



## CITY COUNCIL AGENDA October 17, 2022

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](http://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](mailto: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

### Agenda Approval

### 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)

### 6:30 PM BUSINESS SESSION

This portion of the meeting will accommodate a limited number of in-person public participants in City Council Chamber at City Hall as we employ a hybrid approach to public meetings. Registration is available for a lottery-based seating selection at [www.charlottesville.gov/1543/Reserve-a-Seat-for-City-Council-Meeting](http://www.charlottesville.gov/1543/Reserve-a-Seat-for-City-Council-Meeting). Reservation requests may also be made by contacting the Clerk of Council office at [clerk@charlottesville.gov](mailto:clerk@charlottesville.gov) or 434-970-3113.

### Moment of Silence

### Announcements

### Recognitions/Proclamations

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

### Consent Agenda\*

2. Minutes: September 6 Council meeting
3. Resolution: Appropriating Fiscal Year 2023 Fire Programs Aid to Locality (Firefund) - \$186,776.00 (2nd reading)
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)
5. Resolution: Appropriating American Rescue Plan funds from the Commonwealth for Utility Bill Assistance - \$29,524.18 (2nd reading)
6. Resolution: Approving Compromise of Claim: Wastewater Leak Credit \$31,516.31 for 525 Ridge Street - Management Services Corporation (1 reading)
7. Resolution: Update Council Meeting Procedures to update electronic participation provisions (1 reading)
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

Public comment for up to 16 speakers (limit 3 minutes per speaker). Preregistration is available for the first 8 spaces at <https://www.charlottesville.gov/692/Request-to-Speak>. Speakers announced by Noon on meeting day (9:00 a.m. sign-up deadline). Additional public comment at end of meeting. Virtual participants must register to attend the meeting at [www.charlottesville.gov/zoom](http://www.charlottesville.gov/zoom).

## Action Items

10. Public Hearing/Ord.: Vacation of Public Utility Easement at 209 Maury Avenue (1 reading)
11. Ordinance: 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 (1 reading)
12. Ordinance: 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 (1 reading)
13. Ordinance: To amend, re-ordain, and re-enact Chapter 30, Article 17 of the City Code (Cigarette Tax) (1 reading)
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 reading)
15. Resolution: Appropriating \$700,000 from the CIP Contingency to Avon Fuel Station Replacement Project (1 of 2 readings)
16. Resolution: Dogwood Housing Loan Extension (1 reading)
17. Resolution: Approving Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) Guidelines (1 reading)
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

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



<b>Agenda Date:</b>	October 17, 2022
<b>Action Required:</b>	Discussion
<b>Presenter:</b>	Michael Rogers, City Manager, Krisy Hammill, Director of Budget
<b>Staff Contacts:</b>	Michael Rogers, City Manager Krisy Hammill, Director of Budget
<b>Title:</b>	<b>FY2024 City Budget Development</b>

**Background**

The City's operating budget process begins in the fall when departments prepare their budget requests. From late September to early November, Capital Improvement Program (CIP) and Operational budget proposals are submitted by city departments and nonprofit agencies to the City's Budget office. In November and December, department directors and staff meet individually with the Budget Review Team (BRT) which consists of the City Manager, Deputy City Managers, Finance Director, and the Budget Director and budget office staff to discuss their proposals. Agency proposals are scored and evaluated as part of the Vibrant Community Funding process. The budget proposals and subsequent review and discussions will be used as the basis for the City Manager's Proposed Budget which will be presented to Council on March 6, 2022.

**Discussion**

As part of the budget development discussions last year, Council expressed an interest in being engaged earlier in the process. As we continue to look for areas of process and transparency improvement, the City Manager has scheduled this work session to get general feedback from Council on several budget areas:

- I. Council and Public Engagement
  - a. FY 2024 Public Meeting Calendar
  - b. Finalizing a date for the Community Budget Forum
  - c. City Manager's Budget Forum – New for FY 2024
  - d. Budget Explorer Tool
  
- II. Recap of Previous Allocations
  - a. FY 2022 Year-End Surplus Allocations
  - b. Mid-Year Budget Adjustments with One-Time Funding
  
- III. Early Considerations for FY 2024

- a. Vibrant Community Funding Process
  - 1. VCF vs CAHF
  - 2. Funding Allocation for VCF
- b. Pathways Funding
- c. Anticipated Budget Drivers

### **Alignment with City Council's Vision and Strategic Plan**

The City Budget helps to ensure that Council's overall, long-term vision for the future is met by appropriately aligning expenditures with Council's Strategic Plan.

### **Community Engagement**

A series of budget work sessions have been scheduled throughout the Budget Development process that will include opportunities for public comment and input.

### **Budgetary Impact**

Input received during the budget work sessions from City Council and the public will be used to help inform the development of the FY 2024 budget.

### **Recommendation**

Not Applicable

### **Alternatives**

Not Applicable

### **Attachments**

- 1. FY24 Budget Development Public Meeting Schedule
- 2. Council YE Surplus Allocations from April 2022





# FY 2024 Budget Calendar Public Meetings

<b>Topic</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
<b>Council Work Session</b> <i>Budget Development</i>	October 17, 2022	4:00 PM	Council Chamber
<b>Planning Commission Work Session</b> <i>FY24-28 Capital Improvement Program</i>	November 22, 2022	5:00 PM	City Space
<b>Planning Commission Public Hearing</b> <i>FY24-28 Capital Improvement Program</i>	December 13, 2022	6:30 PM	City Space
<b>City Manager Budget Forum</b>	January 10, 2023	6:00 PM	Carver Recreation Center
<b>Council Work Session</b> <i>Budget Development</i>	February 2, 2023	5:00 PM	City Space
<b>Council/School Board Work Session</b>	February 8, 2023	5:00 PM	TBD
<b>Proposed City and Adopted School Budgets Presented to Council</b>	March 6, 2023	6:30 PM	Council Chamber
<b>Council Work Session</b> <i>FY 2024 Budget – Revenues and Expenses</i>	March 9, 2023	6:00 PM	City Space
<b>Council Work Session</b> <i>FY 2024 Budget – Outside and Non Profit Agencies</i>	March 16, 2023	6:00 PM	City Space
<b>First Budget and Tax Rate Public Hearing (advertise by February 15)</b>	March 20, 2023	6:30 PM	Council Chamber
<b>Community Budget Forum (Wednesday or Thursday TBD)</b>	March 22 or 23, 2023	6:00 PM	City Space
<b>Council Work Session</b> <i>FY 2024 Budget – Capital Improvement Program</i>	March 30, 2023	6:00 PM	City Space
<b>Second Public Hearing Budget/ First Reading Approval of Ordinance Approving FY 24 Budget and Annual Appropriation/First Reading Ordinance Approving Tax Rate/Tax Levy</b>	April 3, 2023	6:30 PM	Council Chamber
<b>Council Work Session</b> <i>FY 2024 Budget – Budget Wrap Up</i>	April 6, 2023	6:00 PM	City Space
<b>Second Reading and Approval: FY 24 Budget Ordinance and Annual Appropriation and Tax Rate/Tax Levy Ordinance</b>	April 11, 2023	5:30 PM	Council Chamber

## Council Amendment Considerations

	<u>Council Approval Date</u>	<u>April 12, 2022</u>	<u>Anytime</u>	<u>November/December 2022</u>
	<u>FY 2023 Amendments</u>	<u>CIP Contingency</u>	<u>PROJECTED FY 2022 Revenue Budget Surplus</u>	
<b>Potential Funding Available</b> (assumes <b>NO</b> change in current tax rates)	\$ 3,750,026	\$ 11,433,191	\$ 12,440,304	
<b>Remaining Balance</b> - after allocations noted below	\$ -	\$ -	\$ 670,271	

### Tax Changes

Small Increase in lodging Tax - <b>Council Action Required</b> - did not advertise therefore this would be a future consideration			
Personal Property Tax Rate - No Change - <b>ASSUMED</b> - \$2M already included in \$3.75M above			
Personal Property Tax Rate Change - \$1M revenue increase - <b>Council Action Required to reduce the rate, \$1M Budget Amendment reducing \$3.75M above</b>			
Personal Property Tax Rate Change - Equalized as budgeted - <b>Council Action Required to reduce the rate, no budget amendment needed</b>			
Increased Real Estate Tax (\$0.01 to \$0.03) - <b>Council Action Required</b> - would allocate a portion of the \$9.2M currently unallocated currently in the budget and reduce the total General Fund Budget by any amount not allocated. No change for Column B and an increase for the expected surplus amount in Column D.	(925,000)		
Increased Meals Tax - <b>Council Action Required</b> - would increase \$3.75M in Column B by \$1.2M for a total \$4.95M that could be used to amend the FY 2023 budget	(1,250,000)		
Institution of a plastic bag tax - <b>future consideration</b>			
<b><u>Agency and VCF Changes</u></b>			
AHIP - additional funding	75,000		
PHAR Internship Program - additional funding	10,050		
Jefferson School African American Heritage Center - add'l funding	0.00		
Piedmont CASA - additional funding	3,500		
C4K - additional funding	0.00		
C4K - additional funding using ARPA	0.00		
Tree Commission - additional funding - xfer to CIP	25,000		
CRHA - additional funding	0.00		
<b>Need for declared use/designation of each increase</b>	0.00		
Public Defender - Additional Funding	20,000		
Additional Funding for ReadyKids Early Education Program	25,946		
Reimbursing CRHA for PILOT paid to the City - \$20k	20,000		
Fully Fund Drug Court and Therapeutic Docket and make contractual	27,892		

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<b><u>City Manager Amendments to FY 2023 Budget</u></b>				
<i>The Paramount Theater</i>	7,500			
<i>Festival of Cultures</i>	(2,160)			
<i>Housing Coordinator Position Upgrade</i>	55,514			
<i>Procurement - Restore Funding for 1 FTE - Buyer</i>	81,355			
<i>Sheriff - Vehicle Replacement (1)</i>	46,500			
<b><u>City Manager One-Time Considerations - FY 2022 Surplus Potentials</u></b>				
<i>DSS - Software Replacement - Foster Care Payments - City Match</i>				150,000
<i>Procurement eSourcing Software</i>				100,000
<i>2 Additional Buses - Route 6 Equity Initiative</i>				1,000,000
<i>SAFER Grant Match - Adjusted for FY 22 Mid-year and FY 23 Proposed Merit</i>				2,109,000
<b><u>CIP Considerations</u></b>				
<i>\$68.8M School Reconfiguration with \$54M Bonds</i>				
<i>\$68.8M School Reconfiguration with \$50M Bonds</i>				
<i>\$68.8M School Reconfiguration with 3 year Debt Service Increase</i>				
<i>\$68.8M School Reconfiguration with 1 time tax increase for Debt Service Increase</i>				
<i>Meadow Creek Trail - ARPA potential?</i>				
<i>Inflationary Increases for the cost of CIP</i>				
<b><u>City Manager Presented Scenario - March 31st</u></b>				
<i>School Reconfiguration - \$54M Bond Scenario (1st year of Add'l Debt Service)</i>	1,947,112			
<i>School Reconfiguration - \$54M Bond Scenario (Cash Contribution - FY 2021 Surplus)</i>		6,700,000		
<i>School Reconfiguration - \$54M Bond Scenario (Additional Cash Needed to get to \$68.8M)</i>				600,000
<i>School Reconfiguration - \$54M Bond Scenario (Years 2 of Add'l Debt Service)</i>				1,947,112
<i>School Reconfiguration - \$54M Bond Scenario (Years 3 of Add'l Debt Service)</i>				1,947,112
<i>PHA Projects - Cash Funded</i>		4,733,191		216,809
<i>Meadowcreek Trail - Section 3</i>				700,000
<b><u>Internal Capacity</u></b>				
<i>CAT - additional funding 30 minute routes</i>				2,000,000

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<b>Potential Funding Available</b> (assumes <b>NO</b> change in current tax rates)	\$ 3,750,026	\$ 11,433,191	\$ 12,440,304	
<b>Remaining Balance</b> - after allocations noted below	\$ -	\$ -	\$ 670,271	
Addition of 1 FTE as a Grants/IG Specialist - ? ARPA funding potential	120,000			
Office of Diversity, Equity, and Inclusion - Additional Funding	300,000			
Commissioner of Revenue - Tax Specialist I	60,528			
Climate Action Planning	150,000			
Affordable Housing Administrative Capacity	175,000			
Budget Office Capacity including additional Analyst	126,822			
MARCUS Alert system/other criminal justice reform	100,000			
Collective Bargaining	0			
Wage & Compensation study	0			
City Manager Fund				1,000,000
PW Engineering	325,000			
Tax Relief - additional funding	250,000			
Transfer to CIP Contingency	1,974,467			
<b><u>Continued Capacity Building - Future Initiatives</u></b>				
Revisit VCF process and reporting				
Future Funding needs for CAT, Housing and Climate Action Planning				
Future phases of public housing redevelopment				
Reconfiguration for Walker Project				
Additional Funding to support Homelessness efforts and a defined housing obligation in terms of AMI				
Solutions and Measurements				

# CITY OF CHARLOTTESVILLE



## PROCLAMATION

### Metastatic Breast Cancer Awareness Day October 13, 2022

**WHEREAS** October is Breast Cancer Awareness Month, and October 13, 2022 will be observed nationally as Metastatic Breast Cancer Awareness Day; and

**WHEREAS** an estimated 290,000 Americans will be diagnosed with invasive breast cancer this year, including over 7,000 women in Virginia; and

**WHEREAS** breast cancer is the second leading cause of cancer death among women in the United States, and is expected to kill almost 43,000 American women, and over 1,000 Virginia women, this year; and

**WHEREAS** metastatic breast cancer (MBC) occurs when breast cancer spreads to other parts of the body, including the bones, lungs, liver and brain and has an average life expectancy of 26 months. Even with early detection and apparently successful treatment, approximately 30% of stage 0 to III breast cancers will return as metastatic stage IV breast cancer; and

**WHEREAS** metastatic breast cancer affects all races and socioeconomic classes. While Caucasian women see slightly higher incidence rates of breast cancer, the mortality rate for Black women with breast cancer is 41 percent higher than that of Caucasian women, and breast cancer is the leading cause of cancer-related death for Hispanic women; and

**WHEREAS** only 5% of the funding for breast cancer research funds research on MBC; and

**WHEREAS** METAvivor Research and Support, a national organization, funds critical research on stage IV metastatic breast cancer, educates the public about metastatic breast cancer, and seeks to increase the percentage of U.S. breast cancer research funding dedicated to MBC from 5 percent to 30 percent; and

**WHEREAS** on October 13<sup>th</sup> each year, METAvivor, together with the Moore Fight Moore Strong organization, conducts the national #LightUpMBC campaign, to bring awareness to the disease and to honor the lives lost to MBC. More than 200 buildings around the country will be lit up in the colors of the metastatic breast cancer movement – teal, representing healing; pink, in solidarity with the rest of the breast cancer community; and green, representing the triumph of spring over winter, of life over death, and renewal and hope. The day will culminate in a virtual broadcast, #LightUpMBC Live, to share inspiring stories of the metastatic breast cancer community, and to raise research funds;

**NOW, THEREFORE**, I, Lloyd Snook, Mayor, on behalf of the Charlottesville City Council, declare October 13, 2022 to be Metastatic Breast Cancer Awareness Day in the City of Charlottesville, and encourage Charlottesville residents to join the national effort towards awareness of metastatic breast cancer during October through the #LightUpMBCLive campaign.

Signed and sealed this 13<sup>th</sup> day of October 2022.

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J. Lloyd Snook, III, Mayor

**CHARLOTTESVILLE CITY COUNCIL MEETING**  
**September 6, 2022 at 4:00 PM**  
**In person: Council Chamber, 605 E. Main Street**  
**Virtual/electronic: Zoom**

The Charlottesville City Council met in an electronic meeting on Tuesday, September 6, 2022, in accordance with a local ordinance amended and re-enacted on March 7, 2022, to ensure continuity of government and prevent the spread of disease during the coronavirus State of Emergency. Mayor Lloyd Snook called the meeting to order and Clerk of Council Kyna Thomas called the roll, noting the following councilors present: Michael Payne, Brian Pinkston, Mayor Lloyd Snook and Vice Mayor Juandiego Wade. Councilor Sena Magill provided advance notice that she would need to participate electronically because of a medical procedure that would prevent her from attending in person. She participated from her home in Charlottesville.

On motion by Wade, seconded by Pinkston, Council voted unanimously to adopt the meeting agenda (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

## **REPORTS**

### **1. REPORT: Airport Authority update**

Melinda Crawford, CHO Airport CEO presented an update on the Charlottesville-Albemarle Airport Authority structure, airport operations, construction projects and funding. Responding to Council questions, Ms. Crawford stated that the Airport Master Plan was last updated in 2004 and will be updated within five years. She explained the reasoning for the elimination of direct flights to Chicago. Ms. Crawford stated that sustainability projects will be considered at the airport, including solar options. She also stated that shuttle service would need to be provided by a third-party contractor.

### **2. REPORT: Youth JEDI (Justice, Equity, Diversity, and Inclusion) and Climate Justice Ambassadors report on public transportation**

The Justice, Equity, Diversity, and Inclusion (JEDI) Youth Ambassador Program was developed from a partnership between Piedmont Housing Alliance and Community Climate Collaborative to promote youth advocacy around climate and social justice issues.

The Ambassadors reported their findings on how public transport issues have impacted most people in the community, based on survey results from 50 Charlottesville resident respondents. Some issues that arose were:

- People not using public transportation because a stop is not close to them or the system is confusing;
- Time efficiency with uncertain arrival times as well as old and mis-dated charts;
- Other more reliable methods of transportation; and
- An app not widely known and not well-executed to serve users. Many people are unaware of a transit app.

One ambassador shared his personal experience of using Charlottesville Area Transit, noting the time-consuming trips to take care of general household needs. He emphasized the need for a

transit app that makes sense and he made several suggestions for the app:

- Take languages into account.
- User experience should be at the forefront.
- Make the app easier to find. The app name is SPOT instead of Charlottesville City Transit or other relative name.

Other suggestions for bus service:

- Place standard bus stop in all locations to protect people from weather.
- Keep in mind that not everyone has a cell phone.
- Update paper schedules at bus stops.
- Shorten wait times and make timing more reliable.
- Address the driver shortage.
- Consider climate issues and whether electric buses can be used.
- Ensure that the public is included and aware of changes.

Councilors affirmed the students' points and agreed that they are in line with what the general public has stated.

Councilor Magill asked for policy recommendations in writing.

Susan Kruse, Community Climate Collaborative Executive Director, and Tori Carter-Johnston, JEDI Manager at Piedmont Housing Alliance thanked Council for taking the time to listen to the students and challenged councilors to reach out to the youth.

### **3. REPORT: Albemarle-Charlottesville Regional Jail update**

Colonel Martin Kumer, Albemarle-Charlottesville Regional Jail Superintendent, presented findings from the Facility Condition Assessment and the Community Based Corrections Plan. Some history of the facility:

- The current facility opened in 1975 to combine Albemarle County and Charlottesville City Jails
- The facility's rated capacity increased to 209 after two additions in the 1990s.
- Nelson County became the third Jail member in 1997 and the final expansion was completed, in 2000, bringing capacity to 329.
- Average Daily Population (ADP) has been as high as 600 in 2008 and as low as 265 in January 2022; the January 2022 ADP is the lowest in 20 years.
- The current authorized staffing level is 161 employees.

The proposed renovation and expansion area is approximately 56,000 square feet and will be contained within the current facility's 152,900 square feet. The renovation is intended to improve quality and experience for all consumers: inmates, employees, community and stakeholders.

### **CLOSED SESSION**

On motion by Pinkston, seconded by Wade, Council voted 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none) to meet in closed session as authorized by Virginia Code

Section 2.2-3711(A)(1), (A)(7) and (A)(8), for consideration of future appointments by Council to the City's planning commission and other boards and commissions, and legal consultation regarding compliance with requirements of Va. Code 15.2-2212 and City council ordinances and resolutions; and consultation and briefing by legal counsel regarding litigation (Charlottesville Circuit Court Case No. CL21-116) because consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the City, and for legal advice on that litigation.

On motion by Pinkston, seconded by Wade, Council certified by the following vote: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none), that to the best of each Council member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the Motion convening the closed session were heard, discussed or considered in the closed session.

## **BUSINESS SESSION**

Council began the business meeting with a moment of silence.

## **ANNOUNCEMENTS**

Councilor Pinkston announced CYM (Close Your Mouth and Listen) Day observed Monday, September 19 and presented by Mr. Alex-Zan.

Councilor Wade announced the Charlottesville Housing Affordability Program (CHAP) assistance program deadline extension until September 16.

Councilor Magill summarized comments and follow-up actions from the previous Council meeting.

## **RECOGNITION/PROCLAMATIONS**

- **Recognition: Cyndi Richardson, recipient of the Dr. Fred Frese Crisis Intervention Team (CIT) People with Mental Illness Lived Experience of the Year Award by CIT International**  
Vice Mayor Wade acknowledged the recent award granted to Cyndi Richardson.
- **Proclamation: Dr. Alvin Edwards Day (presented August 27)**  
Vice Mayor Wade represented the City at an event on August 27 to recognize Dr. Alvin Edwards Day.
- **Proclamation: Minority Business Alliance 10-year anniversary**  
Vice Mayor Wade proclaimed September 9, 2022 as Minority Business Alliance Day in recognition of their 10th anniversary. Kay Monroe, Vice Chair of the MBA, accepted the proclamation with remarks.
- **Proclamation: International Day of Democracy**  
Mayor Snook proclaimed September 15, 2022, the International Day of Democracy. Kirk Bowers accepted the proclamation with remarks.



**CONSENT AGENDA\***

- 4. MINUTES: June 21 Council meeting, August 1 Council meeting
- 5. RESOLUTION: Refund of Business License Tax - \$5,719.45 (2nd reading)

**RESOLUTION**  
**Authorizing a refund of \$5,719.45 to a taxpaying entity or business,**  
**for business license taxes paid in error for 2021**

**WHEREAS**, the Commissioner of the Revenue has determined that a taxpaying entity or business paid 2021 Business License Tax to the City of Charlottesville in error; and

**WHEREAS**, that taxpaying entity or business has requested a refund of the amount paid in error; and

**WHEREAS**, the Commissioner of the Revenue has certified that a refund of taxes paid is due in the amount of \$5,719.45; and

**WHEREAS**, City Code Section 30-6(b) requires City Council approval for any tax refund exceeding \$2,500.00; now, therefore,

**BE IT RESOLVED** by the Council for the City of Charlottesville, Virginia, that the City Council hereby authorizes the City Treasurer to issue a refund of \$5,719.45, payable to that taxpaying entity or business.

- 6. RESOLUTION: Virginia Homeless Solutions Program (V.H.S.P.) Grant Award - \$539,369 (2nd reading)

**RESOLUTION**  
**Appropriating Funding in the Amount of \$539,369 To Be Received from**  
**Virginia Homeless Solutions Program**

**WHEREAS**, The City of Charlottesville, through the Department of Human Services, has been notified that it will be awarded an additional grant from the Virginia Housing Solutions Program (V.H.S.P.) Fund of the Virginia Department of Housing and Community Development, in the amount of \$539,369.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that, upon receipt of the additional VHSP funding from the Commonwealth, said funding, anticipated in the sum of \$539,369, is hereby appropriated in the following manner:

**Revenues**

\$443,321	Fund 209	Order 1900475	GL 430110
\$96,048	Fund 209	Order 1900475	GL 430120

**Expenditures**

\$539,369	Fund 209	Order 190475	GL 530550
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7. RESOLUTION: Belmont Bridge Replacement Project – Appropriation of \$2,697,398 (2nd reading)

**RESOLUTION APPROPRIATING \$2,697,398  
for the Belmont Bridge Replacement Project**

**WHEREAS**, a total of \$2,697,398 in federal funds for the Belmont Bridge Replacement Project requires appropriation;

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

**Revenues**

\$2,697,398            Fund: 426            WBS: P-00436            G/L Account: 430120

**Expenditures**

\$2,697,398            Fund: 426            WBS: P-00436            G/L Account: 599999

**BE IT FURTHER RESOLVED** by the Council of the City of Charlottesville, Virginia that \$2,697,398 noted above is conditioned upon the receipt of a fully execute Appendix A and receipt of the funds from the Virginia Department of Transportation (VDOT).

8. ORDINANCE: Amending City Code Section 30-6 to increase the threshold under which the City Treasurer may issue a refund for an erroneous assessment without direction from Council (2nd reading)

**ORDINANCE TO AMEND AND REORDAIN SECTION 30-6 OF THE CODE OF THE CITY OF CHARLOTTESVILLE, TO AUTHORIZE THE TREASURER TO APPROVE AND ISSUE ANY REFUND UP TO \$10,000 AS THE RESULT OF AN ERRONEOUS TAX ASSESSMENT**

9. RESOLUTION: United Way reimbursement of Community Resource Hotline Staff Costs - \$26,333.76 (carried)

Mayor Snook invited comments on the Consent Agenda. No speakers came forward.

On motion by Pinkston, seconded by Payne, Council by the following vote **ADOPTED** the Consent Agenda: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

**BOARD/COMMISSION APPOINTMENTS**

On motion by Pinkston, seconded by Wade, Council by the following vote **APPOINTED** Airea Garland and Wes Bellamy to the Charlottesville Redevelopment and Housing Authority (CRHA): 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

## **CITY MANAGER REPORT**

Interim City Manager Michael Rogers reported on the following:

- The intergovernmental half-day retreat recently held between City Manager executive staff and leadership from the University of Virginia and the County of Albemarle.
- Retention bonuses given to Fire and Sheriff's Department sworn officers.
- Addressing funding for Transportation challenges at a future meeting.
- Congratulations to the Fire Department for achieving accreditation.

Deputy City Manager Sam Sanders reported on:

- The conversion of the four-way intersection at Rugby and Rose Hill Drive. He stated that the four-way stop is temporary in response to providing safe routes to schools and to slow down traffic. Once the pedestrian signalization project is complete, the intersection will reconvert to a signaled intersection.
- Certain customers were notified of reimbursements for third-party expenses incurred related to Neighborhood Development Services.
- The new Climate Action Specialist, Emily Irvine and Building Code Official, Chuck Miller

Deputy City Manager Ashley Marshall reported on the following:

- The Office of Economic Development recognizes Minority Business Month in September and there will be a series of events celebrating business diversity in the Charlottesville community.
- Two financial projects in process: 1) Commissioner of the Revenue online business portal to support payment of business taxes, and 2) Office of Budget and Management having the FY2023 Budget edited to meet ADA compliance.
- The City of Charlottesville is one of twenty-nine inaugural cities in the City Health Dashboard "Put Us on the Map"

## **COMMUNITY MATTERS**

1. Kevin Cox, city resident, spoke about traffic conditions on East High Street. He expressed concern about a derelict dirt path, loss of curbs in front of businesses, and danger for pedestrians at the intersections. He asked about a city plan to address the areas of concern.
2. Kate Fraleigh, city resident, spoke about jail renovation and she recommended spending resources on community-based programs instead of mental health beds for the jail.
3. Gloria Beard, city resident, spoke in support of community-based, non-police mental health care and against funding mental health beds for the Albemarle-Charlottesville Regional Jail.
4. Harold Folley read a letter from The People's Coalition to address mental health issues through funding community programs without using jail cells.
5. John Hossack, city resident, spoke about various issues related to the Comprehensive Plan.
6. Ang Conn, city resident, spoke against using jails for mental health treatment or rehabilitation. She requested that the City disinvest in jail renovations.

7. Rosia Parker, city resident, stated that International Democracy Day should be every day. She spoke about her attempt to hold a protest, Council's community engagement, and issues with the Police Civilian Oversight Board.
8. Adrienne Dent, city resident, shared her observations while volunteering as a school crossing guard. She expressed concern about driving speeds and the need for speed enforcement.
9. Katrina Turner, city resident, asked who the International Democracy Day was intended for. She stated that black and brown people in the community do not feel safe. She expressed concern about the City keeping the employee who participated in the January 6, 2021 US Capitol insurrection.
10. Rebecca Schectman, raised in Charlottesville, spoke against expansion of the ACRJ for mental health beds. She suggested other programs where city funds could be used to address mental health issues.
11. Carole Thorpe spoke in support of Ms. Turner's comments. She spoke in opposition to the International Day of Democracy proclamation, stating that the United States is a Republic.

## **ACTION ITEMS**

### **10. PUBLIC HEARING/ORDINANCE: City Manager's Proposed Collective Bargaining Ordinance (carried to October 3)**

Mr. Rogers summarized the August 15 introduction of the Collective Bargaining Ordinance (CBO) and Mayor Snook opened the public hearing:

- Matthew Ray, Transit operator, asked Council to amend to the ordinance to get rid of restrictions on bargaining for benefits, discipline and working conditions; to add binding arbitration, and to include supervisors for Transit. He stated that school bus drivers should be paid more than general transit drivers.
- Elizabeth Stark, city resident, asked Council to review the draft CBO and amend it to allow bargaining over disciplinary procedures. She suggested paying drivers more and giving them leverage in their jobs.
- Emily Yen, city resident, requested that Council adopt the amendments submitted to Council by the Amalgamated Transit Union (ATU).
- Daniel Summers, Charlottesville Area Transit (CAT) driver, spoke about the difficulties of being a school bus and public transit driver. He stated that changes need to be made sooner than later.
- Greg Weaver, city resident, spoke in support of a strong CBO granting bargaining rights to all non-police employees and giving particular attention to CAT drivers, increasing driver pay.
- Jen Doo, city resident, spoke in support of a stronger CBO, granting all employees the right to bargain immediately, as well as attracting and retaining employees.
- Brandon Collins, city resident, spoke in support of all employees except police having bargaining rights, control over disciplinary procedures and benefits, better working conditions across the board and better pay. He spoke in opposition to collective bargaining rights for police.

With no additional speakers, Mayor Snook closed the public hearing. Councilors provided feedback to the City Manager and consultant Robin Burroughs of Venable LLC.

Mr. Rogers stated his plan to bring the ordinance with any amendments back to City Council on October 3 for second reading and the vote.

Ms. Burroughs explained Virginia Code provisions related to binding arbitration and non- fiscal matters.

Council agreed by unanimous consent to move the item to the October 3 Action Agenda.

Mayor Snook recessed the meeting at 9:01 p.m. and reconvened at 9:11 p.m.

**11. RESOLUTION: For consideration of ending the Locally-declared State of Emergency for COVID-19**

City Attorney Lisa Robertson presented the resolution and reviewed previous actions taken by City Council in response to the locally declared State of Emergency. She expressed the desire for Council-appointed boards and commissions to be managed in a more standardized manner, FOIA-compliant, allowing for some flexibility. She stated that staff would bring procedures back for City Council to consider at the next meeting.

On motion by Pinkston, seconded by Payne, Council by the following vote APPROVED the resolution to end the locally emergency declared on March 12, 2020: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

**RESOLUTION**

**Ending the Local Emergency Declared by the City Manager on March 12, 2020 in response to the Coronavirus 2019**

WHEREAS on March 12, 2020, with the consent of City Council, the City Manager declared a local state of emergency, based on the threat presented by the Coronavirus 2019 pandemic (“COVID-19”) to the public health and safety of residents of the City of Charlottesville; and

WHEREAS in the judgment of City Council all necessary emergency actions have been taken; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE THAT the emergency previously declared by the City Manager on March 12, 2020 in response to COVID-19 is hereby ended, and normal governmental authority (i.e., governmental authority not reliant on any emergency powers) shall resume in accordance with the following:

1. In accordance with the provisions of subparagraph C of Virginia Code §2.2-3708.3, all of the city’s various boards and commissions (with the exception of those specifically excepted

within the statute) may hold all-virtual meetings, and they are encouraged to do so. Boards and commissions which are eligible to hold all-virtual meetings may hold in-person meetings, or “hybrid” meetings, but may do so only with approval by the City Manager based on findings that:

- (i) an appropriate space is available on City premises,
- (ii) sufficient staff is available to support the meeting and to manage necessary protocols for the meeting, and
- (iii) appropriate measures can be implemented to minimize the potential spread of COVID-19 within any in-person meeting(s) (such as the wearing of masks, the spacing of seats, special cleaning procedures, etc.).

2. The City Manager, in consultation with the Clerk of Council and the City Attorney, is hereby directed to prepare a standard operating procedure (“SOP”), setting forth a uniform policy for all-virtual meetings of all city boards and commissions (other than those which are legal entities separate from the City of Charlottesville), as required by subparagraph C of Virginia Code §2.2-3708.3. All such boards and commissions shall follow this SOP when conducting all-virtual meetings.

3. Upon the expiration of the current Continuity of Government Ordinance on September 8, 2022 (#O-22-029), the governmental processes, procedures and meetings referenced in said ordinance shall be of no further effect; thereafter, all such processes, procedures and meetings shall be conducted in accordance with applicable federal and state laws and regulations, local ordinances, and deadlines stated therein.

## **12. RESOLUTION: Endorsing the application of the Albemarle Charlottesville Regional Jail Authority for a Community Based Corrections Plan Needs Assessment and Planning Study**

Colonel Martin Kumer, ACRJ Superintendent, asked City Council to approve the Community Based Corrections Plan Needs Assessment and Planning Study resolution seeking 25% reimbursement. He stated that this does not bind the city or any jurisdiction to fully fund the Renovation and he will come back to ask City Council at a future meeting to fund its portion of the project.

Councilors discussed comments received from the public regarding the usage of jail facilities for mental health issues, noting that individuals are not incarcerated by authority of the jail. Councilors also acknowledged structural failures in the mental healthcare system.

On motion by Pinkston, seconded by Wade, Council by the following vote APPROVED the resolution: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

## **RESOLUTION**

### **Endorsing the application of the Albemarle Charlottesville Regional Jail Authority for a Community Based Corrections Plan Needs Assessment and Planning Study**

**WHEREAS** on August 2, 2022 the Albemarle Charlottesville Regional Jail Authority (ACRJ) adopted a resolution requesting the State Board of Local and Regional Jails to give its approval to a Community Based Correction Plan Needs Assessment and Planning Study, along with state funding for reimbursement of twenty-five percent (25%) of all eligible costs (subsequent to Governor and General Assembly Funding); and

**WHEREAS** in addition to the favorable votes cast by the City's members of the governing board of the ACRJ, this City Council desires to independently endorse the request made by ACRJ to the State Board; now, therefore,

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, that endorsement is hereby given for ACRJ's request to the State Board of Local and Regional Jails, made pursuant to Code of Virginia Section 53.1-81, for approval of the proposed Community Based Correction Plan Needs Assessment and Planning Study, along with state funding for reimbursement of twenty-five percent (25%) of all eligible costs (subsequent to Governor and General Assembly Funding).

### **13. ORDINANCE: Repealing Sec. 15-36 through Sec. 15-38 of the Charlottesville City Code to Eliminate Local Vehicle License Fees for Certain Motor Vehicles, Trailers, and Semi-Trailers**

Jason Vandever, City Treasurer, presented the requested ordinance change, stating that the decal was primarily an enforcement mechanism. The physical decal requirement was eliminated in 2006, but the City did not eliminate the associated fee.

Councilor Payne questioned the urgency of this item coming before Council outside of the budget cycle. Councilors discussed the merits of regressive taxes and discussed potential fiscal demands.

On motion by Wade, seconded by Snook, Council by the following vote APPROVED the ordinance: 3-2 (Ayes: Magill, Snook, Wade; Noes: Payne, Pinkston)

### **ORDINANCE REPEALING SEC. 15-36 THROUGH SEC. 15-38 OF THE CITY CODE, THEREBY REPEALING VEHICLE LICENSE FEES FOR CERTAIN MOTOR VEHICLES, TRAILERS AND SEMI-TRAILERS**

### **14. RESOLUTION: Approval of the Fifth Amended Grant Agreement, Charlottesville Supplemental Rental Assistance Program (CSRAP) (tabled to September 19)**

Alex Ikefuna, Director of Community Solutions summarized the request. John Sales, CRHA Executive Director and Consuela Knight, Housing Choice Voucher Program Manager presented CSRAP general information, partnerships, and guidelines for rental standards amounts. Mr. Sales

proposed changes to the documents submitted for the Council agenda packet.

Responding to a request from Councilor Pinkston, Mr. Sanders summarized the requests.

Council requested to see a revised resolution including the changes suggested by CRHA on the September 19 meeting agenda. The item was tabled to the September 19 City Council meeting.

**15. RESOLUTION: Appropriating \$675,000 in Charlottesville Supplemental Rental Assistance program (CSRAP) Funding (FY23) for use in acquisition of property (carried)**

Mr. Sanders presented the resolution to activate passive funds in the CSRAP in order to acquire naturally occurring affordable housing that is in jeopardy of transitioning into market-rate housing.

Mr. Sales proposed a renewable 99-year affordability period and the movement toward an land bank model.

Council agreed unanimously to carry the item to the September 19 Consent Agenda.

**16. RESOLUTION: Appropriating \$107,203.32 for Jefferson School African American Heritage Center Rent Agreement (carried)**

Vice Mayor Wade asked to pull the item and bring it back to a future agenda pending further discussions with the Jefferson School African American Heritage Center Executive Director and the Board. Council unanimously agreed to remove the item and continue it to potentially an October meeting; however, an exact date was not determined.

**OTHER BUSINESS**

Mayor Snook requested a presentation about East High Street pedestrian safety.

**COMMUNITY MATTERS (2)**

Mayor Snook opened the floor for public comment.

- Greg Weaver mentioned his prior comment about comparing the public transit system in Vancouver with Charlottesville. He stated that Vancouver transformed transit in their city and although they have the infrastructure in place, traffic is still an issue because of car-centrism.
- Shelby Edwards, Executive Director of the Public Housing Association of Residents (PHAR), spoke in support of CSRAP funding for the housing authority, and in support of the city's advocacy for residents at Midway Manor.

The meeting adjourned at 10:46 p.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council



CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approval of Appropriation Resolution
Presenter:	Mike Rogers, Deputy Chief of Business Services
Staff Contacts:	Mike Rogers, Deputy Chief of Business Services
Title:	<b>Appropriating Fiscal Year 2023 Fire Programs Aid to Locality (Firefund) - \$186,776.00 (2nd reading)</b>

**Background**

Section **38.2-401** of the Code of Virginia authorizes the State Corporation Commission to annually levy against all licensed insurance companies doing business in Virginia an assessment in the amount of one percent of fire-related insurance premiums received by the companies. About seventy-five percent of this money goes directly to localities as Aid to Localities, paid from the Commonwealth's special, nonreverting fund known as the "Fire Programs Fund" (Firefund). The aid-to-locality monies distributed to localities by allocations based on population. These monies can be used for fire service based training, training supplies, training equipment, prevention activities, some response equipment, and other purposes listed in Va. Code 38.2-401(B). This is an annual allotment of funding. All usage and any carryovers are reported out to the Virginia Department of Fire Programs at the end of the fiscal year, before the next fiscal year monies will be allocated. The City of Charlottesville has been awarded the amount of \$186,776.00 as its Fire Programs Fund allocation for FY 2023.

**Discussion**

The Aid to Locality monies are distributed annually to aid departments in their training, prevention, and equipment efforts. While the monies cannot be used to directly/indirectly supplant or replace other locality funds, they help us to provide for additional firefighting training resources, logistics, courses, and equipment as outlined in the Department of Fire Programs Aid to Locality allowable uses chart.

**Alignment with City Council's Vision and Strategic Plan**

The Aid to Locality/Firefund allocation supports the City's mission "We provide services that promote equity and an excellent quality of life in our community" by providing supplemental training and equipment funding for fire prevention, firefighting, hazardous materials, and technical rescue. With this additional funding being put towards these purposes, we are better able to prepare our responders to deliver emergency services and/or information to the citizens, students, business community members, and guests of the City.

**Community Engagement**

N/A

**Budgetary Impact**

There is no impact on the General Fund, as these funds are in the nature of state aid, and do not require a City match. The FY 2023 funds will be budgeted for expenditure within the City's Fire Department .

**Recommendation**

Staff recommends approval and appropriation of the FY23 allocation of funding from the state's Fire Programs Fund.

***Suggested motion: "I move the RESOLUTION appropriating the amount of \$186,776.00 received from the Virginia Fire Programs Fund for expenditure within Fiscal Year 2023"***

**Alternatives**

If Aid to Locality funding is not appropriated, the Fire Department will not be able to utilize this supplemental funding to help support its training, prevention, and equipment efforts.

**Attachments**

1. Firefund FY 2023 Resolution Attachment

**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
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**Expenditures - \$186,776**

\$186,776	Fund: 209	I/O: 1900010	G/L Account: 599999
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CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approve resolution (Appropriation)
Presenter:	Sue Moffett, Director
Staff Contacts:	Mary Jane Skidmore Laura Morris
Title:	<b>Appropriating Funding from the Virginia Department of Social Services for the Supplemental Nutrition Assistance Program Education &amp; Training Program (SNAP E&amp;T) Laptop Loaner Program - \$15,400 (2nd reading)</b>

**Background**

The Virginia Department of Social Services (VDSS) has provided funding to interested localities to establish a laptop loaner program for clients participating in the Supplemental Nutrition Assistance Program Education & Training (SNAP E&T) Program.

**The Charlottesville Department of Social Services has received \$15,400 from this funding.**

**Discussion**

The purpose of the SNAP E&T program is to ensure that participants achieve a living wage and attain economic independence. The laptop loaner program will give participants who do not have computers the opportunity to access education and training through virtual/online platforms. The department plans to purchase 20 laptops with this funding.

**Alignment with City Council's Vision and Strategic Plan**

Approval of this agenda item aligns with the City's mission to provide services that promote equity and an excellent quality of life in our community. It is consistent with Strategic Plan Goal 1: An Inclusive Community of Self-Sufficient Residents and Objective 1.2, prepare residents for the workforce and Objective 1.4, enhance the financial health of residents.

**Community Engagement**

Program staff will work directly with SNAP E&T participants.

**Budgetary Impact**

The Virginia Department of Social Services is providing 100% of the funding with no local, general fund match required.

**Recommendation**

Staff recommends approval and appropriation of these funds.

***Recommended Motion: "I move the RESOLUTION appropriating funding in the amount of \$15,400, received from VDSS for the SNAP and E&T Loaner Program"***

**Alternatives**

Funds that are not appropriated will need to be returned to the Virginia Department of Social Services. If funds are not appropriated, the department will be unable to provide laptops to SNAP E&T participants.

**Attachments**

1. SNAP E&T Laptop Loaner Program Resolution

**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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CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Approval of resolution.

Presenter: Chris Cullinan, Director of Finance

Staff Contacts: Richard Palumbo - Utility Billing

**Title: Appropriating American Rescue Plan funds from the Commonwealth for Utility Bill Assistance - \$29,524.18 (2nd reading)**

**Background**

The Commonwealth of Virginia received \$4.3 billion of American Rescue Plan Funds. Of this total, \$120 million was dedicated toward residential utility bills that are more than 60 days overdue. The City received approximately \$360,000 in December 2021, which was applied to eligible accounts. The City recently received notice of a second award of funds in the amount of \$29,524.18.

**Discussion**

The guidance for the second award is the same as the first award, namely 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. Customers do not need to take any action or provide information to receive these relief funds. The Utility Billing Office will distribute the funds on a proportionate basis as soon as possible.

**Alignment with City Council's Vision and Strategic Plan**

This resolution contributes to Goal 1 of the Strategic Plan, to be an inclusive community of self-sufficient residents; Goal 2 to be a healthy and safe City; and Goal 5 to be a well-managed and responsive organization.

**Community Engagement**

None.

**Budgetary Impact**

This has no impact on the General Fund or Utility Enterprise Funds. These funds will be appropriated to and expended from a designated fund. The funds will be distributed as credits towards a customer's bill.

**Recommendation**

Staff recommends approval and appropriation of funds.

Suggested Motion: "I move the RESOLUTION appropriating the amount of \$29,524.18 of American Rescue Plan funds received from the Commonwealth of Virginia for residential utility bill assistance."

**Alternatives**

There are no alternatives. Funds must be used for utility bill arrearage assistance or be returned to the Commonwealth of Virginia Department of Accounts.

**Attachments**

1. 10.3.22 Resolution ARP Utility Bill Assistance



**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

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approval of Resolution
Presenter:	Chris Cullinan, Director of Finance
Staff Contacts:	Chris Cullinan, Director of Finance Lauren Hildebrand, Director of Utilities
Title:	<b>Approving Compromise of Claim: Wastewater Leak Credit \$31,516.31 for 525 Ridge Street - Management Services Corporation (1 reading)</b>

**Background**

The multi-family property at 525 Ridge Street (owned by Management Services Corporation) experienced a leak in its main water line in July and August. The leak resulted in usage approximately 30x their normal consumption. Due to the location of the break, the water returned to the storm sewer and not the sanitary sewer. Per the City's leak credit procedures, MSC has requested a credit to their wastewater account for this location.

**Discussion**

Utility billing staff have calculated the wastewater credit to be \$31,516.31. Utilities staff has also investigated this leak and concur with UBO's analysis. Per the City's Leak Credit Policy, the credit waives 100% of the wastewater charges, as the water did not enter the sanitary sewer (note: MSC is paying the full water charges).

The amount of the credit is greater than \$10,000, thus City Code Section 11-132 (4) requires City Council authorization.

**Alignment with City Council's Vision and Strategic Plan**

The City's Leak Credit Policy aligns with "3.4 *Be responsible stewards of natural resources*" by encouraging residents and businesses to minimize water loss by making timely leak repairs and "5.1 *Integrate effective business practices and strong fiscal policies*" as such a policy is considered a best practice for utilities.

**Community Engagement**

None.

**Budgetary Impact**

The fiscal impact of the compromise of claim is \$31,516.31 reduction in revenues to the Wastewater Funds. However, since the water entered neither the City's nor Rivanna Water and Sewer Authority (RWSA) wastewater systems, no wastewater expenses were incurred. Thus, the credit is budget neutral to the Wastewater Fund.

### **Recommendation**

Staff recommends approval for the compromise of the claim and granting of the leak credit.

**Suggested Motion: "I move the RESOLUTION approving the 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."**

### **Alternatives**

City Council could deny the compromise of claim and therefore the leak credit would not be granted.

### **Attachments**

1. 10.17.22 Resolution Wastewater Credit for 525 Ridge Street MSC

**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.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approve Resolution (1 Reading)
Presenter:	Lisa Robertson, City Attorney
Staff Contacts:	Lisa Robertson, City Attorney
Title:	<b>Update Council Meeting Procedures to update electronic participation provisions (1 reading)</b>

**Background**

Effective September 1, 2022 the Virginia Freedom of Information Act includes modified provisions, which encourage public bodies such as City Council to provide public access to its meetings both in-person and through electronic communication means (which City Council has been doing for some time now, referring to such arrangements as "hybrid" meetings). The amended legislation updated procedures by which individual councilors may participated in a Council meeting from a remote location. (The updated FOIA provisions allow other public bodies, but not City Council, the Planning Commission, or the BAR, to hold a certain number of all-virtual meetings per year).

All of these new or amended FOIA provisions are set forth within Virginia Code Sec. 2.2-3708.3.

**Discussion**

City Council's previously-adopted Meeting Procedures already address individual remote participation by council members. Those existing procedures are proposed to be updated as set forth within the attached Resolution, to reflect the current authorizations of FOIA.

**Alignment with City Council's Vision and Strategic Plan**

Taking advantage of the new FOIA provisions is aligned with City Council's vision to be a leader in innovation, to be flexible and progressive in anticipating and responding to the needs of citizens, and to be a smart, citizen-focused government.

**Community Engagement**

N/A

**Budgetary Impact**

None.

**Recommendation**

Approve the Proposed Resolution

***Recommended Motion: "I move the RESOLUTION amending City Council's Meeting Procedures, to provide additional opportunities for electronic participation in Council meetings".***

**Alternatives**

Council may elect not to allow electronic participation by any member.

**Attachments**

1. RESOLUTION Council Rules Oct 17 2022 Update

**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 meetings 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 will 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 ~~or~~ 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 (~~Limited to~~ 16 speakers, 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 ~~registered on the sign-up sheet available at the front of the room prior to the meeting~~ 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](mailto: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. ~~Sign-up sheets are provided at the front of the room. Speakers will be called from that list, as time permits.~~ 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. ~~After all speakers on the sign-up list have been called, other individuals will be invited to speak, until everyone who wishes to speak on the topic has had a chance to do so.~~
    - c. During a public hearing, ~~each speaker~~s must limit ~~his/her~~their comments to the specific application or matter for which the public hearing has been scheduled.
    - d. 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.
    - e. 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](mailto: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](mailto: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 ~~and~~ 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)~~2.2-3708.2. 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)~~, ~~2.2-3708.2~~ 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).~~due to an emergency, a personal matter, or disability.~~ 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 for personal matters.
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 ~~any~~ of the quorum of councilors physically assembled at the central meeting location, City Council shall make a motion to ~~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 the councilor's participation by electronic communication means is approved, the Clerk of council shall record in the meeting minutes:~~

~~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; and~~

~~the remote location from which the councilor participates in the meeting.~~

~~f. 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~~  
~~If the councilor's participation by electronic communication means is disapproved, whether by adoption of a motion to disapprove or rejection of a motion to approve, the Clerk of Council shall record in the meeting minutes:~~

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.**

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approve Resolution
Presenter:	Susan Morrow - Offender Aid and Restoration, Christie Cash - Offender Aid and Restoration
Staff Contacts:	Krisy Hammill, Director of Budget
Title:	<b>Resolution to Appropriate Funds for the Charlottesville/Albemarle Adult Drug Treatment Court Grant Award - \$240,000 (1 of 2 readings)</b>

### **Background**

The City of Charlottesville, as fiscal agent for the Charlottesville/Albemarle Adult Drug Treatment Court, has received a Supreme Court of Virginia Drug Treatment Court Grant in the amount of \$240,000. The grant funds may be expended for operations of the Charlottesville Albemarle Drug Treatment Court Program, which is operated by Offender Aid and Restoration (OAR). The City of Charlottesville serves as fiscal agent for the Drug Treatment Court Docket Grant.

### **Discussion**

In its twenty-fifth year of operation, the Charlottesville/Albemarle Adult Drug Treatment Court is a supervised 12 month drug treatment program that serves as an alternative to incarceration for offenders. Drug Treatment Court is a specialized docket within the existing structure of the court system given the responsibility to handle cases involving non-violent adult felony offenders with moderate to severe substance use disorders. The program uses the power of the court to assist non-violent offenders to achieve recovery through a collaborative system of intensive supervision, drug testing, substance abuse treatment, and regular court appearances.

The total program budget is **\$371,595.00** and includes three funding sources:

- Supreme Court of VA - \$240,000
- City of Charlottesville: \$75,947, which has already been appropriated for FY23
- Albemarle County: \$55,648, which has already been appropriated for FY23

### **Alignment with City Council's Vision and Strategic Plan**

This relates to providing support for persons interacting with the legal or criminal justice system and the City of Charlottesville's priority Safety/Criminal Justice. Drug Court directly affects the community by reducing recidivism among Drug Court participants and graduates. Additionally, Drug Court mitigates risk by reducing drug and alcohol use among program participants and graduates.

Reduction of drug and alcohol use fosters participant rehabilitation, public safety, and participant accountability; all of which are factors in helping the community achieve its stated goals. Reduced recidivism results in reduced public cost associated with re-arrest and incarceration, a reduction in potential victims of crime, and overall enhanced quality of life for community residents. As the writers of the Adult Drug Court Best Practice Standards state, “Drug Courts improve communities by successfully getting justice-involved individuals clean and sober, stopping drug-related crime, reuniting broken families, ... and preventing impaired driving” Not only is Drug Court an effective agent of change, it is an extremely cost effective approach. Numerous meta-analyses have concluded that Drug Courts produce an average return on investment of \$2 to \$4 for every \$1 invested. Because of the above, ensuring that the 25 year old Drug Court program remains available to residents of the City of Charlottesville and Albemarle County will help the community achieve its goals.

### **Community Engagement**

The Drug Treatment Court is a direct service provider and is engaged daily with non-violent criminal offenders with drug driven crimes who are at a high level of risk for reoffending due to active addictions and long standing patterns of criminal behavior. By collaborating with the Court system, Region Ten Community Services Board, Addiction Allies, and the Sheriff’s department, the Drug Treatment Court provides these offenders with a highly structured, rigorously supervised system of treatment and criminal case processing that results in a significant reduction in recidivism rates for program participants and graduates. Participants gain access to the Drug Treatment Court through referrals from police, probation, magistrates, defense attorneys and other local stakeholders. Participants have active criminal cases pending in the Circuit Court. If they successfully complete the program which takes a minimum of 12 months, participants may have their pending charges reduced or dismissed. If participants are unsuccessful and have to be terminated from the program, they return to court to face their original charges. Successful Drug Treatment Court participants return the community’s investment in them by maintaining full time, tax paying employment, providing for and taking care of their children and families including paying off back child support, behaving as good role models in the community, and supporting the recovery community in Charlottesville.

### **Budgetary Impact**

None

### **Recommendation**

No additional City funding is required, because the City’s required match for this grant (\$75,947) was appropriated as part of the FY 2023 Council Approved Budget as part of the City’s contribution to Offender Aid and Restoration.

### **Alternatives**

Council could decline to approve the grant award.

### **Attachments**

1. Drug Court Resolution\_October 17. 2022

**RESOLUTION**

**Appropriating the Sum of \$240,000 to the  
Charlottesville/Albemarle Adult Drug Treatment Court**

**WHEREAS** the Supreme Court of Virginia awarded its Drug Treatment Court Docket a grant in the amount of \$240,000.00, to be allocated to the Charlottesville/Albemarle Drug Treatment Court to fund salaries, benefits, and operating expenses; and

**WHEREAS** the City of Charlottesville serves as the fiscal agent for the Charlottesville/Albemarle Drug Treatment Court; and

**WHEREAS** for Fiscal Year 2023 the City of Charlottesville and Albemarle County each appropriated local funding matches as required by this grant, in a combined total amount of \$131,595.00; and

**WHEREAS** the Supreme Court grant award covers the period July 1, 2022 through June 30, 2023; now, therefore,

**BE IT RESOLVED by the Council of the City of Charlottesville, Virginia**, that, upon receipt thereof from the Virginia Supreme Court, the sum of \$240,000.00 is hereby appropriated for expenditure by the Charlottesville/ Albemarle Adult Drug Treatment Court, in the following manner:

**Revenues**

\$240,000      Fund: 209      Internal Order: 1900500      G/L Account: 430120

**Expenditures**

\$240,000      Fund: 209      Internal Order: 1900500      G/L Account: 530550

All funds hereby appropriated shall be accounted for and expended only in accordance with requirements of the Virginia Supreme Court Drug Treatment Court Docket grant program.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Appropriation
Presenter:	Misty Graves, Director of Human Services
Staff Contacts:	Hunter Smith, Human Services Planner
Title:	<b>Virginia Juvenile Community Crime Control Act Grant (V.J.C.C.C.A.)- \$452,704 (1 of 2 readings)</b>

**Background**

In July 2010, the City of Charlottesville became the fiscal agent for the Virginia Juvenile Community Crime Control Act (V.J.C.C.C.A.) funds for both Charlottesville and Albemarle County. This funding stream was established by the 1995 Virginia General Assembly to create balanced, community-based systems of sanctions, programs and services for juvenile offenders. These funds are used to support the Community Attention programs. In Fiscal Year 2023, \$292,058 in V.J.C.C.C.A. funds will be received from the Virginia Department of Juvenile Justice with a required local maintenance of effort of \$52,231 from Albemarle County, and \$108,415 from the City for a total of \$452,704. The grant period is from July 1, 2022 through June 30, 2023.

**Discussion**

The VJCCCA grant funds the delinquency prevention and youth development services provided by The Department of Human Services for Charlottesville/Albemarle youth involved in the juvenile justice system. These services include the following programs: the Teens GIVE service learning program that provides community service opportunities during both the school year and the summer; the Community Support Services which provides pro-social skills training like anger management, individual and group support services and services for youth on electronic monitoring; the Community Attention Youth Internship Program (CAYIP) which provides paid internship opportunities; the Check and Connect Program provides evidence-based, school engagement programs.

**Alignment with City Council's Vision and Strategic Plan**

The VJCCCA grant aligns with the City of Charlottesville's Strategic Plan - Goal 2: A Healthy and Safe City Objective 2.3: Improve community health and safety outcomes by connecting residents with effective resources. Community Attention's VJCCCA funded programs provide community based services that prevent delinquency and promote the healthy development of youth. Expected outcomes include decreased delinquent behavior during and after program participation.

**Community Engagement**

The VJCCCA funded programs engage local youth involved in the juvenile justice system and their families by providing delinquency prevention and youth development programs. The programs also engage and coordinate with other local agencies and organizations in the provision of services to the youth.

**Budgetary Impact**

The funds will be expensed and reimbursed to the VJCCCA Fund. The required General Fund City contribution has already been appropriated as part of the Fiscal Year 2023 Council Adopted Budget so no new funds are required to cover the match.

**Recommendation**

Staff recommends approval and appropriation of funds.

**Alternatives**

If the VJCCCA funds are not appropriated, Community Attention would have to serve fewer youth and eliminate programs and staff.

**Attachments**

1. FY23 VJCCCA Resolution (final)

**RESOLUTION**

**Appropriating the sum of \$452,704 received from the Commonwealth as a Virginia Juvenile Community Crime Control Act Grant (V.J.C.C.C.A.)**

**WHEREAS**, the City of Charlottesville has been awarded \$292,058 from the Virginia Department of Juvenile Justice; and

**WHEREAS**, this grant requires local maintenance of effort funds in the amount of \$52,231 from Albemarle County and \$108,415 from the City; and

**WHEREAS**, the grant award covers the period from July 1, 2021 through June 30, 2022.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, that upon receipt of the sum of \$452,704 from the Commonwealth of Virginia, that sum is hereby appropriated in the following manner:

**Revenue – \$452,704**

\$292,058	Fund: 220	Cost Center: 3523001000	G/L Account: 430080
\$52,231	Fund: 220	Cost Center: 3523001000	G/L Account: 432030
\$108,415	Fund: 220	Cost Center: 3523001000	G/L Account: 498010

**Expenditures - \$452,704**

\$ 53,075	Fund: 220	Cost Center: 3523001000	G/L Account: 519999
\$399,629	Fund: 220	Cost Center: 3523001000	G/L Account: 530010

All funds hereby appropriated shall be accounted for and expended only in accordance with requirements of the VJCCCA grant program.

City of Charlottesville  
City Manager's Office  
MEMO



**TO:** Council  
**FROM:** Michael C. Rogers, Interim City Manager  
**DATE:** October 17, 2022  
**SUBJECT:** Financial Report – FY 2023 through September 30, 2022

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The online Budget Explorer which can be found at on the Budget Office webpage at [www.charlottesville.gov/budget](http://www.charlottesville.gov/budget) has been revised and includes a quarterly report tab for both revenues and expenditures. These quarterly tabs are automatically updated at the end of each quarter and are available for public viewing. The 1st quarter visualization contains financial information through September 30, 2022. Both a citywide view as well as the ability to drill down to the individual department level is available. The information presented in the visualization comes directly from the City's financial system and represents dollars that have been received and/or paid out as of the chosen date. The final 4<sup>th</sup> quarter data for FY 2022 will be provided once the year is officially closed and the audit is completed. This information will be presented in early December as part of the audit presentation by the City's Auditors and Chris Cullinan, the City's Finance Director.

### **Revenue Budget Projections**

As of September 30<sup>th</sup>, approximately 12% of the budgeted revenue for this fiscal year has been collected. Real Estate and Personal Property tax payments for the second half of 2022 are due on December 5<sup>th</sup> and represent two of the City's largest revenue sources. The Adopted Revenue budget for FY 23 totals \$212,889,291. Current revised projections indicate that revenues are tracking closely with the budget, and we are currently anticipating a modest revenue surplus of 1.91% or \$4M. The largest drivers of the anticipated surplus are real estate and personal property tax revenues and were anticipated as a result of the approved real estate tax increase and increased personal property assessments which were discussed and approved as part of the FY 23 budget process. The other revenue increases are for



meals, sales, and lodging which we know from our experience with COVID are economically sensitive revenues. The cautionary tale here is that many unknowns exist should there be a national recession. These early projections are offered only as a reference for discussion today. The revenue team meets monthly and continues to closely monitor revenue collections for FY 23 and is beginning work to refine projections for the development of the FY 24 budget. While at this point, we do anticipate there will be some revenue increases for FY 24, we do not anticipate the level of growth the City observed from FY 22 to FY 23.

The following FY 23 revenue budget revisions are projected:

	<b>FY 2023 Budget</b>	<b>FY 2023 Revised</b>	<b>Change</b>
<b><u>Local Taxes</u></b>			
Real Estate Tax	\$ 89,487,993	\$ 90,700,000	\$ 1,212,007
Personal Property Tax	12,000,000	14,000,000	2,000,000
Public Service Tax	1,589,086	1,589,086	-
Utility Taxes	4,600,000	4,600,000	-
Virginia Communications Sales and Use Tax	2,125,000	2,125,000	-
Tax on Bank Stock	1,200,000	1,200,000	-
Tax on Wills & Deeds	725,000	725,000	-
Sales & Use Tax	13,900,000	14,400,000	500,000
Transient Room Tax	7,000,000	7,100,000	100,000
Meals Tax	14,075,026	14,500,000	424,974
Cigarette Tax	550,000	550,000	-
Plastic Bag Tax ( <i>*implementation currently underway</i> )	-	-	-
<b><u>Licenses and Permits</u></b>			
Business & Professional Licenses	\$ 8,700,000	\$ 8,700,000	-
Vehicle Licenses	\$ 890,000	\$ 150,000	(740,000)
<b><u>Miscellaneous Revenues</u></b>			
Interest Income	\$ 580,000	\$ 1,050,000	470,000
<b><u>Designated Revenues</u></b>			
Meals Tax Designated for the Debt Service Fund	\$ 2,564,974	\$ 2,661,538	\$ 96,564
<b>Total Revenue Budget Surplus</b>			<b>\$ 4,063,545</b>
<b>Surplus as a % of Total Budget</b>			<b>1.91%</b>

## **Expenditure Budget Projections**

Many City operations are seasonal and interfund transfers, which represent large expenditures in the General Fund (i.e. Debt Service Transfer, CIP transfer, Transfer to CAT, etc.), get posted as a lump sum later in the fiscal year. Additionally, recruiting and procurement activities for the new year are just getting under way in the 1<sup>st</sup> quarter. These factors lead to a more cyclical and irregular expenditure pattern that is harder to project. However, we continue to monitor expenditures and indicators suggest that expenses are tracking well with the budget. Expenditure details can be viewed using the [Budget Explorer Tool](#) which can be found on the City's Budget webpage.

## **Other Financial Matters**

The next quarterly report to US Treasury regarding the City's expenditure of ARP funds for July to September is due on October 31. Following submission of the City's quarterly report, City Council will be provided detailed information on the use ARP funds.

*\*Please note all the information presented in this memo and the Budget Explorer visualization is collected as of a specific point in time. All amounts are subject to change until the City's annual audit is complete and the books are officially closed for any given fiscal year.*

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022  
Action Required: Adoption of Proposed Ordinance  
Presenter: Lisa Robertson, City Attorney  
Staff Contacts: Lauren Hildebrand, Director of Utilities  
Title: **Vacation of Public Utility Easement at 209 Maury Avenue (1 reading)**

**Background**

There exist various ways in which the City of Charlottesville may acquire interests in real property. The phrase "interest in real property" can refer to ownership of land or buildings, or it can refer to something less than an ownership interest--such as an easement or right-of-way authorizing use or physical occupation of property by City facilities. Pursuant to Va. Code Section 15.2-1800(B), when the City wishes to *dispose* of its "real property" the City must follow a public hearing process.

**Discussion**

FMC Investments, LLC (representative Charlie Armstrong) is the owner of three lots at the intersection of Stadium Road and Maury Avenue. The lots are identified on City Tax Map 17 as parcels 18.4, 18.5 and 18.6. These lots are part of a planned residential development, and the developer is asking City Council to vacate an existing 20-foot sanitary sewer easement. As part of the development process, the developer will be constructing a new sewer line on TMP 17-18.4, as shown on the attached "Easement and Boundary Line Vacation Plat". Once construction of the new sewer line is complete, the Director of Public Works will inspect the construction, and if the new line meets applicable City standards, the Director will accept the sewer line and will require the developer/ landowner to execute a deed of easement for a *new 20-foot* public utility easement.

**Alignment with City Council's Vision and Strategic Plan**

N/A

**Community Engagement**

Council is required to hold a public hearing, in accordance with Va. Code 15.2-1800 and 15.2-1813.

**Budgetary Impact**

None.

**Recommendation**

It is recommended that Council approve the proposed ordinance, after conducting a public hearing. (This is not a generally applicable ordinance, so only one reading is required).

**Alternatives**

Council may decline to approve the vacation; however, that would hold up the development process, for which approvals have been granted.

**Attachments**

1. ORDINANCE (Vacate Combined with ROW accept)
2. Plat 209 Maury Development

**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.

BOUNDARY CURVE TABLE						
Curve	Length	Radius	Delta	Tangent	Chord	Chord Bearing
C1	18.69'	13.50'	73°19'21"	11.19'	17.23'	S 54°16'09" E

EASEMENT LINE TABLE		
Line	Direction	Length
L1	S 88°26'52" E	5.00'
L2	N 90°00'00" E	4.00'
L3	S 00°00'00" E	19.67'
L4	N 90°00'00" W	3.85'

**PARCEL 'X'**  
**VARIABLE WIDTH STRIP ALONG STADIUM ROAD**  
**HEREBY DEDICATED AS RIGHT OF WAY**  
**TO THE CITY OF CHARLOTTESVILLE**  
**(HATCHED PORTION)**  
**0.018 AC.**

**STADIUM ROAD**  
 FORMERLY LYNCHBURG RD.  
 (30' RIGHT OF WAY)

\*ALL INTERNAL BOUNDARY LINES ARE TO BE VACATED\*

NAD83  
 1A SOUTH ZONE

**TMP 17-17**  
 N/F CMJ, NORTH CAROLINA LLC.  
 INST#2009.4487  
 DB:637 PG:96(PLA1)

**EXISTING**  
**TMP 17-18.4**  
**LOT 5**  
**0.172 AC.**

**EXISTING**  
**TMP 17-18.5**  
**LOT 6**  
**0.172 AC.**

**EXISTING**  
**TMP 17-18.6**  
**LOT 7**  
**0.219 AC.**

**REVISED PARCEL**  
**1.607 AC.**

**EXISTING**  
**TMP 17-18.001**  
**LOT 1A**  
**0.366 AC.**

**EXISTING**  
**TMP 17-18**  
**LOT 1B**  
**0.317 AC.**

**EXISTING**  
**TMP 17-18.002**  
**LOT 1C**  
**0.379 AC.**

**TMP 17-19**  
**LOT 20**  
 N/F WORTHLEY, DAVID F & BONI D  
 INST#2011.4541  
 DB:225 PG:526(PLAT)

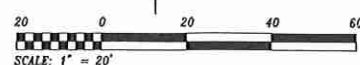
**TMP 17-18.1**  
**LOT 2**  
 N/F LEE, TRUSTEE, BRENT R  
 INST#2019.3624  
 INST#2015.3480(PLAT)

**TMP 17-18.2**  
**LOT 3**  
 N/F ROSNER, RACHEL S, DAVID F & MARTHA E  
 INST#2020.3724  
 INST#2015.3480(PLAT)

**TMP 17-18.3**  
**LOT 4**  
 N/F NEHER, SARA E  
 INST#2015.4690  
 INST#2015.3480(PLAT)

**EX 15' PRIVATE SANITARY SEWER EASEMENT**  
 INST#2016.3252  
 ~HEREBY VACATED~

**EX 15' PRIVATE SANITARY SEWER EASEMENT**  
 INST#2016.3252  
 ~TO REMAIN~



DATE: 11-29-2021  
 REV: 03-08-2022  
 REV: 05-25-2022  
 SCALE: 1"=20'  
 JOB: 16.0084  
 FILE: 16.0084

**V2** OF V2

**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

**BOUNDARY VACATIONS AND EASEMENTS**



**ROUDABUSH, GALE & ASSOCIATES, INC.**  
 ENGINEERS, SURVEYORS AND LAND PLANNERS

A PROFESSIONAL CORPORATION  
 SERVING VIRGINIA SINCE 1966

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 MAILING - 435 MERCHANT WALK SO, SUITE 300-159 - CHARLOTTESVILLE, VIRGINIA 22902  
 PHONE 434-977-0205 - FAX 434-296-5220 - EMAIL: INFO@ROUDABUSH.COM

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Approval of Ordinance

Presenter: Todd Divers, Commissioner of the Revenue

Staff Contacts:

**Title: 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 (1 reading)**

### **Background**

The Supreme Court of Virginia recently 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" does not apply to the business of freelance writers and authors. Further, the Supreme Court ruled that the City's Business License Ordinance does not contain a suitable alternative license category for that specific business activity. Therefore, the Court ruled that the City had erroneously assessed and collected license tax from this business. The City was therefore required to refund that entity and other similar businesses for taxes paid in error.

### **Discussion**

The Court essentially ruled that, despite writers and authors working under contract, being paid on a 1099, and filing business income on a Schedule C (as would any other service provider), the work of freelance authors and writers is somehow still not a "service" as set out in Sec. 14-19 of City Code (Class IV: Repair, personal, business and other services). This despite clear guidance in the Virginia Administrative Code (23VAC10-500-480) that "*Other services not clearly identified as financial, real estate or professional are classified as "repair, personal, business and other services"*".

The Court did not dispute that freelance writers and authors are licensable businesses.

We therefore recommend amending Sec. 14-19 such that it applies to *repair, personal, business and other services, and all other businesses and occupations not specifically listed or excepted in this chapter*. This new language conforms with §58.1-3706 of the Code of Virginia.

We further recommend adding "*writers and authors*" to the list of licensable businesses set out under Subclassification H of Sec. 14-19. Writers and authors were previously licensed under the catch-all category within that same subclassification – "*any other repair, personal or business service not specifically included in any other subclassification under this section*".

Finally, we recommend altering the catch-all provision itself so that it encompasses non-service

businesses: “Any other repair, personal or business service, or other business or occupation not specifically included in any other subclassification under this section”.

We believe that the indicated changes will address the issues brought to light by the recent case.

**Alignment with City Council's Vision and Strategic Plan**

N/A

**Community Engagement**

N/A

**Budgetary Impact**

None

**Recommendation**

Approval of the ordinance to amend and reauthorize Sec. 14-19 of Chapter 14 of the Charlottesville City Code - Licenses. It is requested that, pursuant to City Code 2-97, City Council waive the requirement for a second reading of this Ordinance and adopt the Ordinance upon first reading. Waiver of the second reading requires a 4/5 vote of City Council.

*Suggested Motion: “I move the ORDINANCE 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 and also that City Council adopt the ORDINANCE by four-fifths vote effective on this first reading, waiving the requirement for a second reading, as allowed by City Code Sec. 2-97”*

**Alternatives**

None

**Attachments**

1. Ordinance Amending Sec. 14-19



**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.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Adoption of proposed ordinance

Presenter: Todd Divers, Commissioner of the Revenue

Staff Contacts:

**Title: 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 (1 reading)**

### **Background**

1. In 2021, the General Assembly enacted changes to Virginia Code §§ 58.1-602, 58.1-612.2 and 58.1-3826 related to the application of State retail sales and use tax and local transient occupancy tax to Online Travel Agencies (OTS's) and online platforms offering temporary lodging in residential dwellings (see SB1398, 2021 first special session).

In September and October of 2021, we brought to your attention a number of recommended changes to our local ordinance to bring it into alignment with that recently enacted State legislation. You adopted those recommendations on October 4, 2021.

In 2022, the General Assembly again amended the process by which the retail sales and use tax and transient occupancy taxes are collected from sales involving lodging intermediaries (see SB651, 2022 regular session). These newer amendments require us to further modify our definitions in order to align them with State Code. Additional changes are also necessary to the provisions for collection and remittance. There is some urgency to have these changes incorporated into our ordinance since the new legislation requires online intermediaries to begin collecting local lodging taxes in October for remittance in November.

2. After a recent conversation with a taxpayer and discussion with colleagues around the state, we realize that there is room for some confusion as to the proper interpretation of our ordinance with regard to what charges are subject to the tax. We seek to remove that confusion by adding two definitions to our ordinance: "room charge" and "discount room charge".

3. With the University of Virginia contemplating construction of a hotel within the City limits, we thought it advisable to address a potential area of confusion with regard to one type of transaction that is exempted by our Code. Currently, charges for lodging in educational institutions are exempt from the City's transient occupancy tax. This exemption is not required by State Code, and we

believe that it was meant to apply to lodging provided to students in school dormitories. We recommend changing the language in our code such that the distinction is made explicit.

4. We are also proposing a number of minor housekeeping edits.

## **Discussion**

### **2022 Changes**

The changes enacted by the General Assembly in 2022 require lodging/accommodations intermediaries to collect sales and occupancy taxes and remit them to the Department of Taxation or a locality as applicable, eliminating the requirement (enacted in 2021) to remit a portion to a hotel (lodging/accommodations provider) who would in turn remit it to the State or to the City. These amendments further require intermediaries to submit to a locality each month the property addresses and gross receipts for all lodging facilitated by the intermediary in such locality. The changes proposed here reflect similar language in State Code.

### **Room charge versus discount room charge**

One of the shared goals of SB1398 and SB651 was to clarify the role of OTA's and online platforms in the collection and remittance of local lodging tax. This was accomplished partly by defining the various rolls of the parties involved in a lodging transaction. For instance, our code defines the parties to such transactions as: "lodging provider" ("accommodations provider" in State Code), "lodging intermediary" ("accommodations intermediary" in State Code), and "transient".

State Code provides further clarity by describing and defining the various parts of the transactions themselves. Our ordinance currently only partially accomplishes this. It defines "lodging fee" (which is essentially the mark-up that a lodging intermediary charges to a transient) as *the room charge less the discount room charge*.

However, in order to fully describe the transactions taking place among transients, lodging/accommodations intermediaries, and lodging/accommodations providers, our ordinance needs to include definitions for "room charge" and "discount room charge". Therefore, we propose the following (which largely mirror language in State Code):

*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 an accommodations 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.*

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

We will also take this opportunity to align other terminology with the terminology used in State Code:

*Lodging fee becomes accommodation fee;*

*Lodging intermediary becomes accommodations intermediary;*

*Lodging provider becomes accommodations provider.*

**All charges associated with a booking are subject to lodging tax**

The impetus behind SB1398 was concern among many in the lodging and travel industry that OTA's and online platforms (those who we would come to define as "accommodations intermediaries" were not collecting and paying State sales tax and local lodging tax on the various mark-ups that they charged to transients (booking fees, pet fees, cleaning fees, etc.), some of which could be more expensive than the lodging itself. As such, the legislation made it abundantly clear that ALL charges associated with the booking of an accommodation are subject to sales and lodging tax. This is reflected in the proposed definition of "room charge":

*...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.*

Unfortunately, since our existing definition for "lodging" reflects the prior conception that literally only charges for lodging itself could be subject to the tax, it undercuts the new interpretation and intent of the General Assembly. As such, we recommend removing the definition of *lodging* altogether and updating the definition of *accommodations*.

**Charges for lodging in dormitories to be exempt**

In order to avoid confusion, we propose the following change to Sec. 30-254:

*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 defined in Sec. 34-1200 of this Code ~~educational institution~~.*

Sec. 34-1200 of the City Code defines a *dormitory as a building, or portion thereof, owned or operated by an educational facility, which provides boarding-house style accommodations exclusively to students, faculty and employees of such institution.*

**Alignment with City Council's Vision and Strategic Plan**

N/A

**Community Engagement**

N/A

**Budgetary Impact**

None

**Recommendation**

Approval of the amended ordinance. It is requested that Council vote and approve this ordinance on First Reading, by four-fifths vote (see "section 2, last page of the proposed ordinance), waiving the requirement for a second reading.

***Suggested Motion: "I move the ORDINANCE 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, and the requirement for a second reading is waived"***

**Alternatives**

None

**Attachments**

1. SB1398
2. SB651
3. Ordinance No. O-21-138
4. Proposed ordinance Amend TOT

# VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

## CHAPTER 383

*An Act to amend and reenact §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-3819, as it shall become effective, 58.1-3819.1, 58.1-3823, as it shall become effective, 58.1-3824, 58.1-3825, 58.1-3825.2, 58.1-3825.3, as it shall become effective, 58.1-3826, 58.1-3842, and 58.1-3843 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-2320.2 and 58.1-612.2 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.8, relating to retail sales and transient occupancy taxes on room rentals.*

[S 1398]

Approved March 25, 2021

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-3819, as it shall become effective, 58.1-3819.1, 58.1-3823, as it shall become effective, 58.1-3824, 58.1-3825, 58.1-3825.2, 58.1-3825.3, as it shall become effective, 58.1-3826, 58.1-3842, and 58.1-3843 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2320.2 and 58.1-612.2 and by adding in Article 6 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.8 as follows:**

#### **§ 2.2-2320.2. *Tourism promotion grants.***

##### **A. As used in this section:**

*"Promoting tourism" means activities and expenditures designed to increase tourism in Virginia, including (i) advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; (ii) developing strategies to expand tourism; (iii) funding the promotion or marketing operations of a tourism entity; and (iv) funding marketing and operations of special events and festivals designed to attract tourists.*

*"Tourism entity" means a locality, a destination marketing organization, or a regional attractions marketing agency.*

**B. For each fiscal year, an amount estimated to be equal to the amount of revenue collected from all state taxes imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, after accounting for all designations and distributions of such revenue under § 58.1-638, on accommodations fees, as defined in § 58.1-602, shall be appropriated to the Authority for the purpose of providing grants to promote tourism pursuant to the provisions of this section. The amount of grants available under the program for a fiscal year shall be limited to the amount appropriated under this subsection.**

**C. The Authority shall administer a program to provide grants to tourism entities for the purpose of promoting tourism in Virginia. To be eligible for a grant, a tourism entity shall demonstrate that its proposed use of the grant will have a positive and significant impact on tourism in Virginia. Grants shall be subject to the following restrictions:**

**1. No more than 50 percent of the funds available for a fiscal year shall be distributed for the purposes of promotion or marketing operations of a tourism entity or for special events or grants.**

**2. Funding for the promotion or marketing operations of a tourism entity, special events, or grants shall require a 50 percent cash or in-kind match from the grant recipient.**

**3. Recipients located in the same qualifying region, as defined in § 2.2-2484, shall not be awarded more than 20 percent, in the aggregate of all grants awarded within such region, of the total funds available for a fiscal year.**

**4. A single recipient of funding under this section shall not be awarded more than 15 percent of the total funds available for a fiscal year. This subdivision shall not apply to contracts entered into by the Authority for statewide tourism promotion or marketing.**

**5. Funds available for disbursement shall not be used for capital projects or for the design, construction, rehabilitation, repair, installation, or purchase of any building, structure, or sign in Virginia.**

**D. The Authority shall promulgate guidelines and regulations as it deems necessary to implement this section.**

#### **§ 58.1-602. Definitions.**

**As used in this chapter, unless the context clearly shows otherwise:**

*"Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.*

*"Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.*

*"Accommodations intermediary" means any person other than an accommodations provider that*

*facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations 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 or more payment processors, between a customer and an accommodations provider.*

*"Accommodations intermediary" does not include a person:*

*1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; or*

*2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person.*

*"Accommodations 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.*

*"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined in this section shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.*

*"Affiliate" means the same as such term is defined in § 58.1-439.18.*

*"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.*

*"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.*

*"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.*

*"Custom program" means a computer program that is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.*

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

*"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person that has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.*

*"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.*

*"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.*

*"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.*

*"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.*

*"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is*



packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, "integrated process" does not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected worldwide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. "Manufacturing" also includes the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination of whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" includes, but is not limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, "modular building" does not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person that owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person that purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which it is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided that such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, also includes Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of "person" means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County,

Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges for any ~~room or rooms, lodgings, or accommodations~~ furnished to transients for less than 90 continuous days by any ~~hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration~~; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" does not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

*"Room charge" means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee, before taxes. The room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the Department on the same.*

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used,

labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities that are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, "used directly" refers to the activities specified in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

**§ 58.1-603. (Contingent expiration date) Imposition of sales tax.**

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of 4.3 percent:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for ~~rooms, lodgings or~~ accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services that are expressly stated as taxable within this chapter.

**§ 58.1-603. (Contingent effective date) Imposition of sales tax.**

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for ~~rooms, lodgings or~~ accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

**§ 58.1-612.2. Tax collectible from accommodations providers and intermediaries.**

*A. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the total charges for the accommodations, and shall remit the same to the Department and shall be liable for the same.*

*B. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this chapter as a dealer making a retail sale of an accommodation. The accommodations intermediary shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the room charge. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the Department and shall remit any remaining taxes to the hotel, which shall remit such taxes to the Department. When the accommodations are at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the Department.*

*C. An accommodations intermediary shall not be liable for retail sales and use taxes remitted to an accommodations provider but that are not then remitted to the Department by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of retail sales and use taxes that relates to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.*

*D. For any retail sale of accommodations facilitated by an accommodations intermediary, nothing herein shall relieve the accommodations provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the accommodations provider that are not collected by the accommodations intermediary.*

*E. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the total charges charged to the transient by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations 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 accommodations intermediary, recoverable at law in the same manner as other debts.*

**§ 58.1-3818.8. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Accommodations" means any room or space for which tax is imposed on the retail sale of the same pursuant to this article.*

*"Accommodations fee" means the same as such term is defined in § 58.1-602.*

*"Accommodations intermediary" means the same as such term is defined in § 58.1-602.*

*"Accommodations provider" means the same as such term is defined in § 58.1-602.*

*"Affiliate" means the same as such term is defined in § 58.1-439.18.*

*"Discount room charge" means the same as such term is defined in § 58.1-602.*

*"Retail sale" means a sale to any person for any purpose other than for resale.*

*"Room charge" means the same as such term is defined in § 58.1-602.*

**§ 58.1-3819. (Effective May 1, 2021) Transient occupancy tax.**

A. 1. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. *The tax shall be imposed on the total price paid by the customer for the use or possession of the room or space occupied in a retail sale.* Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe.

2. Unless otherwise provided in this article, any county that imposes a transient occupancy tax at a rate greater than two percent shall, by ordinance, provide that (i) any excess from a rate over two percent shall be designated and spent solely for such purpose as was authorized under this article prior to January 1, 2020, or (ii) if clause (i) is inapplicable, any excess from a rate over two percent but not exceeding five percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality. Unless otherwise provided in this article, for any county that imposes a transient occupancy tax pursuant to this section or an additional transient occupancy tax pursuant to another provision of this article, any excess over five percent, combining the rates of all taxes imposed pursuant to this article, shall not be restricted in its use and may be spent in the same manner as general revenues. If any locality has enacted an additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of the locality shall be deemed to have complied with the requirement that it consult with local tourism industry organizations, including lodging properties. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. In addition, that portion of any tax imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

D. Any county, city or town that requires local hotel and motel businesses, or any class thereof, to collect, account for and remit to such locality a local tax imposed on the consumer may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof at no less than three percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due was delinquent.

E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or town imposing the tax.

**§ 58.1-3819.1. Transient occupancy tax; Roanoke County.**

1. Notwithstanding any other provision of law, general or special, and in lieu of any authority to impose a transient occupancy tax in any other provision of law, general or special, Roanoke County may impose a total transient occupancy tax not to exceed seven percent of the ~~amount of the charge for the occupancy of any room or space occupied or for the occupancy of any overnight guest room~~ *total price paid by the customer for the use or possession of any room, space, or overnight guest room occupied in a retail sale.* The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

2. The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

**§ 58.1-3823. (Effective May 1, 2021) Additional transient occupancy tax for certain counties.**

A. Hanover County, Chesterfield County and Henrico County may impose:

1. An additional transient occupancy tax not to exceed four percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale.* The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

2. An additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale.* The tax imposed hereunder shall not apply to rooms or

spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

3. An additional transient occupancy tax not to exceed one percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area.

B. Any county with the county manager plan of government may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*, provided that the county's governing body approves the construction of a county conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the design, construction, debt payment, and operation of such conference center.

C. (For expiration date, see Acts 2018, c. 850) The Counties of James City and York may impose an additional transient occupancy tax *for the use or possession of any overnight guest room in an amount* not to exceed \$2 per room per night ~~for the occupancy of any overnight guest room~~. The tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. Of the revenues generated by the tax authorized by this subsection, one-half of the revenues generated from each night of occupancy of an overnight guest room shall be deposited into the Historic Triangle Marketing Fund, created pursuant to subdivision E 1 of § 58.1-603.2, and one-half of the revenues shall be retained by the locality in which the tax is imposed.

C. (For effective date, see Acts 2018, c. 850) 1. The Counties of James City and York may impose an additional transient occupancy tax *for the use or possession of any overnight guest room in an amount* not to exceed \$2 per room per night ~~for the occupancy of any overnight guest room~~. The revenues collected from the additional tax shall be designated and expended solely for advertising the Historic Triangle area, which includes all of the City of Williamsburg and the Counties of James City and York, as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

2. The Williamsburg Area Destination Marketing Committee shall consist of the members as provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the County of York shall each designate one of their members to serve as members of the Williamsburg Area Destination Marketing Committee. These three members of the Committee shall have two votes apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

a. Further, one member of the Committee shall be selected by the Board of Directors of the Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

In no case shall more than one person of the same local government, including the governing body of the locality, serve as a member of the Committee at the same time.

If at any time a person who has been selected to the Committee by other than a local governing body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County of James City, or the County of York, or (b) an employee of one of such local governments, the person shall be ineligible to serve as a member of the Committee while a member of the local governing body or an employee of one of such local governments. In such case, the body that selected the person to

serve as a member of the Commission shall promptly select another person to serve as a member of the Committee.

3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities granted by this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the fiscal agent for the Williamsburg Area Destination Marketing Committee with specific responsibilities to be defined in a contract between such two entities. The contract shall include provisions to reimburse the Greater Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon expenditures. The Williamsburg Area Destination Marketing Committee shall also contract with the Greater Williamsburg Chamber and Tourism Alliance to provide administrative support services as the entities shall mutually agree.

4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided herein.

For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism destination means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay of at least one night.

D. Bedford County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenues collected from the additional tax shall be designated and spent solely for tourism and travel; marketing of tourism; or initiatives that, as determined after consultation with local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality.

E. Botetourt County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

F. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

G. The authority to impose a tax pursuant to this section shall be in addition to the authority provided by the provisions of § 58.1-3819.

**§ 58.1-3824. Additional transient occupancy tax in Fairfax County.**

In addition to such transient occupancy taxes as are authorized by this chapter, beginning July 1, 2004, Fairfax County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of charge for the occupancy of any room or space occupied;~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*, provided that the board of supervisors of the County appropriates the revenues collected from such tax as follows:

1. No more than 75 percent of such revenues shall be designated for and appropriated to Fairfax County to be spent for tourism promotion in the County after consultation with local tourism industry organizations and in support of the local tourism industry; and

2. The remaining portion of such revenues shall be designated for and appropriated to a nonprofit convention and visitor's bureau located in Fairfax County.

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

For purposes of this section, "tourism promotion" means direct funding designated and spent solely for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality.

**§ 58.1-3825. Additional transient occupancy tax in Rockbridge County and the Cities of Lexington and Buena Vista.**

In addition to such transient occupancy taxes as are authorized by this chapter, Rockbridge County and the Cities of Lexington and Buena Vista may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale*. The authority to impose such tax is hereby individually granted to the local governing bodies of such county and cities. However, if such tax is adopted, the local governing body of such county or cities

adopting the tax shall appropriate the revenues collected therefrom to the Virginia Horse Center Foundation to be used by the Foundation for the sole purpose of making principal and interest payments on a promissory note or notes signed or executed by the Virginia Horse Center Foundation or the Virginia Equine Center Foundation prior to January 1, 2004, with the Rockbridge Industrial Development Authority as the obligee or payee, as part of an agreement for the Authority to issue bonds on behalf of or for improvements at the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or Virginia Equine Center.

For purposes of this section, such note or notes signed or executed prior to January 1, 2004, shall include any notes or other indebtedness incurred to refinance such note or notes, regardless of the date of refinancing, provided that such refinancing shall not include any debt or the payment of any debt for any activity relating to the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or Virginia Equine Center that occurs on or after January 1, 2004.

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. Such tax may no longer be imposed in such county or such cities after final payment of the note or notes described herein.

**§ 58.1-3825.2. Additional transient occupancy tax in Bath County.**

A. In addition to such transient occupancy tax as is authorized by § 58.1-3819, Bath County may impose an additional transient occupancy tax not to exceed two percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale.*

B. The revenues collected from the additional tax shall be designated and spent as follows:

1. One-half of such revenue shall be designated and spent solely for tourism and travel, marketing of tourism, or initiatives that, as determined after consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

2. One-half of such revenue shall be designated and spent solely for the design, operation, construction, improvement, acquisition, and debt service for such expenses on debt incurred after June 30, 2009, of tourism facilities, historic sites, beautification projects, promotion of the arts, regional tourism marketing efforts, capital costs related to travel and transportation including air service, public parks and recreation, and information centers that attract travelers to the locality and generate tourism revenues in the locality.

C. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms.

D. If Bath County requires local hotel and motel businesses, or any class thereof, to collect, account for, and remit the tax imposed pursuant to this section, the County may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof, no less than three percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due is delinquent.

E. All tax collections pursuant to this section shall be deemed to be held in trust for Bath County.

**§ 58.1-3825.3. (Effective May 1, 2021) Additional transient occupancy tax in Arlington County.**

In addition to the transient occupancy tax authorized by § 58.1-3819, Arlington County may impose an additional transient occupancy tax not to exceed one-fourth of one percent of the ~~amount of the charge for the occupancy of any room or space occupied~~ *total price paid by the customer for the use or possession of any room or space occupied in a retail sale.* The revenues collected from the additional tax shall be designated and spent for the purpose of promoting tourism and business travel in the county.

**§ 58.1-3826. Scope of transient occupancy tax.**

A. The transient occupancy tax imposed pursuant to the authority of this article shall be imposed only for the ~~occupancy~~ *use or possession* of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

B. *For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodations, and shall remit the same to the locality and shall be liable for the same.*

C. *For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge. When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the locality and shall remit any remaining taxes to the hotel, which shall remit such taxes to the locality. When the accommodations are*



at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the locality.

D. An accommodations intermediary shall not be liable for taxes under this article remitted to an accommodations provider but that are then not remitted to the locality by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of the taxes under this article that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

E. In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations 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 accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations 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 accommodations intermediary, recoverable at law in the same manner as other debts.

**§ 58.1-3842. Combined transient occupancy and food and beverage tax.**

A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to levy a tax ~~on occupancy~~ for the use or possession of any room or space occupied in a bed and breakfast establishment on which the county is authorized to levy a transient occupancy tax under § 58.1-3819 and on food and beverages sold for human consumption within such establishment on which the county is authorized to levy a food and beverage tax under § 58.1-3833, when the charges for the ~~occupancy use~~ or possession of the room or space and for the sale of food and beverages are assessed in the aggregate and not separately stated. Such tax shall not exceed four percent of the ~~total amount charged for the occupancy of the room or space occupied~~ price paid by the customer for the use or possession of the room or space occupied and for the food and beverages. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body. All taxes collected under the authority of this article shall be deemed to be held in trust for the county imposing the tax.

B. If a bed and breakfast establishment separately states charges for the ~~occupancy use or possession~~ of the room or space occupied and for the sale of food and beverages, a transient occupancy tax levied under § 58.1-3819 and a food and beverage tax levied under § 58.1-3833 shall apply to such separately stated charges, as applicable.

C. Any tax imposed pursuant to this article shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town meals tax or a town transient occupancy tax on the same subject. If the governing body of any town within a county, however, provides that a county tax authorized by this article shall apply within the limits of such town, then such tax may be imposed within such towns.

D. This tax shall be levied only if a food and beverage tax has been approved in a referendum within the county as provided by subsection A of § 58.1-3833. No county in which the levy of a food and beverage tax has been approved in a referendum pursuant to subsection A of § 58.1-3833 shall be required to submit an amendment to its meals tax ordinance or a further question to the voters in a referendum prior to adopting an ordinance adopting or amending the tax authorized by this article.

E. Nothing herein contained shall affect any authority heretofore granted to any county to levy a food and beverage tax or a transient occupancy tax.

**§ 58.1-3843. Scope of transient occupancy tax.**

A. As used in this section:

"Accommodations" means any room or space for which tax is imposed on the retail sale of the same pursuant to this article.

"Accommodations fee" means the same as such term is defined in § 58.1-602.

"Accommodations intermediary" means the same as such term is defined in § 58.1-602.

"Accommodations provider" means the same as such term is defined in § 58.1-602.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Discount room charge" means the same as such term is defined in § 58.1-602.

"Retail sale" means a sale to any person for any purpose other than for resale.

"Room charge" means the same as such term is defined in § 58.1-602.

B. Notwithstanding any other provision of law, general or special, the tax imposed on transient room rentals pursuant to the authority of this article shall be imposed only for the ~~occupancy use or possession~~ of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

C. The scope of the transient occupancy tax imposed pursuant to this article shall be consistent with the scope of the transient occupancy tax imposed under Article 6 (§ 58.1-3818.8 et seq.).

**2. That the provisions of the first enactment of this act shall become effective on September 1,**

2021, and that the provisions of the third, fourth, and fifth enactments of this act shall become effective in due course.

3. That the Department of Taxation (the Department) shall develop and make publicly available guidelines no later than August 1, 2021, for purposes of developing processes and procedures for implementing the provisions of §§ 58.1-602 and 58.1-603 of the Code of Virginia, as amended by this act, and the provisions of § 58.1-612.2 of the Code of Virginia, as created by this act, relating to the retail sale and taxation of accommodations. The development, issuance, and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

4. That the Department of Taxation shall maintain on its website a current table indicating the rate of the local transient occupancy tax imposed by each county, city, and town in the Commonwealth. Every county, city, and town that imposes a transient occupancy tax shall, no later than seven days after making a change to its rate of taxation, provide written notice of the same to the Tax Commissioner for the purpose of updating the table.

5. That nothing in this act shall be construed to appropriate or transfer any transportation revenues for non-transportation-related purposes pursuant to the twenty-second enactment of Chapter 896 of the Acts of Assembly of 2007, the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013, the fourth enactment of Chapters 837 and 846 of the Acts of Assembly of 2019, the tenth enactment of Chapters 1230 and 1275 of the Acts of Assembly of 2020, the second enactment of Chapter 1235 of the Acts of Assembly of 2020, and the second enactment of Chapters 1241 and 1281 of the Acts of Assembly of 2020.

# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 640

*An Act to amend and reenact §§ 58.1-602, 58.1-612.2, and 58.1-3826 of the Code of Virginia, relating to sales and transient occupancy taxes; accommodations intermediaries.*

[S 651]

Approved April 11, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-602, 58.1-612.2, and 58.1-3826 of the Code of Virginia are amended and reenacted as follows:**

**§58.1-602. Definitions.**

As used in this chapter, unless the context clearly shows otherwise:

"Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, *short-term rental*, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.

"Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

"Accommodations intermediary" means any person other than an accommodations provider that (i) facilitates the sale of an accommodation; *and* (ii) *either* (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) *collects a room charge from the customer; or* (c) *charges a fee, other than an accommodations 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 or more payment processors, between a customer and an accommodations provider.

"Accommodations intermediary" does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; ~~or~~

2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; *or*

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.*

"Accommodations 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.

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined in this section shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program that is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

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

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a

person that has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, "integrated process" does not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected worldwide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. "Manufacturing" also includes the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination of whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" includes, but is not limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, "modular building" does not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person that owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process

of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person that purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which it is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided that such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, also includes Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of "person" means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County, Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges for any accommodations furnished to transients for less than 90 continuous days; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinishing repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" does not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient,

provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Room charge" means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee, before taxes. *"Room charge" includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name.* The room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the Department on the same.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

*"Short-term rental" means the same as such term is defined in § 15.2-983.*

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the

Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities that are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, "used directly" refers to the activities specified in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

**§ 58.1-612.2. Tax collectible from accommodations providers and intermediaries.**

A. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the total charges for the accommodations, and shall remit the same to the Department and shall be liable for the same.

B. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this chapter as a dealer making a retail sale of an accommodation. The accommodations intermediary shall collect the retail sales and use taxes imposed in accordance with this chapter, computed on the room charge. ~~When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the Department and shall remit any remaining taxes to the hotel, which shall remit such taxes to the Department. When the accommodations are at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the Department, and shall remit the same to the Department and shall be liable for the same.~~

C. ~~An accommodations intermediary shall not be liable for retail sales and use taxes remitted to an accommodations provider but that are not then remitted to the Department by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of retail sales and use taxes that relates to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider. For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations 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 Department. 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.~~

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

E. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the total charges charged to the transient by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations 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 accommodations intermediary, recoverable at law in the same manner as other debts.

**§ 58.1-3826. Scope of transient occupancy tax.**

A. The transient occupancy tax imposed pursuant to the authority of this article shall be imposed only for the use or possession of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

B. For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodations, and shall remit the same to the locality and shall be liable for the same.

C. For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge. ~~When the accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the locality and shall remit any~~

remaining taxes to the hotel, which shall remit such taxes to the locality. When the accommodations are at a short-term rental, as defined in § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the locality, and shall remit the same to the locality and shall be liable for the same.

D. An accommodations intermediary shall not be liable for taxes under this article remitted to an accommodations provider but that are then not remitted to the locality by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of the taxes under this article that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider. For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations 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 with the locality for purposes of remitting the tax. In such event, the party that agrees 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.

E. In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations 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 accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations 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 accommodations intermediary, recoverable at law in the same manner as other debts.

F. Subject to applicable laws, an accommodations intermediary shall submit to a locality the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in such locality. Such information shall be submitted monthly.

2. That the provisions of the first enactment of this act shall become effective on October 1, 2022.
3. That the Department of Taxation shall develop and make publicly available guidelines no later than August 1, 2022, for purposes of developing processes and procedures for implementing the provisions of this act. The development, issuance, and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).
4. That the Department of Taxation (the Department) shall convene and facilitate a work group to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes. The work group shall include one representative of the Commissioners of the Revenue, one representative of the Treasurers, one representative of counties, one representative of cities and towns, two representatives of the hotel industry, and two representatives of accommodations intermediaries as defined in § 58.1-602 of the Code of Virginia, as amended by this act. The Department shall prepare and submit a report of the work group's findings and recommendations to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations no later than October 31, 2022.



**AN ORDINANCE TO AMEND AND REENACT CHAPTER 30 (TAXATION), ARTICLE IX. (TRANSIENT OCCUPANCY TAX) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990) AS AMENDED, TO CONFORM THE CITY'S PROCESS FOR COLLECTION AND REPORTING OF TRANSIENT OCCUPANCY TAX WITH CHANGES IN STATE ENABLING LEGISLATION**

**BE IT ORDAINED** by the Council of the City of Charlottesville that the provisions of Chapter 30 (Taxation), Article IX (Transient Occupancy Tax) are hereby amended and re-ordained as follows:

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.

**Cross reference**— Penalty for Class 3 misdemeanor, § 1-11.

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.

*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. If the charge for the Accommodation made by any person to such transient includes any charge for meals, parking or other services not related to the occupancy of the room in addition to lodging or the use of such room or space, then such portion of such total charge as represents only room or space rental shall be distinctly set out and billed to such transient by such person as a separate item.

*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).

*Lodging Intermediary* means any person other than a lodging provider that facilitates the sale of an accommodation, 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. 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 or more payment processors, between a customer and a lodging provider.

*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.

*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 his own expense or at the expense of another, obtains Lodging for which a charge is made at an Accommodation, as defined in this section.

**Cross reference**— Definitions and rules of construction generally, § 1-2.

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 price paid for the Lodging by the Transient, or on the Transient's behalf.

**State Law reference**— Authority of city to impose tax on transient room rentals, Code of Virginia, § 58.1-3819.

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 educational institution.

Sec. 30-255. - Collection.

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.

For any Lodging facilitated by a Lodging Intermediary, the Lodging Intermediary shall be deemed to have made the 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. When the Lodging occurs at a hotel, the Lodging Intermediary shall remit the taxes on the lodging fee to the city and remit the remainder, if any, to the hotel, which shall directly remit said remaining tax to the city. When the Lodging occurs at a Short-

Term Rental, as defined in this Article, or any other Accommodation that is not a hotel, the Lodging Intermediary is responsible for remitting the full amount of tax to the city.

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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.

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**State Law reference**— Scope of Transient Tax, Code of Virginia, § 58.1-3826.

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 revenue may prescribe and require, showing the amount of lodging charges collected and the amount of tax required to be collected thereon, and shall sign and 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 lodging charges and tax owed on Lodging at each individual Accommodation, including the Accommodation's address and, in cases where a Lodging Intermediary is responsible for collecting and remitting the taxes, information sufficient to identify the Lodging Provider connected to the Accommodation. Such reports and remittances shall be made on or before the 20th 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 from which the lodging charges were collected, and the tax owed for Transient stays at that Accommodation, including the Accommodation's address and, where taxes were collected and remitted by a Lodging Intermediary, identifying the Lodging Provider connected with the Accommodation on whose behalf the taxes were collected. The Commissioner of 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 his 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 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 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 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.

Sec. 30-261. - Reserved.

**Editor's note**— An ordinance adopted Nov. 15, 2004, § 6, repealed § 30-261, which pertained to application of correction. See also the Code Comparative Table.

Approved by Council  
October 4, 2021



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Kyna Thomas, MMC  
Clerk of Council

**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. If the charge for the accommodation made by any person to such transient includes any charge for meals, parking or other services not related to the occupancy of the room in addition to lodging or the use of such room or space, then such portion of such total charge as represents only room or space rental shall be distinctly set out and billed to such transient by such person as a separate item.

*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, including any lodging fee, before taxes. 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 price 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 educational institution.

### 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 the 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. When the lodging occurs at a hotel, the lodging intermediary shall remit the taxes on the lodging fee to the city and remit the remainder, if any, to the hotel, which shall directly remit said remaining tax to the city. When the lodging occurs at a short term rental, as defined in this article, or any other accommodation that is not a hotel, the lodging intermediary is responsible for remitting the full amount of tax to the city.

(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 Ceity by the person required to collect them, until they have been remitted to the Ceity 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 ~~amount of lodging charges collected~~ and the amount of tax required to be collected thereon, and shall ~~sign and~~ deliver the same to the Commissioner together with a remittance of such tax, made payable to the Ceity 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 lodging charges and tax owed on lodging at each individual accommodation, including the accommodation's address ~~and, in cases where a lodging intermediary is responsible for collecting and remitting the taxes, information sufficient to identify the lodging provider connected to the accommodation.~~ 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 Ceity. 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 from~~ which the lodging charges were collected, and the tax owed for transient stays at that accommodation, including the accommodation's address ~~and, where taxes were collected and remitted by a lodging intermediary, identifying the lodging provider connected with the accommodation on whose behalf the taxes were collected.~~ The Commissioner of the Revenue shall have the right to inspect all such records at any reasonable time.



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**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 Revue 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 Revue 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 Revue 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.**

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



<b>Agenda Date:</b>	October 17, 2022
<b>Action Required:</b>	Adoption of ordinance (1 reading)
<b>Presenter:</b>	Todd Divers, Commissioner of the Revenue
<b>Staff Contacts:</b>	Lisa Robertson, City Attorney Javier Gomez Jacome, Attorney
<b>Title:</b>	<b>To amend, re-ordain, and re-enact Chapter 30, Article 17 of the City Code (Cigarette Tax) (1 reading)</b>

**Background**

During the 2020 session of the General Assembly, Virginia counties were granted authority to levy taxes on cigarettes beginning on July 1, 2021. Further legislation adopted by the General Assembly that year declared that “it is the policy of the Commonwealth that, where practical, local cigarette stamping and tax collection is encouraged to be accomplished through regional cigarette tax boards”.

Thereafter, discussions began among a number of neighboring localities to consider the role of a possible regional cigarette tax board in Central Virginia, ways to share administrative costs, and a timeline of activities required to establish a Central Virginia regional board in FY22. Those discussions, facilitated by staff of the Thomas Jefferson Planning District, culminated in the creation of the Blue Ridge Regional Cigarette Tax Board (BRCTB), which is responsible for the collection of taxes on the sale of cigarettes and the subsequent distribution of those taxes to the member municipalities. Charlottesville City Council voted to join that Regional Board on October 4, 2021 with Commissioner of the Revenue, Todd Divers, serving as the City’s representative (#O-21-144).

**Discussion**

The City’s cigarette tax ordinance has not yet been updated to reflect the City’s membership in the BRCTB. The ordinance herein proposed is modeled largely on the ordinance adopted by the Northern Virginia Cigarette Tax Board’s member localities and has been promulgated to and adopted by the BRCTB’s various other member localities. It reflects and clarifies the administrative responsibilities and procedural obligations of all parties involved in the retail sale and distribution of cigarettes in the City of Charlottesville under the purview of the BRCTB, including the Board and its administrator(s).

The powers, procedures, and duties outlined in the proposed ordinance are in line with what would be expected of such a framework. They are very similar to the powers, procedures, and duties outlined for the administration of the City’s meals and transient occupancy taxes. As such, we recommend that Council adopt the ordinance.

**Alignment with City Council's Vision and Strategic Plan**

N/A

**Community Engagement**

N/A

**Budgetary Impact**

None

**Recommendation**

Approval of the amended ordinance. It is requested that City Council waive the requirement for a second reading of this ordinance, so that it may become effective immediately (a four-fifths vote is required, as noted in "Section 3" of the attached proposed ordinance.

*Suggested Motion: "I move the ORDINANCE to amend, re-ordain and re-enact Chapter 30, Article 17 of the City Code (Cigarette Tax), to reflect the City's membership in the Blue Ridge Cigarette Tax Board."*

**Alternatives**

None

**Attachments**

1. Ordinance #O-21-144
2. Proposed Cigarette Tax Ordinance

**ORDINANCE**

**AN ORDINANCE APPROVING THE FORMATION OF A JOINT ENTITY TO BE KNOWN AS THE BLUE RIDGE CIGARETTE TAX BOARD AND BESTOWING ON SUCH ENTITY ALL POWERS NECESSARY AND PROPER FOR THE PERFORMANCE OF ITS DUTIES AS PROVIDED BY LAW**

**WHEREAS**, pursuant to the authority granted to localities under § 15.2-1300 of the Code of Virginia, 1950, as amended, the City Council of the City of Charlottesville, Virginia has determined that it would serve the public interest to establish a joint entity to be known as the Blue Ridge Cigarette Tax Board (the "Board") in order to efficiently administer the collection, accounting, disbursement, compliance monitoring and enforcement of cigarette taxes assessed by the localities desiring to join the Board; and

**WHEREAS**, the City Council has reviewed an agreement establishing the Board and defining its powers, duties, and other procedures, the text of which is incorporated herein, and City Council is in agreement with the terms as set forth therein; and

**WHEREAS**, the aforementioned agreement provides that it shall become effective upon the approval by the governing bodies of at least six (6) localities named and the execution of said agreement by their authorized representatives; and

**WHEREAS**, the City Council wishes to authorize the formation of the Board with the City of Charlottesville, Virginia as a member thereof, and authorize the execution of said agreement on its behalf.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Charlottesville, Virginia, that:

**1. Under authority of Virginia Code § 15.2-1300, and effective upon the approval and execution by six (6) or more localities of an agreement for joint action, there is hereby created and established the Blue Ridge Cigarette Tax Board, which shall act as the agent of the localities for the administration of their respective cigarette tax ordinances; and**

**2. The following agreement for joint action is hereby approved by this Council, and the powers and authority of the Board shall be as set forth in the agreement, subject to approval as to final form by the City Attorney prior to execution:**

**BLUE RIDGE CIGARETTE TAX BOARD AGREEMENT**

This Agreement, dated the \_\_\_ day of \_\_\_\_\_, 2021 is entered into by and between the County of Albemarle, Virginia; the County of Augusta, Virginia; the City of Charlottesville, Virginia; the County of Fluvanna, Virginia; the County of Greene, Virginia; the County of Madison, Virginia; the County of Nelson, Virginia; the County of Orange, Virginia; or any six or more of the foregoing, and provides as follows:

WHEREAS, the parties hereto (the "Member Jurisdictions") desire to enter into an Agreement for the purpose of the establishment of the Blue Ridge Cigarette Tax Board (the "Board") for the joint administration, collection, and enforcement of their respective Cigarette Tax Ordinances pursuant to the provisions of these ordinances and § 15.2-1300 and §§ 58.1-3830, *et. seq.*, of the Code of Virginia, 1950, as amended.

NOW, THEREFORE, the parties hereby enter into the following agreement:

**1. NAME AND DURATION**

The Board shall be called the Blue Ridge Cigarette Tax Board. Its duration shall be perpetual, subject to the provisions of Paragraph 9 herein.

## 2. MEMBERSHIP AND VOTING POWERS

The Board shall be composed of one representative from each jurisdiction currently named herein and one representative from those jurisdictions later added with the consent of the Board in conformity with Section 10. Said representative may designate an alternate to attend meetings and vote in his or her place. A majority of the representatives from the member jurisdictions shall constitute a quorum for transaction of business. Action of the Board shall be by majority vote of those present and voting, with the exception of adding new members to the Board, which shall require the approval by the majority of the entire Board membership. In all matters, each jurisdiction shall be entitled to only one vote.

## 3. OFFICERS AND MEETINGS

Each year, the Board shall elect a Chair, Vice-Chair, and Secretary/Treasurer, who shall serve for a term of one (1) year unless removed by majority action of the Board. The aforementioned officers shall be chosen from the members of the Board, and shall be empowered to sign in the name of the Board on all legal documents, including bank deposits and withdrawals. The Board shall meet from time to time as needed, and shall meet at least quarterly, however, additional meetings may be called at any time by action of the Chair or upon the request of three (3) or more members by submitting such request to the Chair in writing.

The Board may adopt bylaws, procedural rules and other policies to regulate its affairs not inconsistent with this Agreement.

## 4. POWERS OF THE BOARD

The Board shall be delegated the following powers from the member jurisdictions:

- a. The power to assess, collect and disburse the cigarette taxes levied by and for each member jurisdiction;
- b. The power to audit the sale or use of cigarettes within each member jurisdiction;
- c. The power to provide information to the appropriate law enforcement agencies of the affected member jurisdictions for the purpose of prosecution of criminal violations of cigarette tax laws;
- d. The power to hire, supervise, discharge and manage an Administrator to oversee the day-to-day operations of the Board;
- e. The power to establish and manage general operating funds to ensure proper funding of Board operations on an ongoing basis;
- f. The power to employ auditors for review of the Board's finances, and employ accountants, legal counsel, and other advisors as the Board deems necessary or advisable to discharge its' duties;
- g. The power to designate one or more depository bank or banks for tax funds collected;
- h. The power to contract with the Thomas Jefferson Planning District Commission or one or more member jurisdictions for provision of administrative, fiscal and personnel services;
- i. The power to hold and convey personal property. The Board shall have no power to hold or convey real property;
- j. The power to enter into contracts, including without limitation the power to enter into contracts with public bodies;
- k. The power to contract for benefits for Board employees;
- l. Any other powers granted to the Board by other provisions of this Agreement, by the respective local ordinances of the member jurisdictions, and by the Code of Virginia (1950), as amended.

## 5. LIABILITY INSURANCE

The Board is hereby authorized and directed to maintain insurance coverage appropriate to the nature of the Board's operations. General liability insurance shall be maintained through a commercial general liability policy in limits of not less than One Million Dollars (\$1,000,000). The Board shall maintain worker's compensation coverage in at least the statutorily required minimum amounts.

## 6. ADMINISTRATOR

The Board shall appoint an Administrator, who shall be responsible for the normal, day-to-day operations of the Board in administration of the Cigarette Tax Ordinances adopted by each of the member jurisdictions. The Administrator shall serve at the pleasure of the Board and under such terms and conditions of employment as the Board shall deem appropriate, which may include the power of the Administrator to hire, train, discipline and discharge subordinate employees as needed to carry into effect the purposes and duties of the Board, contingent upon creation by the Board of such subordinate positions. The Administrator shall act as the chief employee of the Board, and shall answer to and be under the supervision of the Board. The Administrator shall attend Board meetings and report to the Board on expenditures of the Board, projected revenues, and other matters relevant to the efficient administration of the Board. The Board may adopt such contracting and purchasing policies as it may deem appropriate, consistent with the Virginia Public Procurement Act and other applicable laws and regulations, and delegate to the Administrator the authority and responsibility for administration thereof. The duties of the Administrator shall include, but are not limited to the following:

- a. Preparation of annual administrative cost estimates;
- b. Reporting to the Board with recommendations as to the creation of employment positions needed to carry into effect the purposes and duties of the Board;
- c. Hiring, management, evaluation, training, discipline and discharge of employees in such employment positions created by the Board;
- d. Contracting, with the approval of the Board, for equipment, supplies, employee health and retirement benefits and other benefits as approved by the Board;
- e. Preparation of such other reports as the Board may require;
- f. Review and authorization of disbursements from Board accounts, including without limitation regular disbursements of tax revenue from member jurisdictions.

## 7. COLLECTION OF THE CIGARETTE TAX

The cigarette tax shall be assessed and collected according to the respective ordinances and according to the rules, regulations and procedures adopted by the Board.

## 8. DISBURSEMENT OF RECEIPTS, MANAGEMENT OF FUNDS

- a. Disbursements shall be made to each member jurisdiction on a monthly basis. Prior to disbursement to member jurisdictions, expenses for the applicable period shall be deducted from total revenues and allocated to the jurisdictions proportionately based upon the number of taxable packs of cigarettes reported within the jurisdiction during the period as compared to the total number of taxable packs of cigarettes reported in all the member jurisdictions. The disbursement to each member jurisdiction shall be determined by the tax rate of the jurisdiction multiplied by the taxable packs of cigarettes reported within the jurisdiction, plus interest and penalties assessed within the jurisdiction in question, plus the jurisdiction's proportional share of all other revenues, less discounts and proportional expenses.
- b. The Board shall adopt an annual budget and provide a copy thereof to each of the member jurisdictions. The Board shall establish an operating fund, taking into account the anticipated revenues and expenditures for each year.
- c. All monies shall be deposited in the name of the Blue Ridge Cigarette Tax Board. All checks drawn on Board accounts shall require the signature of the Administrator and at least one Board Officer.

## 9. TERMINATION

- a. In the event any member jurisdiction decides, by ordinance, to terminate its participation in the Board, notice thereof shall be given to the Board no fewer than sixty (60) days prior to the effective date of such termination. The terminating jurisdiction shall receive within thirty (30) days of the effective date of termination its proportionate share of total revenues less its proportionate share of expenses, operating fund, and depreciated value of tangible personal property owned by the Board. The representative of such terminating jurisdiction shall cease to be a member of the Board as of the effective date of the termination and thereafter the

terminating jurisdiction shall have no rights to participate in the business or operations of the Board, and the terminating jurisdiction shall thereafter have sole rights and responsibility for collection and enforcement of its local cigarette tax.

- b. In the event the number of member jurisdictions is less than six (6) in number, the Board shall dissolve and cease to exist. In such event, the Board, prior to dissolution, shall liquidate all assets and disburse the proceeds to each member jurisdiction that has not previously received a payment pursuant to Paragraph 9(a). Such distribution shall be proportionate to the number of taxable packs of cigarettes reported in the jurisdiction in question during the preceding twelve (12) months as compared to the taxable packs of cigarettes reported in the preceding twelve (12) months in all jurisdictions constituting the Board at the time of dissolution.

#### 10. IMPLEMENTATION

Each member jurisdiction shall by ordinance signify its desire and agreement to become a member of the Board and its acceptance of the provisions of this Agreement. This Agreement shall become effective upon the adoption of such ordinances and execution of this agreement by any six (6) of the jurisdictions below, and thereafter any other jurisdiction named below may join as a member upon the adoption of such ordinance and execution by its authorized representative, and upon payment of any shared expenses as may be determined by the Board. Upon such execution and payment, this agreement shall become operative as to the jurisdiction in question.

Jurisdictions other than those named below may be added to the Board upon agreement of a majority of the Board, and upon adoption of an ordinance by the governing body of the jurisdiction to be added, execution of this Agreement, and payment into the Board of any shared expenses as may be determined by the Board.

**And, BE IT FURTHER ORDAINED that**

**3. The City Council designates the Commissioner of Revenue as its representative on the Board as provided for in the above-referenced agreement, and the Commissioner is also empowered to appoint an alternate should the Commissioner deem it necessary. the City Council also hereby authorizes the Administrator appointed by the Board to act on the City's behalf pursuant to Virginia Code §58.1-3830(A); and**

**4. The City Manager is authorized to execute the agreement for joint action on behalf of this Council, and the City Manager is further designated as the City's agent for approval of modifications of the agreement subsequent to the date of this Ordinance, which do not materially alter the obligations of the City under this agreement; and**

**5. This Ordinance shall be effective upon its adoption.**

Approved by Council  
October 4, 2021



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Kyna Thomas, MMC  
Clerk of 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.*



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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 10<sup>th</sup> 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.***

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



Agenda Date:	October 17, 2022
Action Required:	Adopt proposed ordinance
Presenter:	Todd Divers, Commissioner of the Revenue
Staff Contacts:	
<b>Title:</b>	<b>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 reading)</b>

**Background**

Chapter 32, Article 2 of the Code of Virginia (§58.1-3210 et seq) authorizes cities, counties, and towns to “by ordinance, provide for the exemption from... taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe”. Charlottesville’s ordinance, found in Chapter 30, Article IV of the Charlottesville City Code, establishes the parameters and conditions under which Real Estate Tax Relief for Elderly and Disabled Persons (RETR) is offered to City residents.

As currently administered by the Commissioner of the Revenue, the RETR program requires an annual application wherein an applicant must provide detailed income and net worth documentation. The percentage of tax exemption or deferral amount granted is determined according to the following rubric of gross income and net worth:

		Net Combined Financial Worth				
		\$0.00 to \$25,000.00	\$25,001.00 to \$50,000.00	\$50,001.00 to \$75,000.00	\$75,001.00 to \$100,000.00	\$100,001.00 to \$125,000.00
<b>Gross</b>	<b>\$0.00—\$25,000.00</b>	100%	100%	100%	100%	100%
<b>Combine d Income</b>	<b>\$25,001.00— \$27,500.00</b>	80% or \$1,000.00	64% or \$1,000.00	48% or \$1,000.00	32% or \$1,000.00	16% or \$1,000.00
	<b>\$27,501.00— \$35,000.00</b>	60% or \$1,000.00	48% or \$1,000.00	36% or \$1,000.00	24% or \$1,000.00	12% or \$1,000.00
	<b>\$35,001.00— \$41,250.00</b>	60% or \$750.00	48% or \$750.00	36% or \$750.00	24% or \$750.00	12% or \$750.00

	<b>\$41,251.00— \$45,000.00</b>	40% or \$750.00	32% or \$750.00	24% or \$750.00	16% or \$750.00	8% or \$750.00
	<b>\$45,001.00— \$55,000.00</b>	40% or \$500.00	32% or \$500.00	24% or \$500.00	16% or \$500.00	8% or \$500.00

The recipient is awarded an exemption of either a flat amount or a percentage of their tax liability, whichever is greater. This combination of percentage or flat amount arose in recent years as a way to keep pace with recent changes occurring to the CHAP program (Charlottesville Housing Affordability Program, recently renamed and changed to Charlottesville Homeowner Assistance Program).

Currently, the RETR program is open to elderly or disabled homeowners whose income is \$55,000 or less and whose net combined financial worth is \$125,000 or less. Total relief provided to elderly and disabled applicants through this program has averaged between \$600,000 and \$650,000 annually in recent years.

To maintain parity with recent income parameter changes for the CHAP program, and to streamline the application process and overall administration of the program, the following ordinance changes are required for RETR:

1. Eliminate the net worth component associated with qualifying for RETR;
2. Stipulate that applicants cannot own other real estate;
3. Increase the qualifying income threshold from \$55,000 to \$60,000;
4. Streamline benefit amounts to a simple percentage of tax liability based on income;
5. Standardize annual adjustments to align with changes in area Median Family Income;
6. Base eligibility on applicants' household Federal Adjusted Gross Income (FAGI) instead of counting income from all possible sources. For instance, we currently must verify SNAP and EAP benefits, which are not taxable and would not be included in an applicant's FAGI.
7. Provide for filing on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding filing has changed to alter their benefit amount.

In addition to the changes outlined above, we propose a number of housekeeping measures that are addressed in more detail in the next section.

## **Discussion**

### **Eliminate the Net Worth Limitation**

Currently, there is a net worth component associated with qualifying for RETR, while CHAP has no net worth component. This disparity creates a number of problems:

- Seniors and disabled persons whose net worth exceeds the qualifying threshold for RETR must come back later in the year to apply for CHAP;
- Providing documents to substantiate their net worth is a burden on applicants, as well as a burden on staff who must spend inordinate amounts of time pouring through those documents;
- As evidenced by the chart above, determining an applicant's ultimate benefit amount or percentage can be confusing;



- State Code does not require localities to consider net worth as a factor in awarding real estate tax relief to seniors and disabled persons.

**Additional Real Estate**

Currently, applicants for RETR are allowed to own other real estate in addition to the residence for which they seek tax relief. However, in such a scenario, the value of such an additional real estate asset is included in an applicant’s net worth computation. Going forward, in the absence of a net worth limitation on eligibility for RETR, it makes sense to require that applicants cannot own additional real estate (other than the home for which relief is sought). This would mirror eligibility requirements for CHAP.

**Increase Maximum Qualifying Income to \$60,000 and Standardize Benefit Percentages to Applicants’ Income Relative to Median Family Income**

In order to simplify administration, it would be advisable to adopt uniform relief percentages applied against the real estate tax assessed for the taxable year in question. To standardize year-to-year adjustments to the program’s income thresholds, automatic adjustments based on predetermined criteria should be adopted as part of the ordinance. An easily reproducible method would be to assign four relief percentage tiers based on applicants’ income relative to Median Family Income (MFI). In the HUD Metropolitan Fair Market Rent Area that corresponds to the Charlottesville, Virginia Metropolitan Statistical Area, for the latest year available (FY22), the median family income for the Charlottesville, VA MSA is \$111,200. Relief percentages would break down as follows:

- If income is between \$0 and 30% of MFI, rounded up to the nearest \$5,000, a qualifying applicant would receive an exemption equivalent to 100% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- If income is greater than 30% of MFI, rounded up to the nearest \$5,000 but no more than 40% of MFI, rounded up to the nearest \$5,000, a qualifying applicant would receive an exemption equivalent to 80% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- If income is greater than 40% of MFI, rounded up to the nearest \$5,000 but no more than 45% of MFI, rounded up to the nearest \$5,000, a qualifying applicant would receive an exemption equivalent to 60% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- If income is greater than 45% of MFI, rounded up to the nearest \$5,000 but no more than 50% of MFI, rounded up to the nearest \$5,000, a qualifying applicant would receive an exemption equivalent to 40% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.

So, in practice, benefit percentages in the coming tax year would look like this:

<b>% of MFI (\$111,200)</b>	<b>INCOME</b>	<b>RELIEF %</b>
>45% to 50% of MFI	\$55,001-\$60,000	40%
>40% to 45% of MFI	\$45,001-\$55,000	60%

>30% to 40% of MFI	\$35,001-\$45,000	80%
Up to 30% of MFI	\$0-\$35,000	100%

Going forward, as MFI for the Charlottesville, VA MSA changes, the benefit tiers can be easily adjusted. It would be fairly easy to keep track of changes. The relief percentages themselves wouldn't change. And it should not be too difficult to estimate annually for budgeting purposes.

The thresholds indicated above are intentional and come from recent ill-fated discussions about merging RETR and CHAP, as well as Council's desire to offer more assistance to more people. The \$35,000 income threshold (below which an applicant is afforded 100% relief) mirrors the same threshold in CHAP (below which a CHAP applicant is eligible for the largest grant amount under that program). Currently, 100% relief is afforded to applicants with incomes of \$25,000 or less.

Likewise, the recently revised CHAP program's maximum income threshold is \$60,000. Both programs previously maxed out at \$55,000.

Regardless of our inability to merge these programs (as I had initially hoped), adjustments to the parameters of both programs should be conducted in unison. This will be less confusing for applicants, and it will be easier to administer for the Commissioner of the Revenue's Office if both programs are in sync.

**Use Federal Adjusted Gross Income (FAGI)**

Under the rules currently in place for RETR, income from all possible sources is counted. Many of those sources would not typically be included in FAGI. This tends to inflate the income of many RETR applicants relative to that of CHAP applicants (since CHAP uses FAGI), thereby reducing the benefits for which RETR applicants qualify. Additionally, the process of locating and combing through income documents is time-consuming for applicants and staff. Switching to FAGI would allow many applicants to simply provide a copy of their tax return or the front page of their Form 1040 without having to dig up the ancillary documents.

**Three-Year Filing Cycle With Annual Recertification**

§58.1-3213(B) of the Code of Virginia stipulates that:

*In lieu of the annual affidavit or written statement filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit or written statement on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided herein.*

Such a cycle would prove extremely beneficial for our applicants. Having to file annually can be particularly burdensome for elderly and disabled people, many of whom have mobility and cognitive issues. In addition, we find that because many of the applicants for this program are on fixed incomes, their incomes are very stable. Further, by somewhat easing the crush of annual applications, such a cycle would have the added benefit of allowing staff to devote more time and energy to outreach and audit activities.

**Housekeeping**

In addition to the changes indicated above, a number of housekeeping changes are in order for this section of City Code:

- In an ordinance passed on October 7, 2019, Council removed the requirement that applicants for real estate tax relief for the elderly and/or disabled submit a notarized affidavit in order to apply for the program. At that time, all references to such a required affidavit should have been removed from the ordinance. Due to an oversight on my part, those references were not removed. This proposal deletes those references.
- In addition to tax exemption, State Code authorizes localities to offer a deferral of real estate taxes to eligible elderly and disabled homeowners. Such a deferral option was included in the City's ordinance at the time of adoption. To our knowledge, however, the deferral option has never been exercised. We suspect there are a number of reasons for this:
  - Since such a deferral constitutes a lien on the property, homeowners are reluctant to burden their heirs in such a way;
  - Though our ordinance stipulates that such deferred taxes are to eventually be paid without penalty, it does require payment of interest at eight per cent per year;
  - Qualified applicants are not interested in a deferral when an exemption is available.

We recommend the elimination of references to deferral of real estate taxes in this section of City Code.

- The existing ordinance requires that on occasions where an applicant is unable to apply by the March 1st deadline due to medical infirmity or hardship, such applicant must provide a sworn affidavit from a medical doctor in order to justify their tardiness. We believe that this is impractical and poses an unnecessary burden on elderly and disabled applicants. We recommend the elimination of the requirement.
- The existing ordinance requires that the Commissioner of the Revenue seek the approval of the City Manager as to the form and content of application materials. Since such materials and forms change almost yearly, we submit that this requirement is not necessary or practical. Frankly, we were not even aware of the requirement until recently. As such, it has not been followed in at least the last nine years. Likewise, we don't think this is something that the City Manager would even want to spend time on. As such, we recommend the elimination of this requirement.

### **Alignment with City Council's Vision and Strategic Plan**

This change aligns with the City's Organizational Values of **Leadership, Trust, Creativity, and Excellence**.

This change aligns with the following City Goals:

*1.4 Enhance the financial health of residents*

*5.1 Integrate effective business practices and strong fiscal policies*

*5.3 Provide responsive customer service*

### **Community Engagement**

### **Budgetary Impact**

This measure should not increase overall expenditures for tax relief since our FY23 budget proposals initially anticipated a merging of CHAP and RETR under these same parameters. Instead of merging, the programs would remain distinct while sharing similar income and benefit parameters.

### **Recommendation**

Adoption of the proposed ordinance. It is requested that Council vote and enact this ordinance on First Reading (see "Section 2" of the ordinance, last page), by four-fifths vote of Council.

***Suggested Motion: "I move the 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) to maintain parity with the CHAP program and streamline administration of the program".***

### **Alternatives**

Council could elect to implement some of the recommended changes or leave the program unchanged.

### **Attachments**

1. Summary of HUD FY2022 Income Limits Documentation System for the Charlottesville, VA MSA
2. Proposed ORD Amend RETR



# FY 2022 INCOME LIMITS DOCUMENTATION SYSTEM

[HUD.gov](#) [HUD User Home](#) [Data Sets](#) [Fair Market Rents](#) [Section 8 Income Limits](#) [MTSP Income Limits](#) [HUD LIHTC Database](#)

## FY 2022 Income Limits Summary

Selecting any of the buttons labeled "Click for More Detail" will display detailed calculation steps for each of the various parameters.

FY 2022 Income Limit Area	Median Family Income <a href="#">Click for More Detail</a>	FY 2022 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
<b>Charlottesville, VA MSA</b>	\$111,200	Very Low (50%) Income Limits (\$) <a href="#">Click for More Detail</a>	36,700	41,950	47,200	<b>52,400</b>	56,600	60,800	65,000	69,200
		Extremely Low Income Limits (\$)* <a href="#">Click for More Detail</a>	22,050	25,200	28,350	<b>31,450</b>	34,000	37,190	41,910	46,630
		Low (80%) Income Limits (\$) <a href="#">Click for More Detail</a>	58,700	67,100	75,500	<b>83,850</b>	90,600	97,300	104,000	110,700

The **Charlottesville, VA MSA** contains the following areas: Albemarle County, VA; Fluvanna County, VA; Greene County, VA; Nelson County, VA; and Charlottesville city, VA.

\* The FY 2014 Consolidated Appropriations Act changed the definition of extremely low-income to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit or the poverty guideline as [established by the Department of Health and Human Services \(HHS\)](#), provided that this amount is not greater than the Section 8 50% very low-income limit. Consequently, the extremely low income limits may equal the very low (50%) income limits.

Income Limit areas are based on FY 2022 Fair Market Rent (FMR) areas. For information on FMRs, please see our associated FY 2022 [Fair Market Rent documentation system](#).

For last year's Median Family Income and Income Limits, please see here:

[FY2021 Median Family Income and Income Limits for Charlottesville, VA MSA](#)

Select any FY2022 HUD Metropolitan FMR Area's Income Limits:

Charlottesville, VA MSA

Or press below to start over and select a different state:

Prepared by the [Program Parameters and Research Division](#), HUD.

**ORDINANCE**  
**TO AMEND, RE-ORDAIN, AND RE-ENACT CHAPTER 30, ARTICLE IV OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED (REAL ESTATE TAX RELIEF FOR THE ELDERLY AND DISABLED PERSONS) TO MAINTAIN PARITY WITH THE CHAP PROGRAM AND STREAMLINE ADMINISTRATION OF THE PROGRAM**

WHEREAS the City Council recently reconfigured its relief program to provide relief to homeowners who may need assistance with the costs of homeownership, and in doing so City Council modified income limits in order to assist a greater number of homeowners; and

WHEREAS the Commissioner of Revenue has proposed that City Council similarly reconfigure the City's real estate tax relief program for the elderly and disabled persons, to make similar modifications of household income limits and to enhance the ability of the Commissioner's Office to administer the program efficiently, to better serve the persons who are in need of this assistance; NOW, THEREFORE,

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

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

**ARTICLE IV. REAL ESTATE TAX RELIEF FOR THE ELDERLY AND DISABLED PERSONS**

**Sec. 30-96. 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:

~~*Affidavit means the real estate tax exemption or deferral affidavit.*~~

*Certification* means a signed written statement ~~or affidavit~~ attesting to the accuracy of information provided by the applicant.

*Combined household income means (i) the adjusted gross income, as shown on the federal income tax return as of December 31 of the calendar year immediately preceding the taxable year, of the applicant and all relatives living in the same dwelling, and of any other person who is an owner of and resides in the applicant's dwelling, or (ii) for applicants for whom no federal tax return is required to be filed, the income for the calendar year immediately preceding the taxable year: of the applicant and of any other relatives who reside in the applicant's dwelling, and of any other person who is an owner of and resides in the applicant's dwelling. The Commissioner of Revenue shall establish the combined household income of persons for whom no federal tax return is required through documentation satisfactory for audit purposes.*

*Dwelling* means the sole residence of the person claiming exemption; provided, however, that the fact that a person who is otherwise qualified for tax exemption by the provisions of this article is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care for an extended period of time shall not be construed to mean that the real estate for which exemption is claimed ceases to be the sole dwelling of such person during such period of

other residence, so long as the real estate in question is not used by, or leased to, others for consideration.

*Exemption* means the percentage exemption from the property tax imposed by the city allowable under the provisions of this article.

~~*Income* means total gross income from all sources, without regard to whether a tax return is actually filed; however, however, the term shall not include life insurance benefits or receipts from borrowing or other debt.~~

*Permanently and totally disabled*, as applied to a person claiming an exemption under this article, means a person furnishing the certification or medical affidavits required by section 30-99, and who is found by the ~~C~~ommissioner of ~~R~~evenue to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

*Taxable year* means the calendar year, from January first through December thirty-first, for which property tax exemption is claimed under this article.

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

State law reference(s)—Provisions similar to the provisions in the above definition of "dwelling," Code of Virginia, § 58.1-3214; similar definition of "permanently and totally disabled," § 58.1-3217.

### **Sec. 30-97. Purpose of article.**

It is hereby declared to be the purpose of this article to provide real estate tax exemptions ~~or deferrals~~ for qualified property owners who are not less than sixty-five (65) years of age or permanently and totally disabled and who are otherwise eligible according to the terms of this article. Pursuant to the authority of section 58.1-3210, Code of Virginia, the city council finds and declares that persons qualifying for exemption or deferral hereunder are bearing an extraordinary real estate tax burden in relation to their income ~~and financial worth~~.

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3218.

### **Sec. 30-98. Qualifications for exemption.**

*Owner occupied residential real property shall qualify for E*xemption pursuant to this article ~~shall be granted to certain persons who own and occupy residential real property~~, where such persons and property comply with the following provisions:

- (1) The title to the residential property for which exemption is claimed must be ~~is~~ held, or partially held, by the person entitled to claim such exemption ("claimant"), as of January first of the taxable year for which such exemption is claimed. If the real estate for which exemption is claimed consists of a lot containing a manufactured home, as

defined in § 36-85.3 of the Virginia Code, title to both the lot and the manufactured home must be held, or partially held, by the claimant.

- (2) As of January 1 of the taxable year and on the date a claim for exemption is submitted, the claimant must occupy the real estate for which the exemption is sought as his or her sole residence and must intend to occupy the real estate throughout the remainder of the taxable year. An applicant who is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration~~The property for which the exemption is claimed must be occupied as the sole dwelling of such claimant.~~
- (3) [Reserved.]
- (4) The claimant must be sixty-five (65) years of age or older, or permanently and totally disabled, as of December thirty-first of the year immediately preceding the taxable year for which the exemption is claimed.
- (5) The combined household income of such claimant ~~and of all relatives living in the same dwelling, for the immediately preceding calendar year, must not exceed an amount equivalent to 50% of the most recently released median family income for the Charlottesville, Virginia Metropolitan Statistical Area as determined by the Department of Housing and Urban Development, rounded up to the nearest \$5,000.;~~ provided that if an applicant for exemption can prove by clear and convincing evidence that the only alternative to an owner of the real estate for which a grant is sought permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative live in the home and provide care for that owner, then such relative's income shall be excluded from the income calculation.~~must not exceed the sum of fifty thousand dollars (\$50,000.00); provided that:~~
  - a. ~~The first seven thousand five hundred dollars (\$7,500.00) of any income (i) received by any claimant and classified as permanent disability compensation or (ii) received by any claimant who is at least sixty-five (65) years of age, is permanently and totally disabled, and can show that they did receive permanent disability compensation for at least twenty-four (24) consecutive months immediately prior to their sixty-fifth birthday, shall not be included in such total;~~
  - b. ~~The first eight thousand five hundred dollars (\$8,500.00) of income of each relative who is not the spouse of the claimant and who does not qualify for the exemption shall not be included in such total;~~
  - c. ~~If a person who has previously qualified for an exemption under this article can prove by clear and convincing evidence that after qualifying their physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does move in for that purpose, then none of the income of the relative or of the relative's spouse transferred assets in excess of five thousand dollars (\$5,000.00) without~~



~~adequate consideration within a three-year period prior to or after the relative moves into their residence; and~~

- d. ~~The amount of income received by any claimant owner from the Veteran's Administration and classified as disability benefits, up to but not exceeding seven thousand five hundred dollars (\$7,500.00) shall not be included in such total.~~
- (6) An applicant for exemption under this article (or an applicant's spouse who resides in the dwelling for which relief is sought) shall not own an interest in any other real estate (either personally or by virtue of the applicant's (or such spouse's) status as a beneficiary or trustee of a trust of which the real estate is an asset or by virtue of the applicant's status as a member - single or otherwise - of an LLC or other legal entity of which the real estate is an asset)~~The net combined financial worth of such claimant and of the spouse of such claimant, as of December thirty-first of the year immediately preceding the taxable year for which the exemption is claimed, must not exceed one hundred twenty-five thousand dollars (\$125,000.00) net combined financial worth shall include the value of all assets, including the present value of all equitable interests, excluding the fair market value of the dwelling for which exemption is claimed and of the land upon which it is situated, not exceeding ten (10) acres.~~
- (7) For dwellings jointly held by two or more individuals not all of whom are at least age 65 or permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such joint owners, the tax exemption for the dwelling that otherwise would have been provided under this Article shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who are at least age 65 or permanently and totally disabled, and as a denominator, 100 percent. The provisions of this subsection shall not apply to dwellings jointly held by married individuals, with no other joint owners.
- (8) An applicant for exemption provided under this article who is delinquent on any portion of the real estate taxes due on a property to which the exemption or grant is to be applied, must be in good standing on a payment plan with the Treasurer's office with the aim of paying off said delinquency in a period not exceeding twelve months.

State law reference(s)—Similar provisions and authority of city as to income, net worth, etc., requirements, Code of Virginia, §§ 58.1-3210—58.1-3212.

**Sec. 30-99. Application for exemption, annual certification~~Applicant's affidavit and certificate of disability.~~**

- (a) In the first year for which exemption is sought, and every third year thereafter~~Annually, and not later than March first of each taxable year,~~ every person claiming an exemption ~~or deferral~~ under this article shall file an application~~real estate tax exemption or deferral affidavit~~ with the Commissioner of the Revenue of the City~~City~~ setting forth the basis for their claim of exemption. In each of the two years between filing such applications, if no information contained on the last preceding application filed has changed to violate the

limitations and conditions of the program, the applicant shall certify to that effect. If an applicant's circumstances have changed to affect their eligibility for exemption, the applicant will need to file a new application. The date for filing such an application affidavit or certification shall be no later than March first of the taxable year by an applicant, but may be extended by the Commissioner of Revenue to July first of a taxable year for a first-time applicant and to July first of each taxable year in a hardship case in which the Commissioner of the Revenue determines that the applicant was unable to file by March first of the particular taxable year because of illness of the applicant or confinement of the applicant in a nursing home, hospital, or other medical facility or institution; ~~provided, that such real estate tax exemption or deferral affidavit is accompanied by a sworn affidavit of one (1) medical doctor licensed to practice medicine in the commonwealth.~~

- (b) The application affidavit shall set forth the names of the related persons occupying the real estate for which exemption ~~or deferral~~ is claimed, as well as of any other person who is an owner of and resides in the same real estate, and the ~~total combined net worth and~~ combined household income of all such persons as defined in this article. The form of such application or certification affidavit shall be determined by the Commissioner of Revenue ~~and approved by the city manager,~~ and shall contain such other information as may be required adequately to determine compliance with the provisions of section 30-98.
- (c) If the person filing an application-certification for exemption under this section is under sixty-five (65) years of age, the application certification shall have attached thereto proper documentation by the Social Security Administration, veteran's administration or the railroad retirement board that the person has been certified as being permanently or totally disabled as defined by those agencies, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the Commonwealth, to the effect that the person is permanently and totally disabled, as defined in section 30-96. The affidavit of at least one (1) of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one (1) of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as defined in section 30-96.
- (d) In addition, the Commissioner of Revenue may make such further inquiry of persons seeking to claim exemptions ~~or deferrals~~ requiring answers under oath and the production of certified tax returns, as may be deemed reasonably necessary to determine eligibility for an exemption ~~or deferral~~.

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3213.

### **Sec. 30-100. Certification by Commissioner; deductions from real estate tax.**

The Commissioner of Revenue, after audit and investigation, shall certify a list of the persons and property qualifying for exemption ~~or deferral~~ under this article and the amount thereof to the City Treasurer, who shall forthwith deduct the amounts of such exemptions ~~or deferrals~~ from the real estate tax chargeable for the taxable year to such persons and property.

**Sec. 30-101. Calculation of amount of exemption.**

The amount of the exemption ~~or deferral~~ granted pursuant to this article shall be a percentage of the real estate tax assessed for the applicable taxable year in accordance with the following formulas using Median Family Income (MFI) for the Charlottesville, Virginia Metropolitan Statistical Area according to the most recently published HUD Metropolitan Fair Market Rent Areas ~~scale~~:

<b>Gross Combined Income</b>	<b>Net Combined Financial Worth</b>				
	<b>\$0.00 to \$25,000.00</b>	<b>\$25,001.00 to \$50,000.00</b>	<b>\$50,001.00 to \$75,000.00</b>	<b>\$75,001.00 to \$100,000.00</b>	<b>\$100,001.00 to \$125,000.00</b>
\$0.00— \$25,000.00	100%	100%	100%	100%	100%
\$25,001.00— \$27,500.00	80% <del>or</del> \$1,000.00	64% <del>or</del> \$1,000.00	48% <del>or</del> \$1,000.00	32% <del>or</del> \$1,000.00	16% <del>or</del> \$1,000.00
\$27,501.00— \$35,000.00	60% <del>or</del> \$1,000.00	48% <del>or</del> \$1,000.00	36% <del>or</del> \$1,000.00	24% <del>or</del> \$1,000.00	12% <del>or</del> \$1,000.00
\$35,001.00— \$41,250.00	60% <del>or</del> \$750.00	48% <del>or</del> \$750.00	36% <del>or</del> \$750.00	24% <del>or</del> \$750.00	12% <del>or</del> \$750.00
\$41,251.00— \$45,000.00	40% <del>or</del> \$750.00	32% <del>or</del> \$750.00	24% <del>or</del> \$750.00	16% <del>or</del> \$750.00	8% <del>or</del> \$750.00
\$45,001.00— \$55,000.00	40% <del>or</del> \$500.00	32% <del>or</del> \$500.00	24% <del>or</del> \$500.00	16% <del>or</del> \$500.00	8% <del>or</del> \$500.00

- (1) An approved applicant whose combined household income is between \$0 and 30% of MFI, rounded up to the nearest \$5,000 shall receive an exemption equivalent to 100% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (2) An approved applicant whose combined household income is greater than 30% of MFI, rounded up to the nearest \$5,000 but no more than 40% of MFI, rounded up to the nearest \$5,000 shall receive an exemption equivalent to 80% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (3) An approved applicant whose combined household income is greater than 40% of MFI, rounded up to the nearest \$5,000 but no more than 45% of MFI, rounded up to the nearest \$5,000 shall receive an exemption equivalent to 60% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.
- (4) An approved applicant whose combined household income is greater than 45% of MFI, rounded up to the nearest \$5,000 but no more than 50% of MFI, rounded up to the nearest \$5,000 shall receive an exemption equivalent to 40% of the real estate tax assessed for the taxable year on the property for which an exemption is claimed.

State law reference(s)—Amount of exemption ~~or deferral~~ to be as prescribed by ordinance, Code of Virginia, § 58.1-3210.

**Sec. 30-102. Effect of changes in status.**

Changes ~~with~~<sup>in</sup> respect to income, ~~financial worth~~, ownership of property or other factors occurring during the taxable year ~~for which an affidavit is filed~~ and having the effect of violating or exceeding the limitations and conditions of section 30-98 shall result in a prorated exemption for the then current taxable year~~nullify any exemption or deferral for the then-current taxable year and for the taxable year immediately following; provided, that no change in income or financial worth which does not have the effect of violating the maximum limitations of section 30-98 shall operate to increase or decrease the percentage of exemption or nullify the deferral previously determined by the commissioner of revenue pursuant to section 30-101 of this Code.~~

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3215.

**~~Sec. 30-103. Payment of deferred taxes; interest; liens.~~**

- ~~(a) Deferred real estate taxes may be paid at any time but must be paid by the claimant or claimant's estate, as appropriate, by the earlier of:
  - ~~(1) Sale of the dwelling; or~~
  - ~~(2) Within one (1) year after the death of the last owner who qualifies for tax deferral by the provisions of this article.~~~~
- ~~(b) Deferred tax payments shall include interest at the rate of eight (8) percent per annum from the date of deferral until paid.~~
- ~~(c) Such deferred taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this article; provided, however, that such liens, to the extent that they exceed in the aggregate ten (10) percent of the price for which such real estate may be sold, shall be inferior to all other liens of record.~~

~~(Code 1976, § 10-41.1)~~

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3216.

**Sec. 30-104. Filing false claims.**

It shall be unlawful and a Class 1 misdemeanor for any person to falsely claim an exemption ~~or deferral~~ under this article.

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

**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.**

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



Agenda Date: October 17, 2022

Action Required: Approve resolution

Presenter: Michael Goddard, Facilities Development Manager

Staff Contacts: Harold Young  
Scott Hendrix  
Chris Cullinan, Director of Finance  
Kristel Riddervold, Environmental Sustainability Manager

**Title: Appropriating \$700,000 from the CIP Contingency to Avon Fuel Station Replacement Project (1 of 2 readings)**

**Background**

Per the Petroleum Underground Storage Tank Financial Responsibility Requirements Regulation, specific annual insurance coverage is required. The City has faced increased challenges and costs associated with obtaining required insurance coverage for the Avon Street Fueling Station. The adopted FY 2019 Capital Improvement Programs (CIP) included funding for the Avon Fuel Station (P-00980) was funded at \$520,000. An additional \$271,754.74 was transferred to the project in 2021 from surpluses in other project budgets. The project has been put out for bid three separate times and each time the bids received totaled more than the available project budget. Additional funds are needed to complete the project.

**Discussion**

The project for the Avon Fuel Station involves full replacement of the underground fuel storage system with an aboveground fuel storage system that provides for reduced compliance risk. Design work is complete. Plans were submitted to Albemarle County Department of Community Development and are undergoing site plan review/approval. This project is planned to be bid out for construction in the winter with construction planned for Spring/Summer 2022. We have completed three rounds of bidding for the Avon Fuel Station project and based on those bid prices are confident that the project, as designed; will require approximately \$1.45 million in funding to replace the tanks and install a security gate to protect the fuel site. CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA It is our recommendation that this funding deficit be addressed by a transfer of CIP Contingency funds in the amount of \$700,000 to the Avon Fuel Station project. This will fund both the shortfall from the base scope of the project, as well as the security access gate. It is expected that the remaining required funds would be recovered through an insurance settlement associated with the damage recently incurred by the station. It is also notable that the existing fuel station was recently damaged and is not functional. The City is currently using a fuel card system as a temporary measure, but this program is more costly to the City than maintaining our own fuel

station. Project cost repayment, when compared to the fuel card program is approximately 7 years per analysis performed by the City's Fleet Division. This estimate does not take into account the cost of removing the existing tanks, which will be required regardless of whether the fuel station upgrades proceed.

**Alignment with City Council's Vision and Strategic Plan**

This proposal supports the City Council's "Green City" vision. It contributes to Goal 3 and 5 of the Strategic Plan, a beautiful and sustainable natural and built environment and a well-managed and responsive organization, and objectives 3.2 provide reliable and high quality infrastructure, 3.4 be responsible stewards of natural resources, 5.1 integrate effective business practices and strong fiscal policies.

**Community Engagement**

N/A

**Budgetary Impact**

Transfer of \$700,000.00 from CIP Contingency funds

**Recommendation**

Staff recommends approval of this recommendation.

**Alternatives**

City Council could decline this recommendation. There will be insufficient funds to address the Avon Street Fuel Station replacement project and the insurance requirements may not be met.

**Attachments**

1. RES Funding for Avon Fuel Station

**RESOLUTION**

**Appropriating the Amount of \$700,000 from the CIP Contingency funds to the Avon  
Fuel Station Replacement Project**

**WHEREAS** the City of Charlottesville designed and bid a project to improve the Avon Fuel Station (the “Project”); and

**WHEREAS** a funding deficit exists, because the costs of the Project, and of insurance required for the Project are greater than the funding amount previously allocated; now, therefore,

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that the sum of \$700,000.00 is hereby transferred from CIP Contingency funds, for expenditure on the Avon Fuel Station Project, in the following manner:

**Transfer From**

\$700,000 Fund: 426 WBS: CP-080 G/L Account: 599999

**Transfer To**

\$700,000 Fund: 426 WBS: P-00980 G/L Account: 599999

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



Agenda Date: October 17, 2022  
Action Required: Approval of Resolution  
Presenter: Alexander Ikefuna, Director of Community Solutions  
Staff Contacts: Alexander Ikefuna, Director of Community Solutions  
Title: **Dogwood Housing Loan Extension (1 reading)**

**Background**

By resolution approved September 7, 2007, the Charlottesville City Council approved a loan of \$850,000 to Piedmont Housing Alliance (PHA) to assist Woodard Properties LLC in the purchase of fifty-seven (57) residential rental units, commonly known as Dogwood Housing. The terms of the loan were zero interest for five years, with the original principal amount of the note due and payable if any of the units were sold, transferred, devised or otherwise disposed of during the five year period (based on a formula tied to the assessed value of each property) or by October 31, 2012. On August 20, 2012, City Council approved extension of the loan, through October 31, 2017. The terms of the loan remained the same, and the note continued to be secured by a recorded second lien Deed of Trust executed between Dogwood Properties of Charlottesville, LLC and PHA. On October 2, 2017, the City Council approved extension of the loan, through October 31, 2022, with the following amendments to the agreement:

1. All non-rent assisted tenants with household incomes between 50% - 80% of AMI shall be allowed to pay up to 35% of their household income towards their rent without risk of losing their housing.
2. After the initial household income qualification is established, Recipient will recertify all non-rent assisted tenants' household incomes at least once every 24 months.
3. For all tenants receiving assistance through the Housing Choice Voucher program or another rental assistance program, Recipient will provide the City with copies of each household's annual recertification letter.
4. Recipient shall add the amount of rental assistance received (if applicable), to the report submitted to the City each December.

Anthony Woodard, Chief Executive Officer, on behalf of Dogwood Properties of Charlottesville, LLC, is requesting the City extend the loan for another five (5) years at zero interest.

**Discussion**



Since the 2007 purchase of the fifty-seven (57) residential units comprising Dogwood Properties, and in accordance with the intent of the original \$850,000 loan to Woodard Properties LLC, Dogwood Properties of Charlottesville LLC has offered the above referenced units as affordable housing. Since summer of 2022, staff have had discussions with Dogwood Properties regarding the expiration of the loan agreement and interest on extension. Staff spoke Amanda Hester (property manager for Dogwood) and Anthony Woodard about the City's interest in extending the loan agreement for an additional five (5) year period, as well as a number of Dogwood Properties staff concerns related to data collection and reporting. Specifically, they requested that City staff: 1) allow them to sign one affidavit for smoke alarm with all the units listed instead of 57 different affidavits; and 2) not require that they collect and report racial information on the members of the households. The City Council has requested staff to collect data on the race for Charlottesville Affordable Housing Fund (CAHF) beneficiaries, including refugee status.

The promissory note (dated October 31, 2007) associated with the original loan outlined conditions related to the definition of affordable housing to be applied to the Dogwood Properties rental units, the rents to be charged to each household leasing units from Dogwood Properties, and the maximum amount monthly rents could be increased each year. These conditions are as follows:

Borrower covenants and agrees that the properties listed on Exhibit A shall, during the term of this Note or any extension thereof, be leased as affordable rental housing. As used herein, the term "leased as affordable rental housing" shall mean (i) leased to families with a household income no greater than eighty percent (80%) of the Charlottesville area median household income; and (ii) that the amount of rent charged to each household, or the amount of rent paid by each household that is the beneficiary of a rent subsidy, shall not increase by more than five percent (5%) of per annum.

With the August 20, 2012 extension of the loan, the terms of the promissory note were amended to more clearly define the amount of rent to be charged each household as:

(ii) that for families receiving Tenant Based Rental Assistance (TBRA) through Housing Choice vouchers or other programs, that the rent charged be based on the fair market rent values as established through the TBRA administrator; and (iii) that the amount of rent paid by all other tenant families be limited to no more than 30% of their gross annual income and that the rental rate charged for each unit, shall not increase by more than five percent (5%) per annum, up to an amount equal to 30% of the tenant's gross income.

The terms of the promissory note were further amended, via City Council resolution dated November 2, 2015. These changes were initiated at the request of Dogwood Properties and developed in partnership with City staff. The new terms further define the rent amounts to be charged to each tenant household:

2. That for families not receiving tenant based rental assistance through Housing Choice vouchers or other programs where the rent is set by other program regulations: (i) that for households with incomes at 50% AMI or less the rent charged shall comply with HUD Low HOME rent limits, as revised from time to time; and (ii) that for households with incomes greater than 50% AMI but less than 80% AMI, the rent charged shall comply with HUD High HOME rent limits, as revised from time to time; and
3. That for families receiving tenant based rental assistance through Housing Choice vouchers or other programs that the rent charged be based on the fair market rent values as established through

the rental assistance provider and relevant program regulations.

The 2015 amendments also included a two-year grace period for tenants who become income-ineligible while leasing an affordable rental housing unit from Dogwood Properties. Additionally, Dogwood Properties has also agreed to a number of additional terms. These include: 1) allowing the City to inspect individual rental units associated with Dogwood Properties to ensure they meet the Department of Housing and Urban Development's (HUD) Housing Quality Standards, and 2) submitting a report, by December 31<sup>st</sup> of each year, providing the following information for each rental unit in Dogwood Properties:

- Unit Address
- Number of Bedrooms
- Current Rent
- Occupant Household Size
- Occupant Household Income
- Change of occupancy with date of change (if applicable)
- Rent at end of previous occupancy (if applicable)
- Rent at beginning of new occupancy (if applicable)
- Household size of new occupant (if applicable)
- Household income of new occupant (if applicable)
- Percent of Current Household Income to Rent Amount
- Amount of rental assistance received (if applicable)

After reviewing the current loan terms and additional conditions, staff agrees that the current loan terms should be maintained with proposed addition of data points for race and immigrant status; and rent adjustment for 306 7 ½ Street Apt. B and 407 Ridge Street Apt. A. Below is a summary of past major amendments and proposed new changes.

### 1. *Qualifying Households*

- Dogwood Properties will continue to lease units to households earning no more than 80% of Area Median Income (AMI).

### 2. *Tenant Portion of Rent*

The standard measure of housing affordability is housing that costs no more than 30% of a household's gross annual income. For household's receiving rental assistance through the federal Housing Choice Voucher (HCV) program or other rental assistance program, this level of affordability is protected through program regulations. Dogwood Properties agreed to apply, and has been applying, this housing affordability standard to all Dogwood Property tenant households throughout their tenancy. Strict adherence to this policy often results in tenants, experiencing slight (up to 5%) increases in their rent-to-income ratio, being forced to move from their Dogwood home. To help ensure lower-income families are able to enjoy housing stability, staff recommended increasing the allowable tenant share of rent (for non-rent assisted households) be raised from 30% of gross household income to 35% of gross household income. A precedent for this rent-to-income ratio

increase can be found in HUD authorized changes to HCV program regulations through the Moving to Work (MTW) demonstration program. Under this program, MTW designated housing authorities are to (with HUD approval) waive HCV and Public Housing program regulations to meet local needs. Staff recommended the following tenant rent-share terms be included in the 2017 loan terms, which was approved.

- Dogwood Properties will ensure tenants pay no more than 30% of their household income at time of initial lease-up.
- Allow all non-rent assisted tenants with household incomes between 50% - 80% of AMI to pay up to 35% of their income towards their rent.

### 3. *Annual Rent Increases*

This shall remain at no more than 5% per annum. However, of the 57 units under this loan terms, staff identified 2 existing households with renewal rates that increased by more than 5%. To remedy this violation Dogwood Properties is proposing the following:

- 306 7 ½ Street Apt. B – the rate increased by 5.11%. This represents \$1.05 per month additional rent.
- 407 Ridge Street Apt. A – the rate increased by 6.34%. This represents \$16.05 per month additional rent.

Dogwood Properties are proposing to limit any potential increases at these units such that they would not increase more than 4.89% and 3.66% respectively for the next term, to address this overage.

### 4. *Income Certifications*

- Dogwood Properties will verify household income for all new tenants to ensure they meet the income qualifications for housing, and that the appropriate rent limit is used.
- After the initial income qualification is established, Dogwood Properties will recertify all non-rent assisted tenants' household incomes at least once every 24 months.
- For all tenants receiving assistance through the Housing Choice Voucher program or another rental assistance program, Dogwood Properties will provide the City with copies of each household's annual recertification letter. Dogwood did not provide certification letters but conducts eligibility survey every year and provides the information to City staff as part of their reporting requirements.

Again, the HUD approved changes to the HCV program by MTW housing authorities provides precedent for biennial income certifications. MTW housing authorities implementing biennial recertifications do so for two primary reasons. The first is to decrease program administrative burdens. More importantly, the change to biennial recertifications acts as a means to encourage employment among program participating households by ensuring a household's share of their monthly rent does not immediately increase with modest increases in wages. These same reasons apply to the proposed changes in loan terms outlined above.

## 5. *Over-Income Households*

- Continue to provide a 2-year grace period for over-income households.

## 6. *Inspections*

- Dogwood Properties will allow the City to conduct annual inspections of all rental units not inspected annually under the Housing Choice Voucher program, or another rental assistance program. For the purpose of this loan extension request, the City Property Maintenance staff conducted inspections of the units and worked with Dogwood Properties to address the deficiencies.

## 7. *Reporting*

- Dogwood Properties will continue to submit a report by December 31<sup>st</sup> of each year.
- The report will include all of the information currently provided (as outlined above) with the addition of one data point:

1. Race of each member of the household
2. Refugee status of any member of the household

Since the purchase of Dogwood Housing in 2007, Dogwood Properties has continued to provide a valuable source of affordable rental housing options to the Charlottesville community. Staff believes that, with the agreed upon changes discussed above, Dogwood Housing will continue to benefit our lower-income neighbors into the future. As such, staff recommends renewing the 2007 loan – with the amended loan terms – for an additional five years ending October 31, 2027.

### **Alignment with City Council's Vision and Strategic Plan**

This item aligns directly with Council's vision to provide Quality Housing Opportunities for All, and provisions in the Affordable Housing Plan adopted by the City Council in 2021.

Approval of this request is also supported by the following:

Strategic Plan Goals:

- Goal 1.3: Increase affordable housing options
- Goal 1.4: Enhance financial health of residents
- Goal 1.5: Intentionally address issues of race and equity

Comprehensive Plan Guiding Principles (2021):

- Equity & Opportunity – All people will be able to thrive in Charlottesville.

- Community Culture & Unity – Charlottesville’s rich and diverse culture and form will be celebrated, and the entire community will feel welcomed, valued and respected.
- (Numerous Goals in the Comprehensive Plan also support this request).

### **Community Engagement**

There has been no public process regarding this loan.

### **Budgetary Impact**

This item could have an impact on the CAHF in that denial of the requested loan extension would result in repayment of \$850,000 in affordable housing funds.

### **Recommendation**

Staff recommends the loan be renewed for an additional 5 year period with the above referenced loan terms.

***Suggested motion: “I move the Resolution approving an extension of the Loan Agreement with Dogwood Properties of Charlottesville, LLC, with the added reporting requirements”***

### **Alternatives**

The City Council may elect not to extend the loan agreement; however, failure to do so would result in the loss of affordable housing and negative impact on the families that are currently living in the units.

### **Attachments**

1. Dogwood Properties - City Loan Renewal Request\_08312022 (003)
2. Letter for household information 2021 - Income Verification
3. Resolution\_Dogwood Properties 101722

August 31, 2022

Mr. Alex Ikefuna  
Director, Office of Community Solutions  
City of Charlottesville  
Charlottesville, Virginia 22902

RE: Dogwood Properties

Purpose

We hereby request that the City renew the existing \$850,000 loan for Dogwood Properties with the same terms as the original loan from 2007.

Background

In 2007, Woodard Properties purchased the "Dogwood Properties" portfolio from Mr. Eugene Williams in order to contribute to the affordable housing needs in Charlottesville. The purchase of fifty-seven (57) housing units was made possible in part with the help of the \$850,000 loan from the City of Charlottesville ("City Loan"), through the Piedmont Housing Alliance (PHA), along with primary funding by a local bank, United Bank, and an initial investment from Woodard Properties of approximately \$756,000. Sixteen (16) units were financed using "seller financing" and were not part of the collateral for the City Loan or United Bank. In total, the Dogwood Properties LLC portfolio is therefore a total of seventy-three (73) affordable housing units.

For the City Loan, the affordability requirement is that "the 57 rental units shall be leased to families with a household income no greater than 80% of the Charlottesville area median household income ...and... the amount of monthly rent charged to each of the 57 households, or the amount of rent paid by each household... shall not increase by more than 5%." There were also requirements on the City Loan to give assurance that this housing would be well-maintained.

Since we have owned and managed the Dogwood Properties

We are trying to keep Eugene Williams' legacy a viable endeavor. Our team has taken great pride in our work to manage, maintain, and improve the properties. Although it has been challenging in many facets, we believe it is a great service to the community to keep these homes affordable.

The information below demonstrates how we have maintained, improved, and retained affordability in the portfolio. Unless noted, this information relates to the Dogwood Properties portfolio as a whole (i.e., all 73 units).

- We have invested approximately \$1,600,000 in improvements to the units to date (in addition to the approximately \$756,000 investment to purchase the portfolio)
- We have spent approximately \$2,300,000 in maintenance expenses
- The increase in rent has averaged only 2.92% per year
- For the 57 City Loan properties, the increase in rent has averaged only 2.79% per year
- For the five 5 households that have continuously resided in these properties since our purchase, the increase has averaged only 2.21% per year
- The income guidelines (i.e., household income must be less than 80% of AMI) have also been followed



- In compliance with the requirement to properly maintain the properties, City NDS has inspected the properties, and we have responded to requests for repairs and improvements as needed

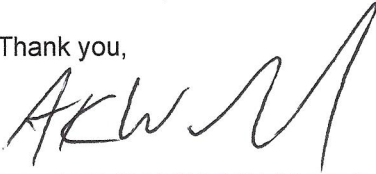
Closing

These properties are important for our community, so we are willing to take on this effort, but we need City support through this City Loan to do it. Many other businesses would deploy their resources to more financially-rewarding enterprises, but we are part of this local community and understand the benefit that this affordable housing portfolio provides.

In the event the City and PHA decide to not renew the existing City Loan, we would like to have as much notice as possible so that we can explore other options for the properties.

We would be glad to meet to discuss this further at your convenience and can provide additional information if needed.

Thank you,



ANTHONY WOODARD | Chief Executive Officer  
Woodard Properties  
[Anthony@WoodardProperties.com](mailto:Anthony@WoodardProperties.com)  
o) 434.971.8860



November 19, 2021

Dear Residents,

As you may know, the home that you reside in is part of Dogwood Housing of Charlottesville LLC, which is financed in part through the City of Charlottesville and Piedmont Housing Alliance in an effort to keep affordable housing options in Charlottesville. As such, we must provide household information to the City annually.

At this time, we will need to gather the following information on your household:

- total number of people in household (including children)
- total 2021 annual household income (including wages, SSI, etc.)

Please provide this information and sign below:

Resident 1: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

Resident 2: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

Resident 3: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

Resident 4: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

Resident 5: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

Resident 6: age \_\_\_\_\_ 2021 annual income \_\_\_\_\_

I, \_\_\_\_\_ (contact person), verify that all information provided is true and accurate to the best of my knowledge.

\_\_\_\_\_ (signature & date)

Though we are not requiring any supporting documentation of the above information at this time, this may be requested at a later date.

Please have this information returned to the Leasing Office no later than **Friday, December 3, 2021**. Thank you in advance for your assistance. Please feel free to contact me if you have any questions.

Sincerely,

Kyle Herris  
Woodard Properties

*Serving Charlottesville Businesses, Students, and the Community Since 1981.*





**RESOLUTION  
APPROVING AN EXTENSION OF A LOAN AGREEMENT WITH  
DOGWOOD PROPERTIES OF CHARLOTTESVILLE LLC**

**WHEREAS** on February 1, 2013, the City of Charlottesville approved issuance of an \$850,000 loan to Dogwood Properties of Charlottesville LLC (“Recipient”) to assist with the purchase of 57 rental units to serve as affordable housing (“Loan Agreement”); and

**WHEREAS** City Council previously approved an extension of the Loan Agreement on October 2, 2017, for a five-year period, and the Loan Agreement is currently set to expire on October 31, 2022; and

**WHEREAS** the Recipient has requested a second extension of the Loan Agreement, for an additional five-year period; and

**WHEREAS** the Recipient proposes to limit any potential rent increases for the unit located at 306 7 ½ Street Apartment B, and for the unit located at 407 Ridge Street Apartment A, such that the rents in those two units will not increase more than 4.89% and 3.66%, respectively, during the period of the requested second five-year extension; and

**WHEREAS** in order to collect complete and accurate data regarding the beneficiaries of funding provided to the Recipient to obtain affordable housing units, the City requires certain data to be provided by the Recipient; now, therefore

**BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that** an extension of the Loan Agreement through October 31, 2027 is hereby approved, conditioned upon the Recipient’s agreement to add the following data points to the annual report submitted by the Recipient to the City in December of each calendar year, for each of the 57 rental units subsidized by the Recipient’s Loan Agreement with the City:

- Race of each member of the household
- Refugee status of any member of the household

All other provisions of the Loan Agreement not specifically amended by this Amendment shall remain in full force and effect and the Loan Agreement with the above-referenced amendments is hereby ratified and continued in effect. The City Manager is hereby authorized to execute the amended Loan Agreement on behalf of the City of Charlottesville.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Adoption of Resolution to Approve PPEA Guidelines

Presenter: Lisa Robertson, City Attorney

Staff Contacts:

**Title: Approving Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) Guidelines (1 reading)**

### **Background**

In 2002 the Virginia General Assembly enacted "The Public-Private Education Facilities and Infrastructure Act of 2002" ("PPEA"). Over the past twenty years, Virginia local governments have utilized the PPEA's procedures to deliver public facilities in a more timely or less costly fashion than could be achieved through use of traditional public procurement procedures. The City of Harrisonburg has constructed school buildings and at least one public park, using the PPEA process. The City of Fredericksburg is currently using the PPEA process for the design and construction of improvements to upgrade and expand a wastewater treatment plant. The Town of Christiansburg used PPEA procedures for a stream restoration and culvert replacement project. Spotsylvania used PPEA procedures for construction of a new circuit court building. Public buildings (such as city halls), pedestrian trails, broadband infrastructure, public safety complexes--many different types of public buildings and facilities can be accomplished more quickly, and more cost-effectively, through PPEA procedures.

Generally--and regardless of whether any monetary consideration is involved--agreements between a public body and a non-governmental source, for construction of buildings or improvements to land, including recreation facilities, can be entered into only after compliance with public procurement requirements ("RFP" or "IFB", or "design build procedures"). However, the PPEA process--if conducted in accordance with the legislatively prescribed procedures--is exempted from traditional requirements of the Public Procurement Act, and the PPEA allows the City the flexibility to either **(i)** identify a project it would like to undertake, and invite proposals from individuals as to how the project might be designed or constructed in partnership with a private entity to achieve cost or times savings, or **(ii)** to consider *unsolicited* proposals from private entities (including nonprofit entities) that may provide a path toward accomplishing projects that might not otherwise come forward from within a public entity.

### **Discussion**

The attached PPEA guidelines have been developed by staff, to implement the procedures required by the state's PPEA. The PPEA is prescriptive as to several elements: (1) the requirement for a thorough "vetting" of a proposal, either by in-house staff, or by contracted consultants; (2) items to be

included within PPEA guidelines implemented by a local government; (3) materials that must accompany a private entity's request; (4) how to determine whether a project serves the public purposes of the PPEA; (5) procedures for public comment regarding proposals received; and (6) the form of the written contracts that will implement a qualifying project ("interim agreement" and "comprehensive agreement" ).

### **Alignment with City Council's Vision and Strategic Plan**

The proposed PPEA Guidelines are consistent with City Council's vision to be flexible and progressive in anticipating and responding to the needs of our citizens.

### **Community Engagement**

N/A

### **Budgetary Impact**

None

### **Recommendation**

It is recommended that City Council approve the proposed PPEA Guidelines.

*Suggested motion: "I move the RESOLUTION approving guidelines for the consideration and approval of public private partnerships, proposed to Council October 3, 2022"*

### **Alternatives**

City Council may decline to approve the guidelines. However, if City Council does not have procedures compliant with the state's PPEA authorization, "partnerships" with non-government entities should be undertaken after procurement procedures compliant with the Virginia Procurement Act.

### **Attachments**

1. Resolution Approve Guidelines
2. PPEA Oct 3 2022

## **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 3, 2022 are hereby approved and adopted.

These PPEA Guidelines are adopted by the Charlottesville City Council, as a “Responsible Public Entity”, pursuant to Va. Code §56-575.3:1. The purpose of these guidelines is to provide a framework for compliance with The Public Private Education Facilities and Infrastructure Act of 2002 (Va. Code §§56-575.1 et seq.) The City intends that these PPEA Guidelines will be used to promote timely establishment, implementation, or installation of education facilities, technology infrastructure and other public infrastructure and government facilities that will serve a public need and purpose.

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## I. Introduction

The Public Private Education Facilities and Infrastructure Act of 2002, set forth within §§56-575.1 et seq. of the Virginia Code (“PPEA”) allows a **Private Entity** to develop or operate certain “**Qualifying Projects**,” specifically:

- education [public school] facilities;
- any building or facility that meets a public purpose and is developed or operated by or for the City;
- any improvements necessary to enhance public safety or security of buildings to be principally used by the City;
- technology infrastructure; or
- improvements necessary or desirable to any unimproved City-owned real estate, including, without limitation, City parks.

As defined in Virginia Code §56-5751: “**Private entity**” means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, or other business entity, as well as any public benefit corporation or non-profit entity.

A “**Qualifying Project**” may be undertaken by a Private Entity pursuant to an agreement with a public entity (such as the City of Charlottesville) which has the power/authority to develop or operate the Qualifying Project. These agreements are sometimes referred to as a public-private partnerships or “PPEA Agreements”. A PPEA agreement may include provisions by which the parties (i) plan, design, develop, finance, lease, acquire, install, construct or expand a Qualifying Project, and (ii) arrange for the delivery of services to be provided as part of a Qualifying Project.

The Charlottesville City Council adopts these Guidelines to comply with the requirements of the PPEA. The provisions of the PPEA, as amended, are incorporated into these Guidelines by reference, as if set forth herein verbatim. In the event of a conflict between these Guidelines and any provision of PPEA, the PPEA provision shall govern and the Guidelines shall be interpreted and applied in a manner that will conform to the requirements of the PPEA. A copy of the current PPEA enacted by the Virginia General Assembly can be accessed at:

<https://law.lis.virginia.gov/vacode/title56/chapter22.1/>

## II. General Provisions

### A. Administration

1. Whenever these Guidelines require an action to be taken by “City Council”, then the action may only be taken or authorized by the Charlottesville City Council.
2. The Charlottesville City Manager (“City Manager”) is authorized to act as City Council’s agent for administration and interpretation of these Guidelines. If these Guidelines do not expressly require an action to be taken by the Charlottesville City Council, then any action

specified to be taken by the “City” may be taken by the City Manager or any person(s) to whom he or she delegates responsibility for such action.

- a. The City Manager is hereby designated as the City official to whom PPEA inquiries and Unsolicited PPEA Proposals must be directed.
- b. Upon receipt of a PPEA inquiry or an Unsolicited PPEA Proposal, the City Manager may delegate responsibility to others for responding to an inquiry, for evaluating a proposal, and for other actions, consistent with the requirements of these Guidelines.
- c. The City Manager is authorized to establish a standing working group of City employees, to be responsible for evaluating any PPEA Proposal, negotiating terms and conditions for any interim or comprehensive PPEA Agreement, and for making recommendations to the City Manager on those matters.

#### **B. Consultants**

Analysis of a Private Entity’s request for approval of a Qualifying Project shall be performed by: (1) City employees, or (2) qualified professionals (which may include an architect, professional engineer, or certified public accountant) who are not City employees and who are selected in accordance with requirements of the Virginia Public Procurement Act or the City’s Small Purchase Procedures.

#### **C. Commencement of a PPEA Transaction**

Any Private Entity seeking authorization to develop or operate a Qualifying Project must first obtain the City Council’s approval.

A Private Entity may initiate the approval process itself (*see Sec. III*, regarding “**Unsolicited Proposals**”), or it may respond to a solicitation issued by the City seeking PPEA Proposals for a desired project (*see Sec. IV*, regarding “**City Initiated PPEA Transactions**”).

#### **D. Relationship to the Virginia Public Procurement Act**

The Virginia Public Procurement Act, set forth within Va. Code §§2.2-4300 t seq. (“VPPA”) does not apply to PPEA agreements.

*However*, the PPEA prohibits the City from entering into comprehensive agreements with Private Entities, unless the procedures used by the City to evaluate PPEA Proposals are *consistent with* certain competitive selection procedures referenced within VPPA. *See* PPEA §56-575.16. These Guidelines have incorporated the PPEA’s requirements for implementation of competitive selection procedures.

#### **E. Relationship to the Virginia Freedom of Information Act (FOIA)**

The Virginia Freedom of Information Act (“FOIA”) provides an express exemption for records of



PPEA transactions, to protect parties' information during the review of proposals and negotiation of an agreement, and to protect a Private Entity's trade secrets and proprietary business information. *See* VPPA §2.2-3705.6(11); *see also* PPEA §56-575.17.

Every Private Entity is responsible for familiarizing itself with the provisions of PPEA §56-575.15, and for taking actions necessary to protect its confidential information. Rarely will the entire contents of a proposal or other submission consist of protectable information; therefore, simply marking an entire file or submission as "confidential" may not be enough to satisfy the PPEA's requirement for marking and justification of specific information to be protected.

The City shall not be responsible for marking any records, or for protecting records which have not been adequately marked by a Private Entity. If a Private Entity wishes to protect *specific information or records, or portions thereof*, from disclosure, *the Private Entity must clearly mark such information or records prior to submitting them to the City*. The markings shall designate, *with specificity* (i) the specific information and records, or portions thereof, for which the protection is being sought, and (ii) the legal basis for protection.

#### F. **Affected Jurisdictions**

If a Private Entity submits a PPEA Proposal to the City for a Qualifying Project that would be located, in part, in Albemarle County, then the Private Entity must provide Albemarle County a copy of the PPEA Proposal. Albemarle County will have 60 days from the receipt of the Proposal to submit written comments to the City and to indicate whether the proposed Qualifying Project is compatible with (i) its Comprehensive Plan, (ii) its infrastructure development plans, or (iii) its capital improvements budget or other government spending plan. Comments received within the 60-day period shall be given consideration by the City; however, no negative inference shall be drawn from the absence of comment by the County.

#### G. **Other Applicable Legal Requirements**

When engaged in a PPEA transaction, and when engaged in the development or operation of a Qualifying Project, the City and a Private Entity will each remain obligated to comply with applicable provisions of federal and state laws and regulations, except as may expressly be excused or exempted by the PPEA.

Virginia constitutional and statutory requirements, as they apply to appropriation and expenditure of public funds, apply to any interim or comprehensive agreement entered into under the PPEA. The City's budget, appropriations and public accounting standards associated with the expenditure or obligation of public funds shall be incorporated into the planning and execution of Qualifying Projects.

### III. Submission of Unsolicited PPEA Proposals

#### A. General Instructions and Information

A Private Entity may initiate a PPEA process by submitting an Unsolicited PPEA Proposal for a Qualifying Project to the City for consideration. (*Ref. PPEA §56-575.3(A)*)

##### 1. *Contents; format*

Every Unsolicited PPEA Proposal shall be accompanied by the materials and information required by PPEA §56-575.4 (A)(1) through (9). The Private Entity shall also provide such additional materials and information as the City may reasonably request, *see* PPEA §56-575.4(A)(10).

Each Unsolicited PPEA Proposal shall be submitted in a dual format:

- a. Initially, the Private Entity shall submit a “**Conceptual Proposal**”, containing a description of the proposed Qualifying Project, and the information set forth within PPEA §56-575.4(A)(1) through (A)(4). Each facility, building, improvement and item of infrastructure which is to be included as part of a Qualifying Project shall be identified within the Conceptual Proposal.
- b. If the City elects to proceed with a detailed review of an Unsolicited PPEA Proposal, or any competing proposals, then each Private Entity whose proposal is under consideration shall, upon request by the City, submit a “**Detailed Proposal**”. The Detailed Proposal will expand the information presented in the conceptual proposal, by including all of the materials and information referenced within PPEA § 56-575.4(A)(5) through (A)(10).

##### 2. *Application Fee*

Every Unsolicited PPEA Proposal shall be accompanied by an application fee in the amount of five hundred dollars (\$1,500.00).

The application fee will not apply to a charitable institution or nonprofit organization, if the City enters into an agreement with the entity and the building, facility or improvements to be constructed or installed are to be funded primarily by private fundraising efforts of the institution/organization.

##### 3. *Acceptance or Rejection*

Upon receipt by the City of an Unsolicited PPEA Proposal, the City will determine whether or not to accept the proposal for consideration. The City will consider only those Unsolicited PPEA Proposals which: (i) comply with requirements of the PPEA and these Guidelines, (ii) contain sufficient information for a meaningful evaluation of public benefits, financial and non-financial, and (iii) are provided in an appropriate format.

The City may reject any Unsolicited PPEA Proposal at any time. If the City rejects an Unsolicited PPEA Proposal that purports to develop specific cost savings, the City will specify the basis for the rejection. An Unsolicited PPEA Proposal rejected prior to posting of public notice (*see* paragraph (B), below) shall be returned to the Private Entity together with all fees and accompanying documentation.

If an Unsolicited PPEA Proposal is accepted by the City for consideration, public notice of the proposal shall be given as provided below.

**B. Public Notice of Receipt of an Unsolicited Proposal**

**1. *Notice of Receipt***

Within ten (10) working days after acceptance of an Unsolicited PPEA Proposal for consideration, the City will post a copy of the Conceptual Proposal so that it will be available for public inspection in accordance with the posting requirements of PPEA §56-575.17(A), which shall include, without limitation, posting on the Commonwealth of Virginia’s electronic procurement website. Records and information exempt from FOIA requirements shall not be required to be posted or otherwise made available for public inspection.

**2. *Solicitation of Competing Proposals***

At the same time an Unsolicited PPEA (Conceptual) Proposal is posted for public inspection, the City shall also post notice that the City will receive competing PPEA Proposals for a period of time specified in the notice, no fewer than 45 days from the date of such posting (“Solicitation”).

The Solicitation shall set forth in detail a description of the Unsolicited PPEA Proposal, sufficient to encourage the submission of competitive proposals.

**3. *Staff Responsibility for Assurance of Competition***

To ensure that sufficient information is available upon which to base the development of a serious competing proposal, representatives of the City familiar with the Unsolicited PPEA Proposal shall respond to inquiries received from Private Entities interested in submitting competing proposals, and upon request shall meet in person with those Private Entities.

**C. Consideration of competing proposals**

**1. *Evaluation Process***

The City will evaluate an Unsolicited PPEA Proposal, and any competing proposals received in response to the public notice referenced in ¶ III.B.1, above, using one of the following evaluation procedures:

- a. *Competitive negotiation process*—upon a written determination that a competitive negotiations process would be advantageous to the City and the general public, the City may utilize a competitive negotiations process to evaluate competing PPEA Proposals. The determination shall be rendered in accordance with PPEA §56-575.16(2).

If a competitive negotiations process is utilized, a protocol for such process shall be established by the City Manager consistent with the procurement of “services other than professional services” by “competitive negotiation” as set forth in VPPA §2.2-4301 and § 2.2-4310(B) (*see also* PPEA §56-575.16(2)). The written protocol shall include elements and evaluation factors best suited to the type of project that is the subject of the unsolicited PPEA. Prior to the posting of public notice as referenced in ¶ III.B.1, above, the written protocol must be approved in advance by the City’s Procurement Manager and City Attorney’s Office as being consistent with the statutory provisions referenced in this paragraph.

- b. *Competitive sealed bidding*—unless the City proceeds pursuant to paragraph (a), above, the City will utilize a competitive bidding process, consistent with the procedures for *competitive sealed bidding*, as defined in VPPA §2.2-4301. (*See* PPEA §56-575.16(1)). A written protocol for the competitive bid process shall be established by the City Manager, consistent with the procedures set forth in Va. Code §2.2-4310, including such elements and evaluation factors as may be best suited for the type of project that is the subject of the unsolicited PPEA. Prior to the posting of public notice as referenced in ¶ III.B.1., above, the written protocol must be approved in advance by the City’s Procurement Manager and City Attorney’s Office as being consistent with the statutory provisions referenced in this paragraph.

## 2. *Criteria for Choosing Among Competing Proposals*

Each of the procedures referenced in ¶ III.C.1, above, shall include reasonable Project-specific criteria for choosing among competing Conceptual and Detailed Proposals. Project-specific criteria shall be appropriate to the framework selected by the City for evaluation of proposals (competitive negotiation or competitive bidding). Any one or more of the following may be included among such criteria:

- a. Public purposes and public benefits (financial and non-financial)
- b. Priority/ urgency of public need
- c. Cost-benefit analysis
- d. Assessment of Opportunity Cost
- e. Risk sharing, including guaranteed cost or completion guarantees, added value or debt or equity investments proposed by the Private Entity
- f. Revenue sources (including, without limitation, “user fees”, lease payments, service fees, etc.);
- g. Sources of financing and funding
- h. Schedule for delivery (anticipated time needed to establish the project, including all phases (design, construction, equipping, commencement of use, etc.)
- i. Life-cycle costing
- j. Specific cost savings, if any, that the Private Entity will achieve in developing and/or operating a Qualifying Project, and demonstration that the promised cost savings could not be achieved by usual methods of local government funding, procurement or construction

- k. Corroboration of data and information (e.g., disclosure of studies and analyses relied upon by a Private Entity)
- l. Value analysis
- m. Inspection, testing, quality, workmanship, delivery schedule, and suitability for a particular purpose
- n. Scope, costs and duration of the Qualifying Project
- o. Scope, costs and duration of services to be provided as part of a Qualifying Project
- p. Willingness/ ability to enter into interim and comprehensive agreements compliant with all mandatory requirements of the PPEA
- q. Local citizen comments; comments of City departments
- r. Compliance with a minority business enterprise (MBE) participation plan, or good faith efforts to comply
- s. Plans to employ local contractors and residents
- t. Special Qualifications of the Private Entity
- u. General reputation, industry experience and financial capacity of the Private Entity
- v. Special qualifications, knowledge, skills and experience of the employees and contractors proposed to be used by a Private Entity
- w. Proposed design of the Qualifying Project
- x. Consistency of the general nature and location of proposed public facilities with the City's Comprehensive Plan
- y. Consistency with City Council's Vision and Strategic Plan
- z. Any other criteria deemed necessary or appropriate by the City

### 3. *Review and Evaluation of Proposals by the City*

The City will review and evaluate proposals, in accordance with the protocol and criteria established in C.1. and C.2, above.

## IV. PPEA Transactions Initiated by the City

### A. **Competitive negotiation or bidding process is required**

The City may solicit proposals (or invite bids) from Private Entities for the development or operation of a desired Qualifying Project. *However*, the City Council may enter into a comprehensive agreement with a Private Entity only if the City has utilized one of the procedures listed in Section III.C.1.a or III.C.1.b, above. Within its solicitation/ invitation, the City shall specify reasonable selection criteria, consistent with Section III.C.2, above.

### B. **Two-stage consideration: Concept Proposals and Detailed Proposals**

The competitive process utilized by the City shall be designed so that it can be implemented in **two stages: (1)** submission and review of initial bids or proposals (each, a “**Conceptual Proposal**”) and then **(2)** submission and review of detailed bids or proposals (each, a “**Detailed Proposal**”).

1. ***Posting of Conceptual Proposals; public hearing***

Conceptual proposals received by the City shall be posted as set forth in Section III.B.1, above.

2. ***Review and Evaluation of Proposals by the City***

The City will review and evaluate Detailed Proposals, in accordance with the process specified within the City's solicitation/invitation. The City may reject any Proposal, at any time.

## **V. City Council Approval of a Qualifying PPEA Project**

PPEA Proposals under consideration by the City pursuant to Sections III (Unsolicited) or IV (City Initiated) above, shall be reviewed and acted upon by City Council as follows:

**A. Review of Proposals at a Public hearing**

In the event the City determines that a proposed Qualifying Project warrants consideration by City Council, then the competing PPEA Detailed Proposals shall be scheduled for a public hearing by City Council during the proposal review process. The public hearing shall be held at least 30 days prior to the City Council's vote to enter into any interim or comprehensive agreement. Trade secrets, financial records, and other records of a Private Entity which are exempt under applicable provisions of FOIA, shall not be posted or disclosed in connection with the public hearing.

*(Ref. PPEA §56-575.17(B))*

Following the public hearing, and upon completion of the City's review and evaluation of Detailed Proposals, the City shall prepare final recommendations for City Council's consideration.

**B. Approval of PPEA Project by City Council**

City Council may grant approval for a Private Entity to develop and/or operate a Qualifying Project, if City Council determines that the Qualifying Project will serve the public purpose of the PPEA pursuant to PPEA §56-575.4(c)(1)-(3). In connection with its approval, City Council shall establish a date for the commencement of activities related to the Qualifying Project.

City Council is not required to grant approval, and may reject any or all PPEA Proposals, at its sole discretion. If City Council declines to grant approval for a Private Entity to develop or operate a Qualifying Project, and the Private Entity's proposal purports to deliver specific cost savings, then City Council shall specify the basis for its rejection of the proposal.

**C. Interim or Comprehensive PPEA Agreement**

City Council's approval, if granted, shall be subject to the Private Entity's entering into an interim agreement pursuant to PPEA §56-575.9:1 or a comprehensive agreement pursuant to PPEA §56-575.9. City Council shall review and approve a proposed interim or comprehensive agreement prior to its execution. *(Ref. PPEA §56-575.4(E))*

Once final terms and conditions for an interim or comprehensive agreement have been negotiated with a Private Entity, but before the agreement is executed by the City, then (a) the City shall post the proposed agreement on the City's website and on the state's electronic procurement website, and (b) a copy of the proposed agreement shall simultaneously be made available for public inspection (i) electronically, by posting on the City's website, and (ii) by appointment for in-person inspection, within the Office of the City Manager. (*Ref. PPEA §56-575.17(C)*).

All interim and comprehensive agreements shall be consistent with the PPEA, and each party to any such agreement shall have all of the rights, duties and remedies set forth within the PPEA.

Copies of interim and comprehensive agreements, and supporting documents, must be electronically filed with the Auditor of Public Accounts for the Commonwealth of Virginia. Electronic agreements shall be made available in the online database maintained pursuant to § 30-133.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Approve Resolution
Presenter:	Samuel Sanders, Jr., Deputy City Manager
Staff Contacts:	Brenda Kelley, Redevelopment Manager Krisy Hammill, Director of Budget
Title:	<b>Appropriating \$107,203.32 for Jefferson School African American Heritage Center Rent Agreement (1 of 2 readings)</b>

**Background**

The Jefferson School African American Heritage Center (JSAAHC) currently occupies and rents 11,065 SF of space at the Jefferson School City Center located 223 4<sup>th</sup> Street NW, Suite A. The rent has been paid by JSAAHC using prior grants by the City Council of funding from what was formerly known as the "Equity Fund". The grant resources were placed in an escrow account and used monthly to cover JSAAHC's rent from December 2012 – November 2017 and again over a 5-yr renewal option that was exercised for the period of October 5, 2017 - November 30, 2022. JSAAHC intends to execute a new lease for a 5-year period of December 1, 2022 – November 30, 2027 with an option.

**Discussion**

The new lease rate beginning December 1, 2022, will be \$15,314.76 per month. During the FY23 Budget discussions, JSAAHC requested consideration from council to provide ongoing grant funds to ensure continued operations. At that time, council did not add any grant funds, but instead indicated a willingness to revisit the matter, while determining how best to evaluate its agreements with external organizations. That work concluded in early summer with work sessions on City Leases and City-Owned Properties that have provided staff with direction on how to organize a consistent process for following in the development, execution, and management of these types of agreements. This arrangement with JSAAHC is different and requires additional consideration as it is the direct payment of rent on behalf of a private entity, which may only be done in the nature of a "donation", pursuant to the enabling authority set forth within Virginia Code 15.2-953.

The City Manager has reviewed the matter and JSAAHC is a nonprofit organization to which City Council may make gifts and donations under the provisions of Virginia Code SEc. 15.2-953.

**Alignment with City Council's Vision and Strategic Plan**

This item aligns with Strategic Plan Goal: 1.5 Intentionally address issues of race and equity.



**Community Engagement**

City Council will resume discussions of special investment agreements as a part of their upcoming strategic planning process.

**Budgetary Impact**

This item will use \$107,203.32 from the existing Council Strategic Initiatives Account.

**Recommendation**

With City Council's approval, staff will remit the equivalent of 7 months of payments from the Council Strategic Investments account to the Jefferson School Foundation's Operations Account for continued processing by JSAAHC as an ACH payment for the monthly rent. This would make the new grant award: \$107,203.32.

**Recommended motion:** *"I move the RESOLUTION approving a gift or donation in the amount of \$107,203.32 to the Jefferson School African American Heritage Center"*

**Alternatives**

City Council could choose to approve at a different amount or choose to not fund at this time.

**Attachments**

1. Resolution\_\$107,203.32\_JSAAHC

**RESOLUTION**

**Approving a gift or donation in the amount of \$107,203.32 to the  
Jefferson School African American Heritage Center**

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a gift or donation is hereto approved in the amount of **\$107,203.32** to the Jefferson School African American Heritage Center, to be used for payment of rent for the Center's lease of premises located at 223 4th Street NW, Suite A, in Charlottesville, Virginia.

This gift or donation shall be paid from the Strategic Initiatives account within the FY2023 Budget for City Council expenditures.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Approval of Resolution

Presenter: Chris Cullinan, Director of Finance

Staff Contacts: Chris Cullinan, Director of Finance  
Michael Rogers, City Manager  
Samuel Sanders, Jr., Deputy City Manager  
Ashley Marshall, Deputy City Manager

**Title: Appropriating American Rescue Plan (ARP) Funds \$565,000 (1 of 2 readings)**

**Background**

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (the Act) to provide additional relief for individuals and businesses affected by the coronavirus pandemic. The Act includes funding for state, local, and tribal governments as well as education and COVID-19-related testing, vaccination support, and research.

The City of Charlottesville received a total of \$19,609,708 from the US Treasury Department in two equal tranches in May 2021 and June 2022. These funds must be obligated by December 31, 2024 and spent by December 31, 2026.

There is currently \$2,349,565 of unallocated ARP funds. This appropriation would utilize \$565,000 of these unallocated funds.

**Discussion**

This appropriation includes four requests that are detailed below. These requests are eligible for ARP funds per the guidance provided by US Treasury.

Request #1: City Hall Ambassadors.

Amount Requested: \$50,000,00.

ARP Eligibility: Responding to the public health emergency.

Description: This request would provide sufficient funds to continue for the provision of temporary staff to guide and service customers in lobby area of City Hall to maintain social distancing and capacity limits for the remainder of FY'23.

Request #2: Automated External Defibrillator (AED) Program for City facilities.

Amount Requested: \$300,000.

ARP Eligibility: Responding to the public health emergency.

Description: Currently, approximately 68 AEDs reside in City-owned properties across the City of Charlottesville. Over 90% of these AEDs were purchased in 2008, with the rest purchased just a short time later. The life expectancy of an AED is usually a minimum of eight years, with an average life expectancy of between 10 to 15 years of service. As the year 2023 approaches, so does the 15<sup>th</sup> year of service practically all of the AEDs for the City of Charlottesville.

In addition to the need for new AEDs, the City needs more AEDs. Simply put, some areas of City premises have only one AED servicing several thousands of square feet. In an emergency, having to locate an AED in another area of a larger building takes away precious time from rendering aid to the patient.

In order to promote a safer and healthier work environment, the Office of Risk Management intends to increase the number of AEDs on City property from 68 to 100 and strategically place mobile trauma kits in high traffic and highly staffed areas of City properties.

Request #3: City Access Control Badges.

Amount Requested: \$15,000.

ARP Eligibility: Responding to the public health emergency.

Description: This request would fund upgrades to the City's access control badge system. The upgrade includes new badges and necessary software and hardware updates. The system helps ensure social distancing between staff and between staff and the public visiting City facilities.

Request #4: Continuation of Emergency Shelter Operations at Premier Circle – City share.

Amount Requested: \$200,000.

ARP Eligibility: Responding to negative economic impacts.

Description: Premier Circle Emergency Shelter is a 92-bed, non-congregate emergency shelter project operated by People and Communities Engaged in Ministry (PACEM) in partnership with Blue Ridge Area Coalition for the Homeless (formerly TJACH), Piedmont Housing Alliance (PHA), and Charlottesville Area Community Fund (CACF), and located at 405 Premier Circle in Albemarle County.

There are currently 84 individuals residing in the emergency shelter all with health complications that place them at increased risk of COVID 19.

A total of \$500,000 is being requested to fund critical emergency shelter operations for January 2023 to April 2023. The City's share is \$200,000. A request of \$200,000 is being made to Albemarle County along with a \$100,000 request to UVA Health.

### **Alignment with City Council's Vision and Strategic Plan**

This resolution contributes to Goal 1 of the Strategic Plan, to be an inclusive community of self-sufficient residents; Goal 2 to be a healthy and safe City; and Goal 5 to be a well-managed and responsive organization.

### **Community Engagement**

None.

**Budgetary Impact**

This request totals \$565,000. If Council approves this appropriation, the remaining balance of unallocated ARP funds will be \$1,784,565.

**Recommendation**

Staff recommends approval of the resolution.

Suggested Motion: "I move the RESOLUTION appropriating the amount of \$565,000 of American Rescue Plan funds for eligible local activities."

**Alternatives**

Council may elect not to appropriate funding for these purposes at this time or may elect other ARP eligible program expenditures.

**Attachments**

1. 10.17.22 Resolution ARP Funds

**RESOLUTION**

**Appropriating the Amount of \$565,000 of  
American Rescue Plan Funds for Eligible Local  
Activities**

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that the sum of \$565,000 from American Rescue Plan funding is hereby designated to be available for expenditure for costs associated with following eligible purposes and amounts:

City Hall Ambassadors	\$50,000.
AED Program for City Facilities.	\$300,000.
City Access Control Badges.	\$15,000.
Emergency Shelter Operations at Premier Circle.	\$200,000.
<b>TOTAL.</b>	<b>\$565,000.</b>

Note: account codes will be established following the first reading on this appropriation for inclusion in the second reading and adoption.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	October 17, 2022
Action Required:	Resolution approval
Presenter:	Samuel Sanders, Jr., Deputy City Manager
Staff Contacts:	Samuel Sanders, Jr., Deputy City Manager Krisy Hammill, Director of Budget
Title:	<b>Appropriating Funds for Bag Distribution in Connection with Plastic Bag Tax - \$20,000 (1 of 2 readings)</b>

**Background**

On July 18, 2022, City Council adopted a plastic bag tax to begin January 1, 2023. This tax levy is the result of action passed during the 2020 General Assembly session where Virginia localities received enabling authority to impose a disposable plastic bag tax within their jurisdictional limits. The City of Charlottesville has expressed a concern about the equity impact of such a tax. The legislation allows localities to impose a five cent (\$.05) per bag tax on disposable plastic bags provided by certain retailers.

The enabling legislation includes stipulations on the use of the associated revenues. Revenues from this tax must be used for programs supporting the following:

1. environmental cleanup,
2. litter and pollution mitigation,
3. environmental education efforts, and/or
4. to provide reusable bags to SNAP or WIC benefit recipients.

In preparation for the tax levy to go into effect, it is necessary to procure a supply of bags for distribution to recipients of SNAP and WIC benefits as provided by the state legislation authorizing the tax.

**Discussion**

Department of Social Services staff will manage the distribution of bags to eligible households ahead of the start of the tax collection beginning January 1, 2023. Staff will develop a distribution plan to reach the 3600 households that makeup the 5000 individuals currently eligible to receive SNAP benefits through the Department of Social Services. DSS Leadership will also coordinate with the health department to provide bags for distribution to the 1570 clients who make up its current caseload.

The bags will be of high recycled content, if not 100% recycled, to ensure this project meets the

expectations of a climate impact program in association with the recently presented Climate Action Plan. Bags will be purchased to provide at least two bags to each interested household while supplies last.

Staff will monitor the actual revenues generated from the tax and the initial receipts will be used to replace the initial investment from the Council Strategic Initiatives Fund. Any funds in excess of this initial investment will be retained for additional bag purchases before being utilized to support pollution mitigation or education efforts as permitted by the enabling legislation.

**Alignment with City Council's Vision and Strategic Plan**

This item aligns with Strategic PPlan Goal: 1.5 Intentionally address issues of race and equity.

**Community Engagement**

Department of Social Services staff will distribute bags to SNAP and WIC eligible households per the enabling legislation for the plastic bag tax.

**Budgetary Impact**

The revenue collected from the imposed bag tax will be used to off-set the cost of the recycled content bags.

**Recommendation**

With City Council's approval, staff will utilize the funds to acquire as many recycled content bags to ensure a minimum of two bags per SNAP and WID eligible households in the City of Charlottesville.

**Alternatives**

City Council could choose to direct additional funds to expand the distribution of bags to other potentially impacted households of the new tax levy.

**Attachments**

1. PBT Resolution - \$20,000



**RESOLUTION**

**Approving an appropriation in the amount of \$20,000.00 for the purchase and distribution of bags to SNAP and WIC eligible households impacted by the plastic bag tax beginning January 1, 2023**

**WHEREAS**, the City of Charlottesville adopted a plastic bag tax on July 18, 2022, that goes into effect on January 1, 2023;

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, that an appropriation is hereto approved in the amount of \$20,000.00 for the purchase of bags to be distributed to eligible households;

**Revenues**

Fund: 105                      Cost Center: 1601001000                      GL Code:4XXXXXX

**Expenditures**

Fund: 105                      Cost Center: 3301001000                      GL Code: 599999