, money orders, credits for returned merchandise, etc.),
- viii. Any purchase or expenditure that exceeds funding that is available within City Council's fiscal year budget at the time of the purchase or obligation of City funds,
- ix. All other unauthorized purchases and expenditures—meaning any purchase or expenditure other than one specifically authorized within these Council Rules and Procedures.

B. Oversight of Council Expenditures

1. The Clerk of Council shall send monthly budget-to-actual expenditure reports to City Council, reporting all expenditures from City Council's budget for the preceding month (inclusive of credit card purchases), as well as the total amount of funds remaining to be spent during the fiscal year. It shall be the responsibility of City Council, as a body, to review the budget-to-actual expenditure reports and to address any apparent concerns as a group, with Council staff and each other.
2. If any councilor or Council staff member has a question about whether any credit card purchase or other expenditure complies with this Council Procedure, the question should first be presented to Council, as a body, for review and response (assistance from the Finance Director or City Attorney's Office may be requested, as needed). If the question cannot be resolved by Council, as a body, the matter shall be reviewed by the City Attorney in consultation with the City Manager and Director of Finance and/or reported to law

enforcement for investigation.

Notwithstanding the foregoing: if Council as a body fails to promptly take action, or if there is cause to believe that a violation of the requirements of this Council Procedure is knowing or intentional and a financial loss in excess of \$300 (ref. City Code §2-45) will occur to the City while awaiting a response by Council, any City official or Council staff shall have a right to seek review of the matter by law enforcement.

3. Any City Councilor who uses a credit card, or otherwise obligates City funds to be expended, for purposes not authorized by this Council Procedure may be subject to civil fines, payment of reimbursement to the City, and/ or criminal prosecution (ref. City Code §2-45, City Code §22-33, and Va. Code §18.2-112).

**EXHIBIT 1:
REQUIREMENTS FOR ALL-VIRTUAL MEETINGS
CONDUCTED BY CITY COUNCIL**

1. *Contents of the Required Meeting Notice* --The required meeting notice will state that the meeting will be an all-virtual public meeting. The required meeting will also include a specific statement notifying the public that the method by which the City Council chooses to meet shall not be changed unless the City Council provides a new meeting notice in accordance with the provisions of Va. Code §2.2-3707. City Council shall utilize a standard form all-virtual meeting notice provided by the Clerk of City Council and approved by the City Attorney's Office.

2. *Public access*--Public access to the all-virtual public meeting will be provided via electronic communication means. Every all-virtual public meeting will have a designated "host" trained by a member of the City's Office of Communications in the operation and trouble-shooting of the electronic communication means to be used for the meeting.

a. The electronic communication means used will allow the public to hear all members of the City Council participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the City Council as well.

b. A phone number or other live contact information will be provided by which a member of the public may alert the City Council if the audio or video transmission of the meeting provided by the City Council fails. The City Council will ensure that the designated means of communication is monitored during the meeting, and after receiving an alert the City Council will take a recess until public access is restored (if the transmission fails for the public).

c. If the all-virtual meeting is a meeting at which public comment is customarily received by the City Council, the public will be afforded the opportunity to comment through electronic means, either verbally or by way of written comments which can be viewed by the City Council as they are received during the meeting. (The availability of a "chat" function viewable by the members of the City Board during the public comment portion of the all-virtual meeting is one way to satisfy this requirement, but use of the chat function is not required).

5. *Agenda packets and materials*—a copy of the proposed agenda for the all-virtual meeting, the agenda packet and, unless exempt, all materials furnished to members of a City Council for an all-virtual meeting will be made available to the public in electronic format at the same time that such materials are provided to members of the public body. "Made available in electronic format at the same time" means that the materials are either (i) posted on the City's website, or (i) provided immediately (without requiring a requester to wait the normal 5-day initial FOIA response period) in response to a FOIA request received on or before the date of the applicable meeting date, if the requester seeks a response by electronic mail or an electronic share-site.

6. *Location(s) of members of the public body*--No more than two members of the City Council participating in an all-virtual meeting will be physically together in any one remote location, unless that remote location is open to the public to physically access it.

8. *Closed meetings*--If a closed meeting is held during an all-virtual public meeting, the motion to convene within a closed meeting shall be made and approved prior to pausing the electronic transmission of the meeting, and the electronic transmission of the meeting to the public will resume before the City Council votes to certify the closed meeting (such certification being as required by subsection D of Va. Code § 2.2-3712).

9. *Minutes of all-virtual meetings*--Minutes of all-virtual public meetings held by electronic communication means will be taken, if minutes are required by Va. Code § 2.2-3707. **Provided that, minutes for an all-virtual meeting will include a statement that the meeting was held by electronic communication means and will specify the type of electronic communication means by which the meeting was held.**

ORDINANCE
VACATING AN EXISTING PUBLIC UTILITY EASEMENT
ON LOTS IDENTIFIED ON CITY TAX MAP 17 AS PARCELS 18.4, 18.5 AND 18.6,
AND ACCEPTING A DEDICATION OF 0.018 ACRE OF ADDITIONAL PUBLIC
STREET RIGHT OF WAY ALONG STADIUM ROAD

WHEREAS FMC Investments, LLC (“Landowner”) has requested City Council to vacate an existing public utility easement identified as “*Ex. 20’ Sanitary Sewer Easement INST #2013:3056*” on a plat titled “*Easement and Boundary Line Vacation Plat 209 Maury Ave Tax Map 17 Parcels 18.4, 18.5, 18.6, 18.001, 18, & 18.002, City of Charlottesville, Virginia*” (revised 5-25-2022) prepared by Roudabush, Gale & Associates, Inc. (the “Plat”); and

WHEREAS the Landowner has also offered a dedication of land for public right of way, to be added to Stadium Road, designated on the Plat as “*Parcel ‘X’ Variable Width Strip Along Stadium hereby dedicated as right of way to the City of Charlottesville (hatched portion) 0.018 ac.*”; and

WHEREAS City Council has reviewed the information provided by City staff, and conducted a public hearing on October 17, 2022, after publication of notice of said public hearing within a local newspaper, as required by Virginia Code §§ 15.2-1800 and 15.2-1813; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, THAT

1. vacation of the above-described existing 20-foot sanitary sewer easement is hereby approved, conditioned upon the construction of a new sewer line, and the City’s acceptance of the new sewer line and a new public easement therefor, in the location designated on the aforementioned Plat as “*New 20’ Public Utility Easement Calls to CI*”; this condition shall be deemed satisfied by recordation of an instrument within the land records of the Charlottesville Circuit Court establishing the new easement, and upon satisfaction of this condition, the City Attorney will prepare a deed of quitclaim conveyance to effectuate the vacation of the existing sanitary sewer easement as approved by this Ordinance; and

2. the above-described dedication of additional right of way for Stadium Road is hereby accepted, and the City Attorney shall prepare a deed of conveyance, suitable for recordation in the land records of the Circuit Court for the City of Charlottesville and shall sign said deed of conveyance to indicate the City’s acceptance thereof in accordance with Virginia Code §15.2-1803.

ORDINANCE
TO AMEND, RE-ORDAIN AND RE-ENACT SECTION 14-19 OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, TO CLARIFY THE BUSINESSES SUBJECT TO TAXATION AT THE RATE SPECIFIED WITHIN SUBCLASSIFICATION “H” OF SECTION 14-19.

WHEREAS the Supreme Court of Virginia has determined that the City’s Business License Ordinance Classification of “any other repair, personal or business service not specifically included in any other subclassification under this section” was insufficient to subject certain businesses (such as authors) engaged in business activity of a potentially non-service nature and that were not explicitly addressed in Section 14-19 of the City Code;; and

WHEREAS the Supreme Court of Virginia determined that the City’s current Business License Ordinance does not contain a suitable alternative license category for authors and other businesses that potentially could be considered to be engaged in non-service business activities; and

WHEREAS the work of writers and authors and other persons engaged in activities that may be considered non-service in nature is without question within the scope of the definition of “business” set forth within City Code Section 14-2 and the business license provisions of Chapter 37 of Title 58.1 of the Code of Virginia; and

WHEREAS the business of writers, authors and other businesses potentially deemed by the Supreme Court to be of a non-service nature should be subject to the business license provisions of the Charlottesville City Code; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, that Section 14-19 of the Code of the City of Charlottesville, 1990, as amended, is hereby amended, re-ordained, and re-enacted, as follows:

CHAPTER 14. LICENSES

...

Sec. 14-19. Class IV: Repair, personal, business and other services, and all other businesses and occupations not specifically listed, excepted, exempted in this chapter.

(a) *Generally.* Persons engaged in furnishing repair, personal or business services, or any other business or occupation not specifically listed, excepted, or exempted in this chapter, not taxable under Classes I, II or III, are classified as Class IV businesses for license tax purposes. Such persons shall obtain a city business license and shall pay an annual license tax at the rate specified for their particular subclassification as set forth in this section.

...

(i) *Subclassification H.* The following types of businesses shall obtain a city business license and shall pay an annual license tax of thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts:

- (1) Advertising distributors.
- (2) Auctioneers, excluding court appointed Commissioners or receivers and administrators, executors, guardians, trustees and other fiduciaries while acting in a fiduciary capacity.
- (3) Billboard rentals.
- (4) Book sales agents, coupon book sellers or agents, and other agents not included in any other classification under this article.
- (5) Commission merchants other than real estate.
- (6) Detectives and detective agencies, and security guards.
- (7) Livestock brokers.
- (8) Preparation and sale of city directories.
- (9) Raising and preparation of laboratory animals.
- (10) Vehicles with loudspeakers.
- (11) Pawnbrokers.
- (12) Any other repair, personal or business service, or other business or occupation not specifically included in any other subclassification under this section.
- (13) Writers and authors.

ORDINANCE
TO AMEND AND RE-ORDAIN CHAPTER 30 (TAXATION), ARTICLE IX
(TRANSIENT OCCUPANCY TAX), OF THE CODE OF THE CITY OF
CHARLOTTESVILLE (1990), AS AMENDED, TO INCORPORATE STATE
LEGISLATIVE CHANGES PERTAINING TO COLLECTION OF TAX REVENUES
FROM LODGING INTERMEDIARIES, AND TO UPDATE DEFINITIONS OF TERMS
USED IN ARTICLE IX

WHEREAS the Virginia General Assembly has enacted legislation to address the collection of transient occupancy tax by lodging intermediaries; and

WHEREAS the Commissioner of Revenue recommends that the City Council should update its transient occupancy tax ordinance, to incorporate the state legislative changes, and to clarify terms that may have become outdated; NOW, THEREFORE,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, THAT

Section 1. *Chapter 30 (Taxation), Article IX of the Code of the City of Charlottesville (1990), as amended, is hereby amended, re-ordained and re-enacted, as follows:*

ARTICLE IX. TRANSIENT OCCUPANCY TAX

Sec. 30-251. Violations of article.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a Class 3 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the tax provided for in this article.

Sec. 30-252. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodation means any public or private hotel, inn, hostelry, short-term rental, motel or rooming, boarding or lodging house within the city offering lodging as defined in this section, for compensation, to any transient as defined in this section.

Discount room charge means the full amount charged by the lodging provider to the lodging intermediary, or an affiliate thereof, for furnishing the lodging.

Hotel means any structure or group of structures for rent or for hire that is primarily kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are offered to transients in return for compensation.

Lodging means the rental of room or space to any transient for compensation, in an accommodation as defined in this section, by a lodging provider or lodging intermediary, or the occupancy of such room or space by such transient.

Lodging fee means the room charge less the discount room charge, if any, provided that the lodging fee shall not be less than zero dollars (\$0.00).

Lodging intermediary means any person other than a lodging provider that (i) facilitates the sale of an accommodation, and (ii) either (a) charges a room charge to the customer, and charges a lodging fee to the customer, which fee it retains as compensation for facilitating the sale; or (b) collects a room charge from the customer; or (c) charges a fee, other than a lodging fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one (1) or more payment processors, between a customer and a lodging provider. The term "lodging intermediary" does not include a person:

1. Who provides lodging while operating under a trademark, trade name, or service mark belonging to such person;
2. Who facilitates the sale of lodging if (i) the price paid by the customer to such person is equal to the price paid by such person to the lodging provider for the use of the lodging and (ii) the only compensation received by such person for facilitating the sale of the lodging is a commission paid from the lodging provider to such person;
3. Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.

Lodging provider means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

Room charge means the full retail price charged to the transient for the use of the accommodation. Room charge includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as a lodging fee, facilitation fee, or any other name. Any additional charges made in connection with the rental of accommodations are deemed to be a part of the charge for the room and are subject to the tax. For example, additional charges for movies, parking, local telephone calls and similar services are subject to the tax. Toll charges for long-distance telephone calls are not subject to the tax.

Short-term rental means any building, structure, or unit, on the same tax parcel, sharing the same mailing address, that is used, or is intended to be used, as a residence or home for one (1) or more persons available for rent or for hire to transients.

Transient means any person who, for a period of fewer than thirty (30) consecutive days, either at their own expense or at the expense of another, obtains lodging for which a charge is made at an accommodation, as defined in this section.

Sec. 30-253. Levied.

There is hereby imposed and levied upon every transient obtaining or occupying lodging within the city, in addition to all other taxes and fees of every kind now imposed by law, a tax equivalent to eight (8) percent of the total room charge paid for the lodging by the transient, or on the transient's behalf.

Sec. 30-254. Exemptions.

No tax shall be payable under this article on any charge for lodging in, and during care or treatment in, any hospital, medical clinic, nursing or convalescent home, extended health care facility, sanatorium or sanitorium, home for the aged, infirmed, orphaned, disabled, or mentally retarded or other like facility; or in any dormitory, as that term is defined in City Code Chapter 34, Sec. 34-1200 .

Sec. 30-255. Collection.

(1) For any lodging not facilitated by a lodging intermediary, the lodging provider shall collect the tax levied pursuant to this article from the transient, or from the person paying for the lodging, at the time that payment for the lodging is made, computed on the total price paid for the use or possession of the lodging, and shall remit the same to the City and shall be liable for the same.

(2) For any lodging facilitated by a lodging intermediary, the lodging intermediary shall be deemed to have made a retail sale of the lodging and is responsible for collecting the tax levied for the lodging from the transient or the person paying for the lodging, at the time that payment for the lodging is made, computed on the room charge and shall remit the same to the City and shall be liable for the same.

(3) For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of lodging intermediary, nothing in this section shall prohibit such parties from making an agreement regarding which party shall be responsible for collecting and remitting the tax, so long as the party so responsible is registered as a dealer with the locality. In such event, the party agreeing to collect and remit the tax shall be the sole party liable for the tax, and the other parties to such agreement shall not be liable for such tax.

(4) For any retail sale of lodging facilitated by a lodging intermediary, nothing herein shall relieve the lodging provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the lodging provider that are not collected by the lodging intermediary.

(5) In any retail sale of any lodging in which a lodging intermediary does not facilitate the sale of the lodging, the lodging provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the lodging. In any retail sale of any lodging in which a lodging intermediary facilitates the sale of the lodging, the lodging intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the lodging intermediary, recoverable at law in the same manner as other debts.

The taxes collected by any person shall be deemed to be held in trust for the City by the person required to collect them, until they have been remitted to the City as provided in this article.

Sec. 30-256. Reports and remittances generally.

Every person collecting any tax levied by this article shall make out a report thereof, upon such forms and setting forth such information as the Commissioner of the Revenue may prescribe and require, showing the total room charge paid by the customer and the amount of tax required to be collected thereon, and shall deliver the same to the Commissioner together with a remittance of such tax, made payable to the City Treasurer. If a person, including a lodging intermediary is collecting taxes from, or on behalf of, multiple accommodations, the report shall also be sufficient to identify the total charges and tax owed on lodging at each individual accommodation, including the accommodation's address. Such reports and remittances shall be made on or before the twentieth of each month, covering the amount of tax collected during the preceding month. Lodging providers shall be required to file monthly reports with the Commissioner even in the event no tax is due and regardless of whether they collected the tax or if it was done on their behalf by a lodging intermediary. All remittances received under this article by the Commissioner shall be promptly turned over to the Treasurer.

Sec. 30-257. Collector's records.

It shall be the duty of every lodging provider or lodging intermediary liable for taxes under this article or for the collection and remittance of any tax imposed by this article, to keep and preserve for the current year and the three (3) prior years such suitable records as may be necessary to determine the amounts paid for lodging, and tax thereon for which that lodging provider or lodging intermediary may have been responsible for collecting and paying to the City. Lodging providers who have the taxes owed on their accommodation collected by a third party such as a lodging intermediary are also obligated to keep records under this section on the amounts that were collected on their behalf by said third party. All records kept under this section should be sufficient to identify each individual accommodation for which the lodging charges were collected, and the tax owed for transient stays at that accommodation, including the accommodation's address. The Commissioner of the Revenue shall have the right to inspect all such records at any reasonable time.

Sec. 30-258. Duty of collector going out of business.

Whenever any person required to collect and remit to the city any tax imposed by this article shall cease to operate or otherwise dispose of their business, such tax shall immediately become due and payable, and such person shall forthwith make a report and remittance thereof.

Sec. 30-259. Penalty for late remittance.

If any person, whose duty it is to do so, shall fail or refuse to make a report and remit the tax as required by this article within the time and in the amount required, there shall be added to such tax by the Commissioner of the Revenue a penalty in the amount of five (5) percent of such tax, or a minimum of two dollars (\$2.00), if such failure is for not more than thirty (30) days in duration.

Sec. 30-260. Procedure upon failure to collect, report, etc.

(a) If any person, whose duty it is to do so, shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the Commissioner of the

Revenue shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the Commissioner has procured such facts and information as may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the Commissioner shall proceed to determine and assess against such person the tax, penalty and interest provided in this article, and shall notify such person by certified or registered mail sent to their last known address, of the amount of such tax, penalty and interest, and the total amount thereof shall be payable within ten (10) days from the date such notice is sent.

- (b) It shall be the duty of the Commissioner of the Revenue to ascertain the name of every lodging provider and lodging intermediary providing lodging in the city, liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The Commissioner may have issued a summons for such person, which summons may be served upon such person by any city police officer in the manner provided by law, and one (1) return of the original thereof shall be made to the general district court for the city.

Section 2. The requirement of City Code Sec. 2-97 for a second reading of this ordinance is hereby waived, and this ordinance shall be and become effective upon its adoption by a recorded four-fifths vote of City Council.

ORDINANCE

TO AMEND, RE-ORDAIN, AND RE-ENACT CHAPTER 30, ARTICLE XVII OF THE CITY CODE (CIGARETTE TAX), TO REFLECT THE CITY'S MEMBERSHIP IN THE BLUE RIDGE CIGARETTE TAX BOARD

WHEREAS by ordinance enacted October 4, 2021, the Charlottesville City Council joined the Blue Ridge Regional Cigarette Tax Board ("BRCTB") and such action conferred upon BRCTB responsibility for collection of taxes on the sale of cigarettes and distribution of such taxes to member localities; and

WHEREAS it has become necessary to replace the City's cigarette tax code with a new scheme of taxation and tax collection, reflecting the City's arrangements with BRCTB, consistent with the enabling legislation set forth within Virginia Code Secs. 58.1-3832 and 58.1-3832.1; now, therefore,

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia, **THAT**

Section 1. *The provisions of Chapter 30 (Taxation), Article XVII (Cigarette Tax), Secs/ 30-450 through 30-461 of the Code of the City of Charlottesville (1990), as amended, are hereby repealed, in their entirety, and*

Section 2. *Chapter 30 (Taxation), Article XVII (Cigarette Tax) is hereby amended, re-ordained and re-enacted, as follows:*

**CHAPTER 30. TAXATION
ARTICLE XVII. CIGARETTE TAX**

Sec. 30-450. Definitions.

For the purposes of this Article, the following words and phrases have the meanings respectively ascribed to them by this Section, except in those instances where the context clearly indicates a different meaning:

Board or BRCTB means the Blue Ridge Cigarette Tax Board, or its administrator in cases where the Board has delegated its duties or authority to the administrator.

Cigarette has the meaning given in Virginia Code § 58.1-1000.

Cigarette Machine Operator means any individual, partnership or corporation engaged in the sale of packages of cigarettes from vending machines.

Dealer means both "retail dealer" and "wholesale dealer," as those terms are defined in Virginia Code § 58.1-1000.

Package means any container of cigarettes from which they are consumed by a user. Ordinarily, a package contains 20 cigarettes; however, "package" includes those containers in which fewer or more cigarettes are placed.

Registered agent means any person who pays the tax or makes the report imposed under this article.

Retail dealer has the meaning given in Virginia Code § 58.1-1000.

Sale or sell means the transfer of cigarettes from a dealer to another person, for consideration, and includes the use of vending machines.

Stamp has the meaning given in Virginia Code § 58.1-3832(2).

Storage or store has the meaning given in Virginia Code § 58.1-1000.

Use has the meaning given in Virginia Code § 58.1-1000.

Wholesale dealer has the meaning given in Virginia Code § 58.1-1000.

Sec. 30-451. Levy and rate.

A tax upon the sale or use of cigarettes within the City is hereby imposed, at a rate of \$0.0275 for each cigarette sold, stored, or received. The tax payable for each cigarette sold or used within the City shall be paid but once.

Sec. 30-452. Methods of collection.

- A. Upon paying the tax imposed by this article, the taxpayer shall affix a stamp to the package for which the tax was paid, and shall report to the Board, in whatever form the Board provides. Stamps shall be affixed in such a manner that their removal will require continued application of water or steam. The report to the Board shall include the following:
 1. The quantity of cigarettes sold or delivered to:
 - a. Each registered agent appointed by the Board for which no tax was collected;
 - b. Each manufacturer's representative; and
 - c. Each person during the preceding calendar month;
 2. The quantity of BRCTB-stamped cigarettes on hand on the first and the last day of the preceding month, the quantity of BRCTB stamps received during that month, and the quantity of BRCTB-stamped cigarettes received during that month;
 3. The quantity of cigarettes on hand to which the BRCTB stamp had not been affixed on the first and last day of the preceding month, and the quantity of cigarettes received during that month to which the BRCTB stamp had not been affixed; and
 4. Any other information that the Board deems necessary to administer or enforce this article.
- B. Each registered agent shall report and pay the tax to the Board by the 10th day of the following month and shall provide to the Board copies of all cigarette tax reports submitted to the Virginia Department of Taxation.
- C. If a registered agent is unable to show the Board that it has purchased sufficient stamps, relative to the cigarettes that it sold or used, there is a presumption that those cigarettes were sold or used without the proper tax having been paid. The Board shall impose a penalty of 10 percent and may impose interest of 3/4 percent of the gross tax due per month.
- D. If a registered agent files a false report, fails to file a report, or acts to evade payment of the tax, the Board shall assess the tax and impose a penalty not to exceed 50 percent of the tax

due and interest of 9 percent of the gross tax due per annum. These taxes, penalties, and interest are due within 10 days after the Board issues notice of the deficiency.

- E. A registered agent that receives cigarettes not bearing the BRCTB stamp shall, within one hour of receipt, commence, and diligently complete, affixing the BRCTB stamp to each package.
- F. A registered agent that has notified the Board that it holds cigarettes for sale outside the jurisdiction of the Board, may hold such cigarettes without affixing the stamps required by this article. Any such cigarettes shall be kept separate from the BRCTB cigarettes, in such a manner as to prevent their commingling.
- G. A registered agent that loses untaxed cigarettes, whether by negligence, theft, or any other means, shall pay the tax imposed by this article.
- H. Registered agents shall keep all records of cigarettes sold or used, whether stamped or unstamped, for three years, and shall make all such records available for examination by the Board.

--State law reference – Va. Code §§ 58.1-3830, 3832.

Sec. 30-453. Registered agents.

- A. Any person required to pay or report the tax under this article shall first file an application with the Board to qualify as a registered agent, in the manner specified by the Board, and provide a surety bond equal to 150 percent of its anticipated average monthly tax liability, made out by a surety company authorized to do business in Virginia. By filing an application, a person appoints the Board as its agent for service of process.

Upon receipt and review of an application and surety bond, the Board shall issue a registered agent permit to sell and use within the City.

- B. When any registered agent's monthly report and payment of the tax is not received when due, a late reporting penalty of 10 percent of the tax due shall be assessed. The penalty shall be imposed on the day after the report and tax are due and, once it is imposed, it becomes a part of the tax. The Board may revoke or suspend any registered agent's permit for failure to timely report or pay the tax, or if the registered agent's surety bond becomes impaired for any reason.
- C. All money collected as taxes under this article are held in trust by the dealer until remitted to the Board.
- D. The Board may conduct audits to determine any variance between the number of stamps purchased and the number of stamps reported to have been purchased. An assessment shall be made for all unaccounted-for stamps. Assessment of registered agents located outside the jurisdiction of the Board shall be based upon the average sale by locality during the audit period. Assessments of registered agents located within the jurisdiction of the Board shall be based upon the tax rate of the jurisdiction in which they are located. A penalty for not reporting shall be assessed, in the same manner and amount as in subsection (b).

--State law reference – Va. Code § 58.1-3832.

Sec. 30-454. Requirements for retail dealers.

- A. Retail dealers shall purchase cigarettes only from a registered agent and give the registered agent the business trade name and address of the location where the cigarettes will be offered for sale to the public. Retail dealers cannot sell cigarettes that were previously purchased for personal use. Only licensed retail stores may sell cigarettes to the public. To be licensed, a retail store must have a valid Virginia state sales and use tax certificate and valid retail business license. Cigarettes must be purchased and stored separately for each business location. Retail dealers shall retain copies of cigarette purchase invoices and receipts for three years and provide them to the Board upon request. The Board may seize a retail dealer's cigarettes for failure to provide cigarette invoices or receipts, until it is able to verify that the tax has been paid. The Board shall seize cigarettes found without the appropriate stamp.
- B. The Board may make a search of any location at which it reasonably suspects that cigarettes are kept, to ensure that all cigarettes are properly stamped.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-455. Presumption of illegality; seizure of contraband goods, sealing/seizing of machines.

- A. If any person is found to possess cigarettes without the proper tax stamp affixed, there is a rebuttable presumption that such cigarettes are untaxed in violation of this article.
- B. There is rebuttable presumption that cigarettes in a vending machine were placed there as an offer to sell. If a vending machine contains packages upon which the BRCTB stamp has not been affixed, or contains packages placed in a manner that does not allow inspection of the BRCTB stamp without opening the vending machine, there is a rebuttable presumption that the machine contains untaxed cigarettes in violation of this article.
- C. Cigarettes, vending machines, stamps, and other goods violating this article are contraband goods and may be seized by the Board.
- D. Additionally, the Board may seal a vending machine to prevent continued illegal sale or removal of cigarettes. The removal of a seal from a vending machine is a violation of this article.
- E. The owner of a vending machine shall plainly mark it with the owner's name, address, and telephone number.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-456. Illegal acts.

It is a violation of this article for any person:

- A. To make any act or omission for the purpose of evading the full or partial payment of the tax imposed by this article, or to fail to obey a lawful order issued under this article;
- B. To falsely make, or cause to be made, an invoice or report; or to alter or counterfeit, or cause to be altered or counterfeited, any stamp; or to knowingly and willfully offer any false invoice or report, or altered or counterfeited stamp;

- C. To sell or offer for sale cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid;
- D. To use cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid; or
- E. To transport or authorize the transportation of 1,200 cigarettes or more in the City upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid, if they are:
 - 1. Not accompanied by a receipt or other document indicating the true name and address of the seller and purchaser and the brands and quantity of cigarettes;
 - 2. Accompanied by a receipt or other document that is false;
 - 3. Accompanied by a receipt or other document that fails to indicate that:
 - a. The non-Virginia purchaser is authorized by the law of that other jurisdiction to possess the cigarettes, and on which the taxes imposed by that other jurisdiction have been paid; or
 - b. The Virginia purchaser possesses a Virginia Sales and Use Tax Certificate and any license required by the locality of destination;
- F. To refill with cigarettes a stamped package from which cigarettes have been removed;
- G. To reuse or remove a stamp from a package with the intent to use it or cause it to be used again, after it has already been used to evidence the payment of the tax imposed by this article; or
- H. To sell, offer for sale or distribute any loose or single cigarettes.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-457. Jeopardy assessment.

If the Board determines that the collection of a tax under this article would be jeopardized by delay, it shall assess the tax, along with penalties and interest, and mail or otherwise issue a notice of the assessment to the taxpayer, together with a demand for immediate payment. In such cases, immediate payment is required, regardless of the due date for paying and reporting the tax under this article.

--State law reference – Va. Code §§ 58.1-3832, 58.1-3832.1.

Sec. 30-458. Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property.

- A. Any person aggrieved by a tax, penalty, or interest assessment or by a seal or seizure under this article may request a hearing before the Board, in the manner provided by the Board.
- B. The Board shall send notice within 24 hours of a seizure or sealing to each known holder of an interest in the property seized or sealed. Where the identity of a property interest holder is unknown at time of seizure or sealing, the Board shall post notice to a door or wall of the building that contained the seized or sealed property. The notice shall state the manner of requesting a hearing before the Board, as well as the affirmative defenses available under this section.

- C. A hearing must be requested within 15 days of the date that notice was postmarked. The request must be on the form provided by the Board and set forth the reasons why the Board's action should be reversed. Within five days after receiving a request, the Board shall notify the requester, by the method selected on the request form, of the hearing date and time, where the Board will accept an informal presentation of evidence. The hearing shall be within 15 days of the date of that notification. A request for hearing shall be denied if the assessed tax, penalties, or interest has not been paid, or if the request is untimely. Within five days after the hearing, the Board shall notify the requester of its decision, by the method selected on the request form.
- D. The Board shall grant appropriate relief if it determines that seized or sealed cigarettes were in the possession of a person other than the requester without the requester's consent. If the Board determines that a tax, penalty, or interest was erroneously assessed, it shall refund the amount erroneously assessed and shall return any property seized or sealed to the requester.

--State law reference – Va. Code §§ 58.1-3832, 58.1-3832.1.

Sec. 30-459. Disposal of seized property.

Any seized property used to evade a tax imposed by this article may be disposed of by sale or other method the Board deems appropriate, after the owner has exhausted its appeals. The credit from any such sale shall not be credited to the owner.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-460. Extensions.

If the Board determines that good cause exists, it may grant an extension of up to 30 days to report or pay a tax. No interest or penalty shall accrue during such an extension.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-461. Penalty for violation of article.

A person convicted of violating a provision of this article shall be guilty of a misdemeanor, punished by a fine of not more than \$2,500.00 or imprisonment for not more than 12 months, or both. Such person shall remain liable for any underlying tax, penalty, or interest.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-462. Each violation a separate offense.

Each violation of this article constitutes a separate offense. Each day that a violation continues constitutes a separate offense.

--State law reference – Va. Code § 58.1-3832.

Sec. 30-463. Severability.

If any portion of this article is invalidated by a Court of competent jurisdiction, that decision shall not affect the remainder of the article; and the remainder of the article shall continue in full force and effect.

--State law reference – Va. Code § 58.1-3832.

Section 3. ***The requirement of City Code Sec. 2-97 for a second reading of this ordinance is hereby waived, and this ordinance shall be and become effective upon its adoption by a recorded four-fifths vote of City Council.***

RESOLUTION
Extending the Time for Repayment by Dogwood Properties, LLC
of an outstanding Affordable Housing Loan from the City

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, THAT the affordable housing loan agreement with Dogwood Properties is extended through October 31, 2027, under the same terms as the existing loan agreement.

RESOLUTION
Approving Guidelines for the Consideration and Approval of
Proposals Public Private Partnerships

WHEREAS, the Charlottesville City Council concurs with and adopts the findings of the Virginia General Assembly, set forth within Virginia Code Sec. 56-575.2 (A)(1) through (5), including the finding that there exist inadequate resources to develop new education facilities and other public infrastructure and government facilities, and public-private partnerships can meet those needs by improving delivery schedules, lowering costs, and providing other benefits; now, therefore,

BE IT RESOLVED by the Council of the City of Charlottesville that the PPEA Guidelines proposed to Council October 17, 2022 are hereby approved and adopted.