



CITY COUNCIL

Tuesday, October 22, 2024 | 7:00 PM
Council Chamber- City Hall
900 Church Street
Lynchburg, VA 24504

AGENDA

I. Invocation

Councilmember Taylor

II. Recognitions

III. Consent Agenda

III.1. Consideration of approving the minutes from the September 24, 2024, City Council meeting.

III.2. Consideration of approving the minutes from the October 8, 2024, City Council meeting.

IV. Public Hearing

IV.3. Consideration of adopting Resolution #R-24-075 granting a Conditional Use Permit (CUP) to Kerr Holdings, LLC to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

IV.4. Consideration of adopting Resolution #R-24-076 amending the Future Land Use Map and adopting Ordinance #O-24-077 changing the zoning of a certain area located at 273 Riverside Drive.

IV.5. Consideration of introducing Ordinance #O-24-078 approving the FY 2025 First Quarter Adjustments.

V. Public Comment

V.6. Hear from a citizen regarding "local and national election reform and election acceptance". (Jeff Rosner)

V.7. Hear from a citizen regarding "the city towing contract". (Heather Cash)

V.8. ~~Hear from a group representative regarding "the media". (Gary Taylor)(Citizens for a Better Lynchburg)~~

VI. General Business

VI.9. Consideration of adopting Ordinance #O-24-079 consolidating the City's Erosion Control and Stormwater Management Requirements and revising the City's Illicit Discharge Requirements.

VI.10. Consideration of introducing Resolution #R-24-080 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$4,434.217 to hire (21) twenty-one firefighters with the Lynchburg Fire Department.

VI.11. Consideration of introducing Resolution #R-24-081 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$95,000 to expand substance abuse treatment capacity in the Lynchburg Adult Drug Court.

- VI.12.** Consideration of introducing Resolution #R-24-082 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$45,266 for support of the Drug/Recovery Court docket by enhancing testing.
- VI.13.** Consideration of introducing Resolution #R-24-083 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$500,000 to enhance the criminal justice response to sexual assault, domestic violence, dating violence, and stalking in the City of Lynchburg.
- VI.14.** Consideration of adopting Ordinance #O-24-084 amending Lynchburg City Code Section § 2-16.1 to align the City Council's salaries to the City's present payments and practices (Option B).
- VI.15.** Consideration of adopting Resolution #R-24-____ approving the 2025 Legislative Agenda.

VII. Closed Session

September 24, 2024

// A regular meeting of the Council of the City of Lynchburg was held on the 24th day of September, 2024, at 4:00 p.m. in the Council Chamber, City Hall, Stephanie Reed, President, presiding. The following Members were present:

Present: Stephanie Reed, Chris Faraldi, Jeff Helgeson, Martin Misjuns, Larry Taylor,

Sterling A. Wilder 6

Absent: MaryJane Dolan 1

// In the matter of Work Session Agenda Overview, City Manager Wynter Benda notified Council that a meeting was scheduled for Tuesday, November 26, during the week of Thanksgiving. He said that a special meeting was scheduled on November 19 for the Legislative Dinner, which was held annually, so he requested consensus from Council to cancel the November 26 meeting in lieu of the Legislative Dinner. Mayor Reed stated that there was consensus from Council to cancel the meeting.

Fire Chief Greg Wormser announced that they recently were awarded a FEMA SAFER grant totaling \$4.4 million. He said that the grant would be used to hire firefighters at no cost to the City with respect to salaries and benefits. He said that this was the largest grant the department ever received. He said that they intended to begin hiring firefighters later in the calendar year after they accepted the grant, and the grant period went from March 2025 to March 2028. He said that the grant would fund up to 21 firefighters, and they had to hire people within 180 days of receiving the grant.

// In the matter of Community Development, Agenda Item #1, Council held a work session regarding the White Rock School Project Update. City Manager Wynter Benda provided Council with an update on the project. Built in 1912, the former White Rock Elementary School is located at 400 Buena Vista Street and was recently vacated by the Lynchburg Community Action Group. Funding appropriated in FY 2024 by City Council allows for community input, design and improvements to convert this facility into a neighborhood center. The project

includes the entire block containing the school buildings bounded by Buena Vista, Poplar, Harvey and Tulip Streets.

Councilmember Wilder suggested that the input of residents in the White Rock area should be considered specifically. Mr. Benda said that Work Program Architects was a Norfolk-based firm that operated these types of community engagement events, so he would ensure that they started identifying who was a resident of White Rock at them.

// In the matter of Economic Development, Agenda Item #2, Council held a work session regarding the 50th Running of the Virginia 10-Miler. Director of Economic Development & Tourism Marjette Upshur provided a presentation to Council. The City of Lynchburg recognizes the 50th anniversary of the Moore & Giles Virginia 10 Miler Road Race, a significant community event that has promoted health, fitness, and tourism in the region since 1974. The Virginia 10 Miler has attracted thousands of runners from across the nation and the world, contributing to Lynchburg's economic and social vitality. Staff will provide a brief update on the race's legacy, its impact on the local economy, and its role in fostering community spirit over the past five decades.

// In the matter of Community Development, Agenda Item #3, Council held a work session regarding the Code Compliance and Property Toolkit Update. Community Development Director Tom Martin provided a presentation to Council on the property toolkit. On June 28, 2022, City Council adopted the additional code requirements for derelict buildings. These requirements, along with additional resources, have allowed the City to pilot a more proactive approach to addressing condemned/blighted properties. Staff will provide an overview of these efforts, to date, and how they are working with other code compliance programs to improve neighborhood safety and create infill housing opportunities.

Councilmember Wilder asked for more information regarding the housing trust fund. Mr. Martin said that it was not entirely finalized, but they had discussed creating a program for developers to immediately receive building permits for pre-approved lots. He said that it could

also include payment assistance. Councilmember Wilder suggested that the program should include property rehabilitation assistance. He noted that he would like to revisit these funds in the next budget cycle.

Councilmember Helgeson asked what had happened to the spot blight program. Mr. Martin said that at some point, the Housing Authority had decided not to use spot blight, since it required the use of eminent domain and approval from Council. Councilmember Wilder said that they also experienced issues getting contractors onboard to perform the rehabilitations.

Councilmember Misjuns asked for clarification about the funding source for property rehabilitation assistance. Mr. Martin said that a housing trust fund program had not been finalized, and it would be up to a decision of Council to determine the funding. Councilmember Misjuns asked if it would require local funding. City Manager Wynter Benda said yes; usually, localities contributed a fixed amount of funding that was used to leverage private contributions. Councilmember Misjuns said that he was concerned about using local tax revenue to assist individuals in repairing their homes, but he would support using state or federal funding.

Mayor Reed asked what the cost would be for the two houses currently under consideration that they did not have the funding to address. Mr. Martin said that it would be \$43,000, and they already had bids. He said that they had to consider the demolition costs, asbestos abatement, and landfill fees. Mayor Reed said that she wanted to consider funding options to address the identified safety issues related to the condition of the properties. Mr. Benda said that staff would return to Council with possible options.

Councilmember Helgeson asked for clarification about the ownership of the properties once they were demolished. Mr. Martin explained that when a property was condemned and demolished, the property owner retained ownership, but the City would put a lien on the property. He explained that it was often difficult to collect on the lien until the property was sold. Mr. Benda said that if Council was interested, they could consider creating a land-revolving

fund, so that the money recouped from the liens was put into that fund rather than returned to the General Fund.

Councilmember Misjuns asked for clarification about the insurance status of the two properties, because if there was insurance coverage, the company may cover the cost of demolition. Mr. Benda said that staff would look into that answer as a follow-up.

// In the matter of Towing and Recovery Operations, Agenda Item #4, Council was briefed regarding the Towing and Vehicle Recovery Services Contract Award. Procurement Manager Stephanie Suter briefed Council on the matter. The City's towing and vehicle recovery services contract with Bee Line Transport reached the end of its renewal year options and needed to be re-solicited. This contract is primarily used for City-owned fleet vehicles, including Refuse Trucks and Fire apparatus, and Lynchburg Police Department initiated tows. It also covers towing of derelict vehicles requested by Community Development. The Towing Advisory Board convened to finalize the scope of services and terms of a request for proposals which was then posted on May 14, 2024 with all proposals due by June 13, 2024. Three proposals were received—Bee Line Transport, Cash's Garage, and Mitchell's Towing and Recovery. An evaluation subcommittee composed of four Board members was established to review all proposals and bring forth their observations to the full Board. The full Board then performed site visits to examine facilities, operations, and equipment. There was full consensus to bring forth a recommendation to City Council to award the contract to Bee Line Transport.

Councilmember Helgeson said that they should use a separate towing contractor for smaller vehicles and accidents so that more companies could be considered. Ms. Suter said that the point of the contract was for City fleet vehicles. She said that according to last year's figures, 70% of City fleet tows were for larger vehicles.

Councilmember Misjuns stated that small business owners were upset. He explained that he sees both sides of the argument. He remembered when he was on a firetruck that needed a tow which required a towing apparatus that could haul heavy equipment. He also

stated that the police-initiated tows weren't conducive to a revolving contract. Ms. Suter replied that most localities who have a rotation have one locally-owned lot that all towing companies can tow. This brings consistency to police-initiated tows and provides a benefit to the citizen of knowing where their car is impounded no matter what company tows the vehicle.

Vice Mayor Faraldi asked what towing options were available to citizens when they got into a traffic accident. Ms. Suter said that citizens could call whoever they wanted to tow the vehicle, but if the tow was initiated by the police, then the tow would be done by Bee Line. She said that this was no different than how the process currently operated.

Councilmember Wilder asked how many towing companies submitted bids. Ms. Suter said that only three companies applied. Councilmember Wilder asked if the towing companies set the towing and storage rates. Ms. Suter said that they did. Councilmember Wilder asked if the City received a percentage of the collected fees. Ms. Suter said that they did not.

Councilmember Misjuns asked if the City knew which companies were capable of meeting the towing requirements. Ms. Suter said that the City knew the capabilities of the local companies, and there were only two in the area that could meet the towing requirements. Councilmember Misjuns expressed concerns that they were setting specifications that only two companies could meet.

// In the matter of Region 2000 Services Authority, Agenda Item #5, Council was briefed regarding the Region 2000 Services Authority Settlement Resolution. Mayor Reed stated that the item would appear before Council for action at the evening session. Deputy City Manager Greg Patrick briefed Council on the matter. The Region 2000 Services Authority Landfill in Rustburg, where the City of Lynchburg disposes of our municipal waste, will reach its capacity in 2028 or 2029. The Region's member jurisdictions have also been involved in long-standing litigation that has seen the City of Lynchburg and Campbell County at odds with Appomattox and Nelson Counties over what amounts to host payments for the landfills in Campbell County and Lynchburg. This Business Item Briefing will provide an overview of a settlement framework

that would potentially settle the lawsuit and lead to an expansion of the existing landfill to provide an additional 25 years of capacity for the City's municipal waste.

Vice Mayor Faraldi asked what would happen if this was not approved. Mr. Patrick said that they would have to expedite the construction of a transfer station, which would be more expensive than this deal, and consider how to effectively dispose of their waste in the next five years. Vice Mayor Faraldi requested for more information to be brought at the next meeting regarding the financial impacts of a transfer station.

Councilmember Misjuns asked if there was any downside to this deal? Mr. Patrick responded that he would have to search hard to find the downside.

Councilmember Helgeson responded that the downside is that the counties of Nelson and Appomattox are just being given things.

// In the matter of Lynchburg Hillcats Baseball, Agenda Item #6, Council was briefed regarding the Approval of New Ownership of the Lynchburg Hillcats Baseball Team. Deputy City Manager Greg Patrick briefed Council on the matter. Lynchburg Baseball Corporation, the current owner of the Lynchburg Hillcats baseball team, has entered into an agreement to sell the team to Hillcats Baseball, LLC. The city must approve the transfer of the franchise lease of City Stadium before the sale can be completed. This briefing will provide Council with background on the sale and the new ownership before a vote to approve the franchise lease transfer at the October 8th Council Meeting.

// In the matter of City Council, Agenda Item #7, the Lifelong Learning Committee briefing was deferred until after the joint City Council and City Schools meeting.

// In the matter of Roll Call, Councilmember Helgeson said that Ford Motor Company and other corporations had stopped DEI initiatives. He said that several months ago, there was a proposal before Council related to merit, excellence, and opportunity, but it had never been brought back before them. He said that they should reconsider the proposal at the next meeting given the actions taken by corporations.

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Councilmember Wilder announced that Diamond Hill hosted a successful community day on Saturday. He thanked Parks and Recreation and the other participants for organizing the event. He said that a Latino Cultural Celebration was held Saturday night. He said that on the upcoming Saturday at 2 p.m., there would be an event honoring the Diamond Hill Historic Community's 50th Anniversary. He said that there would be a party hosted on Pierce Street as well.

Councilmember Misjuns said that a dangerous event happened since the last meeting involving the police department. He commended the City officers for their bravery during the response. He said that assessments were upcoming, and there was the chance for 20% increases. He said that they had to start thinking about what that would mean in terms of the real estate tax rate. He said that over the summer, the Commission on Local Government reduced the fiscal stress ranking. He said that there were 24 cities with a lower ranking than the City. He said that this meant that they did not have the ability to extract more revenue from citizens and businesses. He said that median household incomes had lowered compared to other places. He said that they should equalize the real estate tax rate.

Mayor Reed stated that she was able to spend the day with Linkhorne Middle School students last week. She said that the 7th grade class she visited was wonderful. She congratulated the Lynchburg United Youth Football teams on a successful launch. She announced that it was Ovarian Cancer Awareness Month, and ovarian cancer was often referred to as the silent killer since symptoms could be subtle and easily mistaken for less severe conditions. She encouraged people to get screened. She highlighted the work and contributions of the Lynchburg Sheriff's Department. She said that 24th Annual Day at the Point would be hosted on Saturday, October 5, from 10 a.m. to 4 p.m. She said that the event was free and open to the public.

// In the matter of Closed Session, Agenda Item #8, Council moved the appointments of boards and commissions until after the 7:00 p.m. meeting.

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// The meeting was recessed at 6:08 p.m.

// A regular meeting of the Council of the City of Lynchburg was held on the 24th day of September, 2024, at 7:00 p.m. in the Council Chamber, City Hall, Stephanie Reed, President, presiding. The following Members were present:

Present: Stephanie Reed, Chris Faraldi, Jeff Helgeson, Martin Misjuns, Larry Taylor,

Sterling A. Wilder 6

Absent: MaryJane Dolan 1

Councilmember Helgeson led the invocation, followed by the Pledge of Allegiance.

// Clerk of Council Alicia Finney asked the Mayor if it would be acceptable to continue advertising for vacancies on Boards and Commissions until the October 8, 2024 City Council meeting. Mayor Reed confirmed there was consensus from Council to do so.

// In the matter of the Consent Agenda, Item #1, Council considered adopting Resolution #R-24-062 and amending the FY2025 City/Federal/State Aid Fund budget and appropriating a \$9,500 Certified Local Government grant to fund a National Alliance of Preservation Commission Commissioner Assistance and Mentoring Program workshop.

Councilmember Wilder motioned, seconded by Vice Mayor Faraldi, to adopt the Consent Agenda as presented.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder 6

Noes: 0

Absent: Dolan 1

// In the matter of Engineering, Agenda Item #2, Council held a public hearing and considered adopting Resolution #R-24-064 granting a non-exclusive interim license to FIREFLY FIBER BROADBAND to maintain and operate telecommunications facilities within the City of Lynchburg, Virginia. Lee Newland, City Engineer provided a brief summary of the item to Council. Firefly has asked to use and be granted a non-exclusive interim license to maintain and

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operate fiber optic cable for telecommunications purposes within the corporate limits of the City of Lynchburg, Virginia. Staff recommends authorization of the attached license agreement by adopting the attached proposed Resolution after a Public Hearing to permit Firefly to operate within the City given that the encroachments cause no undue hardship to the City.

Mayor Reed asked if the petitioner would like to make a presentation. Firefly President and CEO Gary Wood said that he had no presentation but would like to thank the staff for helping them submit their first application in the City. He appreciated their consideration and hoped Council would approve the request.

There was no one to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

At its September 10, 2024 meeting, the Physical Development Committee recommended approval. As Chair of that committee, Councilmember Taylor brought the committee's recommendation for approval forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// In the matter of Community Development, Agenda Item #3, Council held a public hearing and considered adopting Resolution #R-24-065 approving the Consolidated Annual Performance and Evaluation Report (CAPER) Program Year 2023, Fiscal Year 2024 and requiring the submission of the same to the U.S. Department of Housing and Urban Development (HUD). Melva Walker, Grants Manager, provided a brief summary of the item to Council. The U.S. Department of Housing and Urban Development (HUD) requires each jurisdiction receiving HUD-administered grants (CDBG and HOME) to draft a CAPER and submit it for public review and comment. The CAPER describes the City's progress towards the housing and community development goals established within the 2020-2024 Consolidated Plan and the PY 2023 (FY

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2024) Annual Action Plan. This CAPER is for the period of July 1, 2023 through June 30, 2024. With City Council's approval, the CAPER, including a summary of any public comments, will be submitted to the HUD Richmond Field Office for review to meet compliance regulations for the CDBG and HOME Program. A public notice was published in The News and Advance on Friday, September 6, 2024

Mayor Reed asked if anyone would like to speak in favor of this proposal. Ms. Kimberly Dyke-Harsley spoke in favor of the proposal. She requested that the remains of those buried at the end of Smith Street remain undisturbed and that Lynchburg Union Cemetery be added to the list.

There was no one else to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

Councilmember Taylor motioned, seconded by Councilmember Wilder, to adopt Resolution #R-24-065 approving the Consolidated Annual Performance and Evaluation Report (CAPER) Program Year 2023, Fiscal Year 2024 and requiring the submission of the same to the U.S. Department of Housing and Urban Development (HUD).

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// In the matter of Community Development, Agenda Item #4, Council held a public hearing and conducted the first reading of Resolution #R-24-066 approving the allocation of the Program Year 2021 HOME American Rescue Plan funds from the U.S. Department of Housing and Urban Development (HUD). Melva Walker, Grants Manager, provided a brief summary of the item to Council. In Fiscal Year 2022 (Program Year 2021), the U. S. Department of Housing and Urban Development (HUD) provided HOME - American Rescue Plan (HOME-ARP) in over \$5 billion of supplemental HOME funds across the nation. The City was awarded \$1,498,471, of

which 10% of the funds (\$149,847) were approved for Program Administration. The City had to devise a HOME Allocation Plan for the use of the funds. The Plan was developed and approved by the City Council and HUD. The HOME-ARP funds are to be used to assist individuals or households who are homeless, at risk of homelessness and other vulnerable populations ("Qualifying Populations"). The purpose of the HOME-ARP funds is to reduce homelessness and increase housing stability. According to the City's approved HOME-ARP Allocation Plan, the funds are to be used for rental housing development for the Qualifying Populations.

City staff issued a Request for Proposals/Applications and only one application was received. Rush Homes, a certified Community Housing Development Organization (CHDO), submitted an application in the amount of \$1,348,624 to construct eight (8) rental units, with four (4) efficiency units and four (4) one-bedroom units potentially in duplexes.

The Community Development Advisory Committee (CDAC) met on March 29, 2024, and reviewed the application that was submitted for these funds. CDAC has recommended the approval and allocation of the HOME-ARP funds to Rush Homes Carolyn's Place project for the construction of eight (8) rental housing units. A public notice was published in The News and Advance on September 6, 2024.

Mayor Reed asked if anyone would like to speak in favor of this proposal. Ms. Tracey Ballagh, Executive Director of Rush Homes, spoke in favor of the proposal. She stated that the City's willingness to invest these funds demonstrated a strong commitment to addressing the community's need for affordable housing. This was positively received by other donors and funding agencies and resulted in more successful funding applications and partnerships.

Councilmember Taylor asked if there would be space available for veterans. Ms. Ballagh replied yes; that was part of the qualifying population.

Ms. Sarah Quarantotto, Executive Director of Miriam's House, spoke in favor of the proposal. She stated that this proposal was meant to provide dedicated, permanent supportive housing to community members who had experienced long periods of homelessness.

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There was no one else to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

Councilmember Taylor motioned, seconded by Councilmember Wilder, to adopt Resolution #R-24-066 approving the allocation of the Program Year 2021 HOME American Rescue Plan funds from the U.S. Department of Housing and Urban Development (HUD).

Councilmember Helgeson asked if the zoning was already in place for this parcel. Community Development Director Mr. Tom Martin replied that Council previously approved the zoning for 48 units for the site known as Carolyn's Place [August 13, 2024].

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// In the matter of City Council, Item #5, Council held a public hearing in consideration of introducing a resolution amending the FY 2025 Adopted Budget to align City Council salaries with the requirements of Lynchburg City Code Section 2-16.1 (Option A); or adopting an ordinance amending Lynchburg City Code Section 2-16.1 to align the codified City Council salary amounts with present City payments and practices (Option B). Donna Witt, Chief Financial Officer, provided a brief summary of the item to Council. In December 2019, by adopting Lynchburg City Code Section 2-16.1, the City Council set its salaries at \$14,000 per member, per year, and \$16,000 for the Mayor, per year, beginning July 1, 2020. However, because of budget uncertainties associated with the COVID-19 Pandemic, the City Council maintained its salaries at \$10,000 per member, per year, and \$12,000 for the Mayor, per year, beginning July 1, 2020 as part of the FY 2021 Adopted Budget.

Mayor Reed asked if anyone would like to speak in favor of the proposal. Ms. Kimberly Dyke-Harsley spoke in favor of the proposal to increase City Council salary amounts. She

requested that along with this pay increase, their job performance improve and increase for the locality.

Mr. Michael Bremer spoke in favor of Option B. He noted that while it was important that people be paid for their work, the City was apparently lacking in funding to accomplish basic and necessary projects such as building demolition.

There was no one else to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

Councilmember Helgeson motioned, seconded by Councilmember Misjuns, to adopt the resolution approving Option A, amending the FY 2025 Adopted Budget to align City Council salaries with the requirements of Lynchburg City Code Section 2-16.1 (Option A).

Councilmember Helgeson stated that people were deterred from serving on Council because the current salary did not adequately compensate members, considering the time and effort required to act as representatives and decision-makers for the entire community. He stated that he supported this option because it was enumerated in State Code and because he believed that both current and future Councilmembers deserved to be given a compensatory salary for their work.

Councilmember Misjuns asked if this option would adjust the salary for the future and there was no back pay involved. Matthew Freedman, City Attorney, said that was correct. Councilmember Misjuns asked if Option B would be reducing the salary from what the State Code said that it should be. Mr. Freedman said that it would be equalizing to the current practice, which was less than what was included in State Code.

Councilmember Taylor asked if they would have enough funds available in the first quarter adjustments to demolish the buildings mentioned earlier. Ms. Witt said that they could find the funds to accomplish that. City Manager Wynter Benda said that the funds for demolition were a specific line item; the funds required to meet that need may have to come from a different location in their budget to meet that need, which would be discussed with Council.

There was capacity in the budget to accommodate the cost of demolition, but it would exceed their current allocation for demolition.

With no further discussion from Council, the following vote was recorded:

Ayes: Helgeson, Misjuns, Taylor	3
Noes: Reed, Faraldi, Wilder	3
Absent: Dolan	1

Mayor Reed asked Mr. Freedman what the next options were for Council regarding this matter. Mr. Freedman said that Council could consider Option B, or they could table the matter until the next meeting when all Councilmembers were present and consider it again at that time.

Vice Mayor Faraldi motioned, seconded by Mayor Reed, to approve an ordinance amending Lynchburg City Code Section 2-16.1 to align the codified City Council salary amounts with present City payments and practices (Option B).

Mr. Freedman clarified that there was a scrivener's error; before #1, it should state "Be it ordained by the Council of the City of Lynchburg, Virginia."

Vice Mayor Faraldi said that Option B would effectively keep their salaries as had been accustomed during his tenure on Council, and he fundamentally believed they should not be in the position to vote for their own pay increases.

Mayor Reed said that there were many other areas that this funding could be applied to, so she supported changing the ordinance to align their current pay.

Councilmember Misjuns made a substitute motion to reduce the Mayor's pay from \$12,000 to \$10,000 to align with the other Councilmembers.

Mayor Reed asked Mr. Freedman if the motion was acceptable. Mr. Freedman said that he would have to review the charter to confirm that. He said that he would request, if there was a second to the motion, that the motion be tabled until the next meeting in order for him to look into the matter.

Vice Mayor Faraldi asked if it was improper to consider anything but a member of Council, considering that the public hearing pertained to the specific role of Councilmembers and not specific to the Mayorship. Mr. Freedman said that if the charter did not provide for a higher salary for the Mayor, he believed it was acceptable to consider the motion as it pertained to a member of Council.

Councilmember Helgeson seconded the motion.

Councilmember Misjuns said that it would be appropriate to align the Mayor's pay with the rest of Council if they were considering lowering the Council's pay.

Councilmember Helgeson said that he supported the motion because he believed the Mayor should be paid less.

Vice Mayor Faraldi asked if the compensation of Councilmembers would remain at \$10,000 under Option B. Ms. Witt said that was correct.

Mayor Reed called the vote on the motion to lower the Mayor's pay.

With no further discussion from Council, the following vote was recorded:

Ayes: Helgeson, Misjuns	2
Noes: Faraldi, Reed, Taylor, Wilder	4
Absent: Dolan	1

Councilmember Wilder said that he would prefer to vote on Option B with all Councilmembers present.

Mayor Reed called the vote for approval of Option B.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed	1
Noes: Faraldi, Helgeson, Misjuns, Taylor, Wilder	5
Absent: Dolan	1

Councilmember Wilder motioned, seconded by Councilmember Misjuns, to table the matter until all Councilmembers were present. Councilmember Wilder said that it was important that all members participate in this conversation.

Vice Mayor Faraldi asked how they could introduce Option B again for voting. Mr. Freedman answered that a person voting against the motion would need to reintroduce it. He clarified that the reason he suggested Option A return before Council was because what they were doing in the budget did not align with City Code.

Mayor Reed called the vote to table the matter until the next meeting of City Council.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Helgeson, Misjuns, Taylor, Wilder	5
Noes: Faraldi	1
Absent: Dolan	1

// In the matter of Parks and Recreation, Agenda Item #6, Council held a public hearing and considered adopting Resolution #R-24-067 accepting the return of real estate from Lynchburg City Schools specific to Perrymont Elementary School; and adopting Resolution #R-24-068 dedicating real estate known as 500 Sandusky Drive and Part of 409 Perrymont Avenue as open-space land pursuant to the Virginia Open-Space Land Act. Wyatt Woody, Director of Parks and Recreation, provided a brief summary of the item to Council. The Virginia Outdoors Foundation (\$169,000) and the Department of Conservation and Recreation (\$153,000) have both awarded Lynchburg Parks and Recreation grant funding for improvements at Perrymont Park. The grant funding would be used to develop a paved 1/4-mile walking loop, nature paths, a picnic area, a fenced off-leashed area, drainage improvements, and an outdoor classroom. There are no local matching funds required for these grants, although one of the grants requires the dedication of City property as open-space land. The property to be dedicated as open-space land is shown in the 'Open Space Exhibit' accompanying this agenda item. The property to be dedicated as open-space land has extremely low development potential due to steep

slopes, poor soils, and public infrastructure. City Council has taken similar action for property in Tinbridge Hill and at Jefferson Park in Dearington.

Three actions are needed from City Council: (1) To accept the return of City property behind Perrymont Elementary School as it will no longer be needed for school purposes; (2) To authorize the dedication of open-space land as previously described; and (3) To amend the FY 2025 City/Federal State Aid Fund budget and appropriate the said grant funding.

The first reading (introduction) to amend the FY 2025 City/Federal State Aid Fund budget and appropriate the said grant funding was held on September 10, 2024, and the second reading (adoption) will be on the General Business portion of Council's meeting agenda later this evening.

There was no one to speak in favor or opposition, either by phone or in-person, so the public hearing was closed and the matter rested with Council.

Vice Mayor Faraldi motioned, seconded by Councilmember Misjuns, to adopt Resolution #R-24-067 accepting the return of real estate from Lynchburg City Schools specific to Perrymont Elementary School.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

Councilmember Misjuns motioned, seconded by Vice Mayor Faraldi, to adopt Resolution #R-24-067 dedicating real estate known as 500 Sandusky Drive and Part of 409 Perrymont Avenue as open-space land pursuant to the Virginia Open-Space Land Act.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// Mayor Reed confirmed there was consensus from Council to add Mr. Mike Troxel to speak during Public Comment about the bow hunting ordinance and to be placed second to last under this section.

// In the matter of Public Comment, Agenda Item #7, Council heard from a citizen regarding “community safety – advocating for opioid crisis solutions.” William Rice was not present to address Council.

// In the matter of Public Comment, Agenda Item #8, Council heard from a group representative regarding “city towing contract.” Matthew Cash, Cash’s Garage, addressed Council. He stated that he was a resident of Amherst County. He requested that Council consider Cash’s Garage when the City Towing Board approved the City towing contract.

// In the matter of Public Comment, Agenda Item #9, Council heard from a group representative regarding “city towing contract.” Kevin Jones, Bee Line Transport, addressed Council. He requested that Council consider Cash’s garage when the City Towing Board approved the City towing contract.

// In the matter of Public Comment, Agenda Item #10, Council heard from a citizen regarding “future issues which need attention.” Peter Cefaratti was not present to address Council.

// In the matter of Item Not on the Agenda - Public Comment, Agenda Item #11, Council heard from a citizen regarding the City bow-hunting ordinances. Mike Troxel addressed Council. He expressed support for the City’s changes to the bow-hunting ordinances, specifically the height requirement amendment. He requested Council consider lowering the height requirement to 8 feet, for permits to be extended from one year to two years, and for coyotes to be included in the bow-hunting ordinance.

// In the matter of Public Comment, Council heard from a group representative regarding “federal, state, local 2024 elections.” Gary Taylor, Citizens for a Better Lynchburg, addressed Council. He stated that he was a current resident of Goode, Virginia. He discussed the recent

June primary election and the upcoming November election. He urged the Republicans to elect the Ward III representative to Council who would best serve their interests.

// In the matter of Parks and Recreation, Agenda Item #12, Council considered adopting Resolution #R-24-063 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$322,000 from the Virginia Outdoor Foundation and Department of Conservation and Recreation grants for Perrymont Park improvements. Wyatt Woody, Director of Parks and Recreation, provided a brief summary of the item to Council. The Virginia Outdoor Foundation (\$169,000) and the Department of Conservation and Recreation (\$153,000) awarded Lynchburg Parks and Recreation grant funding for Perrymont Park. The grant funding would be used to develop a paved 1/4-mile walking loop, nature paths, picnic area, fenced off-leashed area, drainage improvements, and outdoor classroom. There are no local matching funds required for these grants.

On September 10, 2024, Council held the first reading (introduction) of this item and unanimously voted to amend the FY 2025 City/Federal/State Aid Fund budget to accept the grants and appropriate the funding for park improvements. Normally, grant items that are unanimously approved during their first reading are moved to the Consent Agenda section of the subsequent meeting agenda for their second reading (approval). However, to accept the grants, Council must first vote on two actions during the Public Hearing portion of this evening's agenda: (1) To accept the return of City property behind Perrymont Elementary School as it will no longer be needed for school purposes; and (2) To, after a public hearing, adopt a resolution authorizing the dedication of open-space land to satisfy the requirements of one of the grants. Therefore, this item was moved to the General Business section of this evening's meeting to insure Council's actions are taken in the proper order to accept the grants.

Vice Mayor Faraldi motioned, seconded by Councilmember Wilder, to adopt Resolution #R-24-063 and amending the FY 2025 City/Federal/State Aid Fund budget and appropriating

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\$322,000 from the Virginia Outdoor Foundation and Department of Conservation and Recreation grants for Perrymont Park improvements.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// In the matter of the Police Department, Agenda Item #13, Council considered adopting Ordinance #O-24-069 amending Lynchburg City Code Section 27-67.3 to decrease the elevated height requirements for bow hunting of deer, allow bow hunting of deer on city-owned property, and make technical changes. Deputy Police Chief Jerome Stokes provided a brief summary of the item to Council. In an effort to address the deer population in the city, the current bow hunting ordinance needs to be modified. These changes will lower the minimum height to discharge an arrow from a bow from 12 feet to 10 feet. Additionally, the updated ordinance will allow bow hunting on certain city-owned properties. The ordinance language will also update the name change of the Virginia Department of Game and Inland Fisheries to the Virginia Department of Wildlife Resources.

Vice Mayor Faraldi motioned, seconded by Councilmember Misjuns, to adopt Ordinance #O-24-069 amending Lynchburg City Code Section 27-67.3 to decrease the elevated height requirements for bow hunting of deer, allow bow hunting of deer on city-owned property, and make technical changes, with amendments to lower the height requirement to 8 feet, to allow bow hunting of coyotes, and to increase the permit cycle to two years from one year.

Mr. Freedman clarified that there was a scrivener's error, where above #1 it should state "Be it ordained by the Council of the City of Lynchburg, Virginia."

Mr. Benda said that he could not speak to how those amendments would specifically impact their operations, but they appeared reasonable.

Vice Mayor Faraldi said that they had the processes in place to implement all three of the amendments and would allow people to hunt and protect their property.

Police Deputy Chief Jerry Stokes stated that it was unclear how effective bow hunting would be for coyotes in the City. The 10-foot height standard was derived from other localities' common practices. The reasoning for the one-year permitting was to annually review the property boundaries and remain compliant with their regulations. He stated that a two-year permit cycle and a lower height likely would not become issues, but coyote hunting may require further discussion.

Vice Mayor Faraldi said that he believed coyotes should be included due to the number of complaints and concerns he had received from constituents. If someone was licensed by the state to conduct hunting activities on their property, they should be able to do it in this capacity. He stated that the height of 8 feet seemed reasonable as a request.

Mayor Reed asked if Mr. Troxel could provide the general rules for hunting for the public. Mr. Troxel explained the permitting process for the City and that the hunting regulations followed the Virginia state hunting regulations. Mayor Reed asked if the hunting was constrained to the nighttime. Mr. Troxel said no; the state urban regulations run from the first weekend in September through the last weekend in March but are not constrained to night hours. He stated that they only hunted or retrieved deer from properties that had given permission for them to do so.

Councilmember Misjuns said that the changes were no-brainers. He said that the permitted properties would be safe to do this. He expressed his hope that this initiative would encourage more people to address the deer overpopulation issue in the community.

Mr. Freedman asked if Council was amenable to tabling this item in order to give him the time to amend the ordinance so that it aligned with Council's requests.

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Councilmember Helgeson said that he did not support tabling the item because it was currently deer hunting season and it was important that they be proactive in addressing the overpopulation of deer and coyote in the City.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// In the matter of Lynchburg Behavioral Health Docket, Agenda Item #14, Council considered a first reading of Resolution #R-24-070 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$100,200 to fund a Behavioral Health Docket Coordinator. Hollie Jennings, Special Assistant to the City Manager for Data & Innovation, provided a brief summary of the item to Council. The Lynchburg Behavioral Health Docket (BHD) is a court docket designed to enhance public safety by providing an integrated system of treatment and judicial supervision that results in participant wellness and reduced recidivism. Following two years of preparation, the BHD began in March of this year and operates in the Lynchburg General District Court. The Honorable Randy C. Krantz is the docket's presiding judge.

A collaboration between the Commonwealth Attorney's Office, the Office of the Public Defender, Horizon Behavioral Health and other community partners has been awarded funding through a Virginia Supreme Court Specialty Docket grant to administer the docket. The request would support a model similar to the City's Recovery Court (formerly known as "Drug Court"). No additional City funding is required as a local match for the grant.

At its September 24, 2024 meeting, the Finance Committee recommended approval. As Chair of that committee. Vice Mayor Faraldi brought the committee's recommendation for approval forward as a motion. No second was required, and Council, by the following recorded vote approved the motion:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
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Noes: 0

Absent: Dolan 1

// In the matter of Region 2000 Services Authority, Agenda Item #15, Council considered adopting Resolution #R-24-071 directing staff to prepare and execute agreements to resolve the Region 20000 landfill litigation. Gregory Patrick, Deputy City Manager, provided a brief summary of the item to Council. The Region 2000 Services Authority Landfill in Rustburg, where the City of Lynchburg disposes of our municipal waste, will reach its capacity in 2028 or 2029. The Region's member jurisdictions have also been involved in long-standing litigation that has seen the City of Lynchburg and Campbell County at odds with Appomattox and Nelson Counties over what amounts to host payments for the landfills in Campbell County and Lynchburg. Council received a briefing during the Work Session that provided an overview of a settlement framework that would potentially settle the lawsuit and lead to an expansion of the existing landfill to provide an additional 25 years of capacity for the City's municipal waste.

Councilmember Misjuns motioned, seconded by Councilmember Helgeson, to adopt Resolution #R-24-071 directing staff to prepare and execute agreements to resolve the Region 2000 landfill litigation.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder 6

Noes: 0

Absent: Dolan 1

// In the matter of Budget, Agenda Item #16, Council considered a first reading of Resolution #R-24-072 approving the FY 2024 Fourth Quarter Adjustments. Donna Witt, Chief Financial Officer, provided a brief summary of the item to Council. The General, City/Federal/State Aid, Children's Services Act (CSA), Fleet Services, as well as the Schools Capital Projects and Water Capital Projects Funds are amended to reflect the FY 2024 Fourth Quarter Adjustments.

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Vice Mayor Faraldi asked if it would be prudent to approve this resolution absent the items related to Council pay. City Attorney Mr. Matthew Freedman confirmed that they were not included.

Councilmember Wilder motioned, seconded by Mayor Reed, to adopt Resolution #R-24-072 approving the FY 2024 Fourth Quarter Adjustments.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Helgeson, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Dolan	1

// The meeting adjourned at 8:53 p.m.

Clerk of Council

October 8, 2024

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of October, 2024, at 4:00 p.m. in the Council Chamber, City Hall, Stephanie Reed, President, presiding. The following Members were present:

Present: Stephanie Reed, Chris Faraldi, MaryJane Dolan, Jeff Helgeson, Martin Misjuns

Larry Taylor, Sterling A. Wilder 7

Absent: 0

// In the matter of Water Resources, Agenda Item #1, Ms. Finney stated that as a result of an advertisement placed in *The News and Advance* on September 12 and September 20, one bid was received on October 1 from Griffin Pipe Products Co, LLC. She read the bid into the record. There were no additional bids. Mayor Reed closed the bidding.

Councilmember Taylor motioned, seconded by Councilmember Wilder, to accept the sole bid.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan, Helgeson, Taylor, Wilder 6

Noes: 0

Absent: Misjuns 1

// In the matter of Lynchburg Regional Business Alliance, Agenda Item #2, Council conducted a work session on the Lynchburg Regional Business Alliance (LRBA) Overview of Site and Building Readiness. CEO of the LRBA, Megan Lucas, provided a presentation to Council.

Competition in economic development is fierce, especially in terms of attracting capital investment for business and industrial projects – among 3,141 counties, 19,000 municipalities, and 90,000 taxing jurisdictions, just in the United States. Speed to market is often a deciding factor for relocating and growing companies, and it has shortened tremendously over the years as communities have gotten aggressive in preparing themselves to recruit and retain businesses. Today, as we compete globally for new capital investment, many companies require a pad-ready site so they start producing as quickly as possible.

Councilmember Misjuns expressed concerns that there were 90,000 taxing jurisdictions. He said that they needed to ensure taxes were not high in the City.

Mayor Reed asked if the City's taxes had been a concern for developers. Ms. Lucas said that in her 10 years of working in the City, taxes had not been a factor preventing developers from doing business in the City. Mayor Reed asked if there were other concerns related to the City that they should consider. Ms. Lucas said that existing buildings were a significant factor when recruiting businesses to the region, and many industries did not relocate to the region because other areas had existing buildings or buildings in better condition. She said that the age of the existing buildings in the region made it difficult for contemporary manufacturers to upgrade the infrastructure.

Vice Mayor Faraldi asked how the City could shorten the gap to site-readiness. City Manager Mr. Wynter Benda said that they should consider more investment in site creation. He explained that it was more expensive to repurpose old buildings than to build new ones. Ms. Lucas said that they should focus on increasing wages, job opportunities, and investment in an industrial spec-building program. She explained that high-wage jobs supported all other jobs. She said that in order to have a thriving economy, they had to grow their economic base by focusing on basic industries.

Mayor Reed said that it was crucial for the City to offer jobs that would retain local talent from the universities and colleges in the region and students who were looking to enter into the trades.

// In the matter of Economic Development, Agenda Item #3, Council conducted a work session on the Office of Economic Development & Tourism Sports Tourism Update. Director of Economic Development and Tourism Marjette Upshur provided a presentation to Council. Sports Tourism is integral to local and national economies across the United States. Travelers attending sports tournaments, races, and other events, either as participants or spectators, generate significant economic benefits for households, businesses, and governments and

represent a critical driver of the overall economy. While some states generate a larger share of economic impact given their size, seasonality, and location within the U.S., the Sports Events and Tourism Association State of the Industry Report ranks Virginia in the Top 10 States in Sports Tourism Impact for 2023.

// In the matter of Water Resources, Agenda Item #4, Council was briefed regarding Consolidation of Erosion Control and Stormwater Management Requirements & Revising Illicit Discharge Requirements. Water Quality Manager Erin Hawkins briefed Council on the item. The City is one of many cities in the Commonwealth required to have ordinances to meet federal and state requirements for erosion and sediment control management, stormwater runoff, and illicit discharge controls. City Code chapters 16.1 and 16.2 currently outline those requirements. Recent changes by the state require the consolidation of the erosion control requirements and stormwater control requirements into one ordinance. The illicit discharge revisions are separate, related, and included as part of this process under the proposed revised City Code chapter 16.2. The proposed ordinance amendments to the erosion control requirements and stormwater control requirements are consistent with the state-mandated regulations.

// In the matter of Planning, Agenda Item #5, Council was briefed regarding 273 Riverside Drive – Rezoning: R-2, Low-Medium Density Residential District to R-C, Conservation District & FLUM Amendment: Low Density Residential to Resource Conservation – Riverside Conservation. Mayor Reed stated that the item would appear before Council for action at the October 22, 2024 meeting. City Planner Rachel Frischeisen provided a briefing to Council. James and Carolyn Wicks are petitioning to amend the Future Land Use Map (FLUM) from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

The property is recommended for Low Density Residential and Resource Conservation uses on the City's Future Land Use Map (FLUM). The property fits the description of a Resource Conservation area in its current state, which is undeveloped, vegetated open space. The absence of street frontage and presence of steep terrain severely limit any development potential on the property. No future improvements are proposed.

// In the matter of Planning, Agenda Item #6, Council was briefed regarding 1600 Graves Mill Road – Rezoning: B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) - Rosedale Gas Station. Mayor Reed stated that the item would appear before Council for action at the October 22, 2024 meeting. City Planner Rachel Frischeisen provided Council with a briefing on the item. Daniel Cyrus, on behalf of Rosedale Investments, LLC, is petitioning to rezone approximately three and three tenths (3.3) acres located at 1600 Graves Mill Road from B-3C, Community Business District Conditional to B-3C, Community Business District Conditional to revise proffers and allow an adjustment in orientation of a fueling station canopy and parking area.

The property is recommended for Mixed Use on the City's Future Land Use Map (FLUM). A fueling station design was proffered with the Phase 1 & 2 concept plan as part of the 2014 rezoning. The design showed an intentional canopy orientation that was discussed with staff and reviewed by the Design Review Board (DRB). The proffered site layout from 2014 also follows development principles for connectivity, mixed use, and building placement as called for by the Comprehensive Plan 2013-2030's Goals and Policies in Chapter 6: Land Use Development & Community Design.

The voluntarily submitted proffer indicates development in conformance with a revised concept plan, which shows the canopy located in front of the store, along Graves Mill Road, with a parking area fronting Rosedale Boulevard. This is contrary to the walkable, mixed use development that the area received previous approvals to become.

Vice Mayor Faraldi expressed concerns about traffic and walkability related to the layout and design of the site. He said that he had concerns about the runoff generated from the site and the relocation to the other side of the road.

Councilmember Misjuns said that he did not support an exit onto Graves Mill Road. He expressed concerns about the traffic impacts and the design changes.

Vice Mayor Faraldi asked if the City would need to alter its traffic improvement plans for Graves Mill Road due to the change in layout. Ms. Frischeisen said that City engineering staff did not have any comments or concerns regarding the alternate layout. She explained that there would only be a right-in/right-out on Graves Mill Road, so all traffic would be routed through the roundabout and light.

Vice Mayor Faraldi expressed concerns about how the project had changed its scope. He asked if there were zoning issues related to changing the scope and layout of the project. City Attorney Matthew Freedman said that he would defer to staff since it relied on an interpretation of what was permitted under the plans, and that was typically a discretionary matter. Ms. Frischeisen explained that the Zoning Administrator determined that the orientation of the uses was more important than the locations of the uses. She said that so long as the developer followed City code and met the spirit and intent of the CCD and rezoning proffers, then the Zoning Administrator would be likely to approve any changes.

Councilmember Misjuns asked if they could ask the developer to submit a revised site plan reflecting the proposed changes. Ms. Frischeisen said that they could ask the question, but she was not sure if they could require a new site plan to be submitted. City Manager Mr. Wynter Benda said that they could return to the developer with the comments and concerns from Council. Councilmember Misjuns said that he would support tabling the item until they were presented with a revised site plan.

// In the matter of Planning, Agenda Item #7, Council was briefed regarding 1101 & 1107 5th Street – Conditional Use Permit – 5th Street Auto Body Shop. Mayor Reed stated that the item

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would appear before Council for action at the October 22, 2024 meeting. City Planner Rachel Frischeisen briefed Council. Kerr Holdings, LLC, is petitioning for a CUP to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street. The properties are included in the area covered by the Fifth Street Corridor Master Plan adopted by City Council on May 23, 2006. The Comprehensive Plan 2013-2030 Future Land Use Map (FLUM) recommends a Neighborhood Commercial land use for the property. These areas are intended to consist primarily of office, retail, personal service, and restaurant uses that are scaled and designed to be compatible with and serve their immediate neighborhood. A petition to rezone 1101 5th Street from B-4, Urban Commercial District to B-5, General Business District was denied by City Council on July 9, 2024. That rezoning would have allowed a number of more intense uses that are inappropriate in this setting, in addition to the auto body repair use. Approval of the CUP would allow auto body repair without altering the zoning.

// In the matter of the Legislative Agenda, Agenda Item #8, Council was briefed regarding the 2025 Legislative Agenda Draft. Mayor Reed stated that the item would appear before Council for action at the October 22, 2024 meeting. Assistant to the City Manager Mercedes Braun provided a briefing to Council. The 2025 Legislative Agenda Draft outlines Lynchburg's key priorities for the upcoming 2025 General Assembly Session. These include Public Safety, Economic Development and Lifelong Learning as well as other key priorities.

Vice Mayor Faraldi requested to add an item to the legislative agenda regarding a reconsideration of removing mandatory minimums for violent crime and the use of deadly force in the act of a crime. He said that he would support increasing the emphasis on school construction funding.

Councilmember Misjuns noted that school choice funding had been removed from the agenda, and it should be added back.

// In the matter of Roll Call, Councilmember Helgeson said that a year and a half ago, they had discussed funding and drafting the comprehensive plan internally. He said that since then, they

had hired a consultant, and it had been some time since they had received any update. He said that there were questions about the comprehensive plan pushing road diets, which had negative consequences. He said that he wanted to ensure that some properties did not have conflicting zoning with the FLUM because property investors bought properties based on the FLUM. He requested an update on the comprehensive plan process.

Councilmember Wilder said that the Day at the Point event was held over the weekend. He commended staff for organizing the event. He said that the Party on Pierce event was held successfully. He commended staff for the White Rock community engagement event. He commended Riverviews on hosting a talk on how art could be an economic driver in the community. He offered his prayers to the community regarding the recent losses due to crime.

Councilmember Misjuns said that if people thought they were being followed, they should not go home, but they should contact 911 or go to a police station. He said that they needed to ensure they were teaching children how to make smart decisions and how to pay attention to their surroundings. He said that there had been four homicides in the City since the previous meeting, and even one murder was too many. He said that they needed to unchain law enforcement to allow them to aggressively pursue the people who committed these crimes. He said that morning, he was dropping his son at RS Payne Elementary, and 10 minutes later, he received notification that there were police presence two blocks away due to a homicide. He said that he did not receive any notification about this from the school. He said that he saw parents walking to school with their children. He said that parents should be notified when things happen around the school, especially related to crime. He questioned why school security officers were not armed. He said that they needed to arm the school security officers to protect students.

Councilmember Taylor offered his prayers to the bus driver who discovered the murder victim and to the children who were nearby. He said that any crime in the City was personal to him, as he took an oath to protect the citizens of the City.

Vice Mayor Faraldi said that he received a request related to short-term rentals. He said that the request was regarding regulations around offering RV parking spots that could be used for Airbnb-style rentals. He said that the concept was to allow another way for property owners to use their property. He requested follow-up information on how this would work with the current short-term rental system.

Mayor Reed expressed her prayers and condolences to the families affected by recent tragedies. She acknowledged the impact on the public safety officials tasked with responding to and investigating these events. She announced that October was Breast Cancer Awareness Month, a time to reflect on the strength and courage of those afflicted with the illness and to raise awareness about the importance of early detection, education, and research. She noted that her sister was battling breast cancer and had recently rung her bell for her final round of chemotherapy.

// On the motion of Councilmember Wilder, seconded by Councilmember Taylor, by the following recorded vote, Council elected to hold a closed meeting to discuss the investment of public funds, where competition or bargaining is involved, where, if made public or discussed publicly initially, the financial interest and bargaining position of the City would be adversely affected, pursuant to Section 2.2-3711(A)(6) of the Code of Virginia, 1950, as amended; the subject of the closed meeting being specific to a Campbell County Utilities and Service Authority (CCUSA) sewer capacity request; and to discuss appointments for vacancies to the Social Services Advisory Board, Lynchburg Redevelopment and Housing Authority, Business Development Center, Greater Lynchburg Transit Company, Lynchburg Parking Authority, and Board of Zoning Appeals, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended.

With no further discussion from the Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan, Helgeson, Misjuns, Taylor, Wilder 7

Noes: 0

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// The meeting was reopened to the public.

// Councilmember Wilder made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2 3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The motion was seconded by Councilmember Taylor, and Council, by the following recorded vote, adopted the motion:

Ayes: Wilder, Dolan, Reed, Faraldi, Taylor, Misjuns	6
Noes:	0
Absent: Helgeson	1

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// On motion of Councilmember Wilder, seconded by Councilmember Taylor, Council by the following recorded vote appointed the following members to the respective boards and commissions:

Name	Board Name	Appointment Date	Term Start Date	Term End Date
Arthur Pike (Ward 3)	Business Development Centre	10/08/2024	10/08/2024	09/30/2027
Cheryl Valentine (Ward I)	Business Development Centre	10/08/2024	10/01/2022	09/30/2025
Corey Davis (Ward I)	Business Development Centre	10/08/2024	10/01/2022	09/30/2025
Kamal Darden (Ward IV)	Business Development Centre	10/08/2024	10/01/2022	09/30/2025
Pavlina Dirom (Ward I)	Business Development Centre	10/08/2024	10/01/2022	09/30/2025
Samuel Howe (Ward I)	Business Development Centre	10/08/2024	10/01/2022	09/30/2025
Andre Miller (Ward 2)	Greater Lynchburg Transit Board of Directors	10/08/2024	11/01/2024	10/31/2027
Cameron Howe (Ward 1)	Greater Lynchburg Transit Board of Directors	10/08/2024	11/01/2024	10/31/2027
Jerry Padgett (Ward 1)	Greater Lynchburg Transit Board of Directors	10/08/2024	11/01/2024	10/31/2027
David Marple (Ward 2)	Lynchburg Parking Authority	10/08/2024	11/01/2024	10/31/2027
Marc Schewel (Ward 1)	Lynchburg Redevelopment and Housing Authority	10/08/2024	10/01/2024	09/30/2028
Brenda Farmer (Ward 2)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2027
Carroll Falls (Ward 1)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028
Denise Dempsey (Ward 4)	Social Services Advisory Board	10/08/2024	10/01/2024	09/30/2028
Janaye Wagner (Ward 2)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2027
Julie Clark (Ward 1)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028
Mary Prillaman (Ward 4)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028
Patrick Brown (Ward 1)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028
Sydney Hughes (Ward 2)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028
Tammy Callen (Ward 1)	Social Services Advisory Board	10/08/2024	10/08/2024	09/30/2028

Ayes: Wilder, Dolan, Reed, Faraldi, Taylor, Misjuns 6

Noes: 0

Absent: Helgeson 1

// The meeting was recessed at 6:19 p.m.

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of October, 2024, at 7:00 p.m. in the Council Chamber, City Hall, Stephanie Reed, President, presiding. The following Members were present:

Present: Stephanie Reed, Chris Faraldi, MaryJane Dolan, Martin Misjuns, Larry Taylor,

Sterling A. Wilder 6

Absent: Jeff Helgeson 1

// Councilmember Misjuns led the invocation, followed by the Pledge of Allegiance.

// In the matter of Recognitions, Item #1, Mayor Reed presented a Proclamation recognizing October as Domestic Violence Awareness Month. Amy McIvor with the YWCA accepted the proclamation and gave remarks.

// In the matter of Recognitions, Item #2, Mayor Reed presented a Proclamation recognizing Fire Prevention Week. Fire Chief Greg Wormser accepted the proclamation and gave remarks.

// In the matter of the Consent Agenda, Agenda Item #3, Council conducted a second reading and adopted Resolution #R-24-066 approving the allocation of the Program Year 2021 HOME American Rescue Plan funds from the U.S. Department of Housing and Urban Development (HUD). On motion of Vice Mayor Faraldi, seconded by Councilmember Wilder, Council by the following recorded vote approved Resolution #R-24-066.

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

// In the matter of the Consent Agenda, Agenda Item #4, Council considered adopting Resolution #R-24-070 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$100,200 to fund a Behavioral Health Docket Coordinator. On motion of Vice Mayor Faraldi, seconded by Councilmember Wilder, Council by the following recorded vote approved Resolution #R-24-070.

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

// In the matter of the Consent Agenda, Agenda Item #5, Council considered adopting Resolution #R-24-072 approving the FY 2024 Fourth Quarter Adjustments. On motion of Vice Mayor Faraldi, seconded by Councilmember Wilder, Council by the following recorded vote approved Resolution #R-24-072.

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

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// In the matter of the Consent Agenda, Agenda Item #6, copies of the minutes of the September 10, 2024 meeting have been previously furnished to Council, and on motion of Vice Mayor Faraldi, seconded by Councilmember Wilder, Council by the following recorded vote approved the minutes as presented:

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

// In the matter of Water Resources, Agenda Item #7, Council held a public hearing in consideration of adopting Ordinance #O-24-073 authorizing the City's grant conveyance of an ingress/egress easement to Griffin Pipe Products Co., LLC at 4 Adams Street, Lynchburg, Virginia. Director of Water Resources Timothy Mitchell provided a summary of the item to Council. This is associated with the Blackwater CSO Tunnel Project and is in accordance with the Memorandum of Understanding (MOU) previously discussed with Council and executed between the City of Lynchburg and Griffin Pipe Products Co., LLC. The purpose of the ingress/egress easement is to provide Griffin Pipe employees/agents access to a newly constructed employee parking lot that will offset the loss of parking during the construction of the Blackwater CSO Tunnel.

In accordance with Virginia Code, an Invitation for Bids and a Public Hearing advertisement was published in the News & Advance on September 12, 2024, and September 20, 2024, with bids due on, or before, 5:00 p.m., on October 2, 2024.

There was no one else to speak in favor or opposition, either by phone or in-person so the public hearing was closed and the matter rested with Council.

On motion of Vice Mayor Faraldi, seconded by Councilmember Misjuns, to adopt Ordinance #O-24-073 authorizing the City's grant conveyance of an ingress/egress easement to Griffin Pipe Products Co., LLC at 4 Adams Street, Lynchburg, Virginia.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

// In the matter of Public Comment, Agenda Item #8, Council heard from a citizen regarding “LCS capital improvement plan.” Cynthia Capps addressed Council. She urged City Council to invest more attention and financial support in their public schools, specifically related to rebuilding Sandusky Elementary School.

// In the matter of Public Comment, Agenda Item #9, Council heard from a group representative regarding “rebuilding Sandusky Elementary.” Colleen Larkins, Save Sandusky, addressed Council. She urged City Council to prioritize the city’s schools and to collaborate with citizens and the School Board in their work.

// In the matter of Public Comment, Agenda Item #12, Council agreed by consensus to move the following public comment ahead of Agenda Item #10. Council then heard from a group representative regarding “a citizen’s view of the key ingredients to keep our city great and to look for the future.” Chal Nunn, Citizens for Community Connections, addressed Council. He expressed that his diagnosis of Parkinson’s Disease provided him with a new outlook on many parts of life, but it did not change his heart. He explained the importance of maintaining strong relationships, listening to each other despite their differences, and coordinated efforts of City government and other organizations to facilitate efficient progress in Lynchburg.

// In the matter of Public Comment, Agenda Item #10, Council heard from a group representative regarding “rental inspections.” Darlene Holland, UDDUP, LLC, addressed Council. She expressed concern that the requirement of installing screen doors for ventilation was largely unnecessary and not cost-effective for local landlords.

// In the matter of Public Comment, Agenda Item #11, Peter Cefaratti was not present to address Council.

// In the matter of Public Comment, Agenda Item #13, Council heard from a group representative regarding “Lynchburg politics.” Gary Taylor, Citizens for a Better Lynchburg, addressed Council. He expressed concern that the Republican Party was in total disarray due to local politics and division.

// In the matter of Lynchburg Hillcats Baseball, Agenda Item #14, Council considered adopting Resolution #R-24-074 consenting to Lynchburg Baseball, LLC selling, assigning, or transferring its rights under its Baseball Stadium Franchise Agreement with the City to Hillcats Baseball, LLC. This item was previously presented to Council during their September 24, 2024 work session. Lynchburg Baseball Corporation, the current owner of the Lynchburg Hillcats baseball team, has entered into an agreement to sell the team to Hillcats Baseball, LLC. The city must approve the transfer of the franchise lease of City Stadium before the sale can be completed.

On motion of Vice Mayor Faraldi, seconded by Councilmember Misjuns, to adopt Resolution #R-24-074 consenting to Lynchburg Baseball, LLC selling, assigning, or transferring its rights under its Baseball Stadium Franchise Agreement with the City to Hillcats Baseball, LLC.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder	6
Noes:	0
Absent: Helgeson	1

Mr. Dylan Narang, new owner of the Hillcats, emphasized his excitement on this venture.

// In the matter of Towing and Recovery Operations, Council considered adopting a resolution approving the City’s award and execution of a Towing and Vehicle Recovery Services Contract with Bee Line Transport, Inc. This item was previously presented to Council at their September 24, 2024 work session. Deputy City Manager Gregory Patrick provided some further clarifying details regarding this item. The City's towing and vehicle recovery services contract with Bee Line Transport reached the end of its renewal year options and needed to be resolicited. This

contract is primarily used for City-owned fleet vehicles, including Refuse Trucks and Fire apparatus, and Lynchburg Police Department initiated tows. It also covers towing of derelict vehicles requested by Community Development. The Towing Advisory Board convened to finalize the scope of services and terms of a request for proposals which was then posted on May 14, 2024 with all proposals due by June 13, 2024. Three proposals were received - Bee Line Transport, Cash's Garage, and Mitchell's Towing and Recovery.

An evaluation subcommittee composed of four Board members was established to review all proposals and bring forth their observations to the full Board. The full Board then performed site visits to examine facilities, operations, and equipment. There was full consensus to bring forth a recommendation to City Council to award the contract to Bee Line Transport.

Councilmember Wilder asked if the amount paid by a vehicle owner offset what the City paid. Mr. Patrick replied no; the City received no funding back from the chosen provider. Councilmember Wilder asked if staff could provide the amount paid by vehicle owners. Mr. Patrick answered that the proposed amount was \$110 plus \$50 per day.

Councilmember Misjuns motioned, seconded by Councilmember Taylor, to deny the resolution. Councilmember Misjuns stated that a Towing Advisory Board member expressed her concern to him that the process leading up to this proposal was not in line with the Virginia Public Procurement Act. He requested that they restart the process in order to allow fair and transparent competition.

Vice Mayor Faraldi asked if Councilmember Misjuns could name the member of the Towing Advisory Board who made this communication. Councilmember Misjuns answered that it was Kelly Currier. Vice Mayor Faraldi asked if Ms. Currier could answer some of his questions. He asked the City Attorney if this communication offered to one Councilmember implicate the City in any capacity since Ms. Currier declined to communicate with other Councilmembers. Mr. Freedman replied no. Vice Mayor Faraldi asked why Ms. Currier chose to only communicate with Councilmember Misjuns. Ms. Currier replied that she did not; she sent

Vice Mayor Faraldi an email as well. Vice Mayor Faraldi asked if Ms. Currier could tell the public the information she had provided. Ms. Currier explained that on September 26, she sent an email to Council regarding her current term on the Towing Advisory Board, and her discomfort with signing the document given to the Board to endorse the RFP award. She said that she had asked Ms. Suter why there was so much controversy around this issue and if she was missing something. Vice Mayor Faraldi asked if Ms. Currier could elaborate on her concerns. Ms. Currier stated that as part of this process, she had asked if there had been audits to ensure they were paying the correct amount for this contract. She said that there was no audit; it was stated that if someone claimed they had been overpaid, it was reviewed and a refund was determined. She emphasized there was nothing to determine if the contracted prices were correct or not. She noted that there was a general consensus and that the decision had already been made, but she believed there was one other member of the Board who did not agree. Vice Mayor Faraldi asked how many Board members expressed concern prior to the vote. Ms. Currier replied there were none. She expressed concern that based on her experience and feedback received, she felt her position as a citizen did not allow her to adequately voice her concern or vote as she felt was necessary. Vice Mayor Faraldi expressed concern that Ms. Currier's insinuation could not be substantiated with the information provided. He clarified that the City's policy did not allow police officers to recommend to the public any services of a particular towing service, and he expected that policy would be followed.

Councilmember Wilder asked if Bee Line Transport was chosen through the RFP process, as part of public procurement. Ms. Suter replied that was correct. Mr. Patrick noted that the Towing Advisory Board actively selected the approved provider and approved the RFP, including the language of important aspects and how they would judge the received proposals. Councilmember Wilder asked if Ms. Suter reviewed the numbers and compared them. Ms. Suter said yes; they compared them and used a scoring matrix. They came up with pros and cons for

each submittal, and the Towing Advisory Board all agreed on this proposal. Through their discussion, they amended it as necessary to reflect their discussion.

Councilmember Misjuns asked if a police officer mentioning the name of the City's contracted towing service was the same as a recommendation. Mr. Patrick said that he was unsure. Councilmember Misjuns expressed his discomfort with approving this five-year contract that excluded all other businesses and did not give them any opportunity, as well as Ms. Currier's experience with the process. He recommended that Council deny the resolution and begin the process again.

Vice Mayor Faraldi asked what the proposal failed to accomplish in terms of Councilmember Misjuns' concerns. Councilmember Misjuns expressed concern that the five-year contract kept other small businesses out of the loop; the police-initiated tows and City vehicle tows should be separated; there should be rotation of tow companies; and small businesses should be included in the ability to do this business. He expressed concern that they had received adequate documentation of consensus, approval, and acceptance of the RFP, but were now hearing concerns that those documents were incorrect or unfair in some manner. He emphasized that inclusion of police-initiated tows was an integral part of holding the City and the towing company responsible in a legally binding agreement when those situations occurred. He requested that Council table this item until their next meeting to receive stakeholder input and offer another opportunity for public comment.

Councilmember Wilder asked if the request for proposal had been advertised. Ms. Suter replied that it was advertised as they did all RFPs; it was on the City's website and the state's website, eVA, which sent it to all towing providers registered with the state.

Councilmember Dolan asked if all submittals had the appropriate equipment to tow City vehicles. Ms. Suter answered that two companies out of the three proposals had the appropriate equipment for heavy vehicle tows.

Mayor Reed noted that the RFP was reviewed by a subcommittee, the Towing Advisory Board, and that Board was entrusted to make an informed vote on the information provided.

She asked if Council had the authority to tell the Towing Advisory Board that Council disapproved of their decision and to reconsider the vote. She asked if there was a legal consideration of getting involved in the public procurement process in that way.

// Due to heightened public participation, Mayor Reed recessed the meeting to allow time for the situation to de-escalate and restore order. The meeting was recessed at 8:24 p.m.

// The meeting was reopened to the public at 8:29 p.m.

Mr. Freedman said that he would attempt to answer Mayor Reed's earlier question. The towing contract for the locality was not necessarily bound by the determination of the Towing Advisory Board; the Council has the power to award one towing contract, two towing contracts, or no towing contract. The written recommendation from the Towing Advisory Board was something he had drafted based on the resolution creating the Towing Advisory Board earlier in the year. The resolution had mentioned the Council receiving a written recommendation or some type of guidance on how to proceed. The written recommendation included everyone's signature except for Ms. Currier's, and she had spoken about that this evening. He stated that the written recommendation still had validity, as there was nothing disproving the other signatures. City Council did have options; however, if a majority of Council did not want to proceed tonight, staff would request guidance on what information to bring back at the subsequent meeting. If they did not approve anything under this item, they would continue on the month-to-month basis they currently had with Bee Line Transit.

Councilmember Misjuns asked if Councilmember Taylor would consider adding Vice Mayor Faraldi's request to table the item for two meetings as a friendly amendment to the original motion.

Councilmember Wilder stated that he did not support the motion because the request for proposal went through proper procurement process, and the Towing Advisory Board made the

decision to accept the contract. He did not agree on the particular motion to deny the contract. He stated that he was amenable to tabling it, but was unsure of the reason why because more time would not change his vote.

Councilmember Dolan asked Vice Mayor Faraldi what would be accomplished by tabling the item. Vice Mayor Faraldi said that he believed that if delaying this item ensured that everyone, including Ms. Currier, the stakeholders, Councilmembers, and staff could get on the same page and feel confident in making the right decision, and that they could clarify with City staff what the policy is regarding towing recommendations, then they could move forward. He expressed his hope that they could unanimously support this item after that time.

Councilmember Misjuns accepted the amendment to table the item for two meetings. Councilmember Taylor accepted the amendment.

Mr. Freedman asked if Council could provide staff with direction on next steps for this item.

Councilmember Wilder requested that the other members of the Towing Advisory Board provide comments to give context to Ms. Currier's concerns.

Mayor Reed confirmed there was consensus from Council to table this item until the November 12, 2024 meeting of Lynchburg City Council.

// In the matter of City Council, Agenda Item #16, Council considered introducing a resolution amending the FY 2025 Adopted Budget to align City Council salaries with the requirements of Lynchburg City Code Section 2-16.1 (Option A). In December 2019, by adopting Lynchburg City Code Section 2-16.1, the City Council set its salaries at \$14,000 per member, per year, and \$16,000 for the Mayor, per year, beginning July 1, 2020. However, because of budget uncertainties associated with the COVID-19 Pandemic, the City Council maintained its salaries at \$10,000 per member, per year, and \$12,000 for the Mayor, per year, beginning July 1, 2020, as part of the FY 2021 Adopted Budget. Technical changes were made to the proposed resolution.

October 8, 2024

Vice Mayor Faraldi made the motion, seconded by Councilmember Wilder, to table the item indefinitely. Vice Mayor Faraldi emphasized that a sitting politician should not vote on a pay increase for their self.

Councilmember Misjuns noted that the proposal was to align practices with written City Code. He recommended they table this item until they had all seven Councilmembers present, rather than tabling it indefinitely.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan, Taylor, Wilder	5
Noes: Misjuns	1
Absent: Helgeson	1

On motion of Vice Mayor Faraldi, seconded by Councilmember Dolan, to reintroduce Option B regarding City Council's salaries, keeping Councilmembers' pay at \$10,0000 and the Mayor's pay at \$12,000.

Councilmember Misjuns made a substitute motion to align the Mayor's pay with Councilmembers' pay at \$10,000. Mayor Reed noted that there was no second for the motion, so the motion died.

Councilmember Wilder stated that he did not support the motion because he would prefer to have Councilmember Helgeson present for the vote.

Councilmember Misjuns said that he agreed with Councilmember Wilder; Council had previously determined that it was essential that all seven members be present to vote on this item, so they should remain consistent in that regard. He would not support the motion without the presence of all seven Councilmembers at the dais.

Vice Mayor Faraldi asked Clerk of Council Alicia Finney if she heard from Councilmember Helgeson; she replied that she had not. Vice Mayor Faraldi noted that at the September 24th meeting where this was first voted on, Councilmember Dolan let Council and staff know with ample time that she would not be able to attend that meeting.

October 8, 2024

Mayor Reed called the vote on reintroduction of Option B.

With no further discussion from Council, the following vote was recorded:

Ayes: Reed, Faraldi, Dolan 3

Noes: Misjuns, Taylor, Wilder 3

Absent: Helgeson 1

Vice Mayor Faraldi motioned, seconded by Councilmember Dolan, to place Option B on the agenda at the October 22, 2024, City Council meeting under General Business.

With no further discussion from Council, the following was recorded:

Ayes: Reed, Faraldi, Dolan, Misjuns, Taylor, Wilder 6

Noes: 0

Absent: Helgeson 1

// The meeting adjourned at 8:47 p.m.

Clerk of Council



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Rachel Frischeisen, City Planner

AGENDA ITEM # IV.3

Consideration of adopting Resolution #R-24-075 granting a Conditional Use Permit (CUP) to Kerr Holdings, LLC to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

RECOMMENDATION

Approval of the Conditional Use Permit (CUP) to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

SUMMARY

Kerr Holdings, LLC, is petitioning for a CUP to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street. The properties are included in the area covered by the Fifth Street Corridor Master Plan adopted by City Council on May 23, 2006. The Comprehensive Plan 2013-2030 Future Land Use Map (FLUM) recommends a Neighborhood Commercial land use for the property. These areas are intended to consist primarily of office, retail, personal service, and restaurant uses that are scaled and designed to be compatible with and serve their immediate neighborhood.

A petition to rezone 1101 5th Street from B-4, Urban Commercial District to B-5, General Business District was denied by City Council on July 9, 2024. That rezoning would have allowed a number of more intense uses that are inappropriate in this setting, in addition to the auto body repair use. Approval of the CUP would allow auto body repair without altering the zoning.

PRIOR ACTION(S)

October 8, 2024: City Council Business Item Briefing.

September 11, 2024: The Planning Commission recommended approval (5-2, Henderson and Perault) of the CUP petition.

September 11, 2024: The Planning Division recommended approval of the CUP petition.

July 9, 2024: City Council denied a petition to rezone 1101 5th Street from B-4, Urban Commercial to B-5, General Business District.

FISCAL IMPACT

N/A

CONTACT(S)

Rachel Frischeisen, City Planner

ATTACHMENT(S)

1. R-24-075
2. Planning Commission Minutes, Report, and Attachments
3. 1101 & 1107 5th St - CUP Presentation
4. Public Hearing Notice for CUP - 1101 & 1107 5th Street

REVIEWED BY



William Martin, Community Development Director

Date: October 10, 2024



Kent White, Assistant City Manager

Date: October 16, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

#R-24-075

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO KERR HOLDINGS TO ALLOW THE USE OF AN EXISTING STRUCTURE AT 1101 5TH STREET AS AN AUTO BODY REPAIR SHOP AND ASSOCIATED PARKING AT 1107 5TH STREET IN A B-4, URBAN COMMERCIAL DISTRICT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Kerr Holdings, LLC, to allow the use of an existing structure at 1101 5th Street as an auto body repair shop and associated parking at 1107 5th Street is hereby approved and the request for such Conditional Use Permit is hereby granted subject to the following conditions:

1. Parking of vehicles shall be off-street, behind the front face of the building, shall not impede the use of sidewalks, and shall be limited to 1101 & 1107 5th Street.
2. The parking area behind the existing building shall be screened with a fence (made of wood, vinyl, masonry, etc.) and landscaping subject to approval of the City Planner. The fence shall not be chain link.
3. The auto body repair operations shall take place within the footprint of the existing building and shall not be expanded.
4. The dumpster shall be located behind the building. If it is visible from the street, it shall be screened.
5. All discarded or junk parts shall be disposed of properly, secured and not visible from the street.

Adopted: October 22, 2024

Certified: Alicia L. Frings
Clerk of Council

MINUTES OF THE SEPTEMBER 11, 2024 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

Petition of Nadine Durbin, on behalf of Kerr Holdings, LLC, for a Conditional Use Permit in a B-4, Urban Commercial District to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

Ms. Frischeisen, City Planner, provided the following summary to the Commission. The subject property is located at 1101 and 1107 Fifth Street. The structure was built in 1949 and was previously used as an auto repair and body shop. This project will look familiar to the Planning Commission, as the 1101 Fifth Street parcel was previously proposed for rezoning to B-5, General Business District earlier this year. The Commission recommended denial of that rezoning petition, and City Council denied it as well. The purpose of the CUP petition today is to allow the use of the structure as an auto body shop and associated parking. The properties are still zoned B-4, Urban Commercial District. Heavy auto repair, including auto body shops, are permitted in this district upon approval of a Conditional Use Permit (CUP) by City Council. The properties are recommended for Neighborhood Commercial uses on the Future Land Use Map (FLUM). These areas are intended to consist primarily of office, retail, personal service, and restaurant-type uses that are scaled and designed to be compatible with the immediate neighborhood. Patrons can walk, bike, or take a short drive to reach their everyday goods and services. A number of auto uses were in existence when city council adopted the Fifth Street Master Plan. The plan recommended against the expansion of auto-oriented uses, and it also noted that parking lots and vacant lots can create visually dead spaces. The properties are included in the master plan area, and the purpose of that plan was to provide a vision and blueprint for the revitalization of the Fifth Street corridor. With the adoption of that plan and the subsequent rezoning of the properties, City Council made a conscious decision to move away from the auto-dominated uses that had previously contributed to a negative decline in the area. There have been significant public and private investments in the area that follow the vision of the adopted Master Plan, and land use decisions should support that vision just as the public investment has. The Master Plan explicitly recommends against the expansion of auto-oriented uses, and the rezoning of the property, which was denied by Council in July, would have allowed the expansion of those auto-oriented uses and permitted many other intense and inappropriate uses in the setting. In contrast, the CUP petition allows a specific use of auto body repair within the existing building without changing the zoning. While the use of the property as an auto body shop ultimately does not align with the long-term goals of the plan, the use should not be detrimental to the surrounding area as long as it is limited to the existing structure and the recommended conditions are followed. Redevelopment or adaptive reuse of the property, as recommended in the plan, could still be pursued in the future. While allowing the use of this particular existing building should have limited impact on this corridor and surrounding neighborhoods, it is worth mentioning that staff have some concerns that this could be viewed as precedent to allow an influx of additional auto-oriented uses, either through the CUP or rezoning process. This would be contrary to the vision of the Master Plan and should be weighed carefully both in this instance and in future land use decisions for the area. Planning staff recommends approval of the petition with the conditions outlined in the report.

Chair Johnson asked if there was anyone to speak on behalf of the petition.

Mr. Dave Durbin, representing Kerr Holdings, LLC, was present to represent the petition. He acknowledged that this was the second petition. Ultimately, this request is to allow them to use the facility as an auto body shop. They have been working with staff on how to fit this business into the Master Plan and the community. They believe this use will create jobs, a tax base, and is a turn key operation. They will continue to work with the City to make this use a good fit.

Chair Johnson asked if there was anyone to speak in favor of the petition.

Ms. Sheila Irvin stated that she has lived in the area for fifty-nine (59) years and has seen the auto body shop there for years. The body shop is already equipped and ready to use, yet it is just sitting there. It would take a lot of money to change the structure of the building to do something different. She has no problem

with the body shop being there.

Mr. Marvin Marcia stated that he would be the tenant on the property and would be running it as an auto body shop. He and his family have lived and worked in the City for fifteen (15) years. They love the City and this location. His experience is working with cars and that is the way that he makes a living and supports his family. He is a hard worker and is currently unable to fully work without the auto body shop.

Mr. Rodney Hubbard noted the passing of Mr. Kerr, who had owned the property for a number of years and did a lot for the neighborhood and its residents. He noted that the new tenant, Mr. Marcia, is similar to him, given that they both own small businesses. They went through the street being torn up for the 5th Street roundabout with no assistance and Mr. Marcia was forced to vacate his previous building because of its new owner. Mr. Hubbard was interested in buying the building from Mr. Kerr but ultimately did not for a number of reasons. When he took over his current building, there was a misunderstanding regarding permitted uses for the property since the tenant before him had sold cars. Mr. Marcia went into this building on the assumption that the auto body shop was grandfathered in. Mr. Hubbard was under that assumption as well. Having the auto body shop use continue in this location would help his business, as he can transfer body shop customers to Mr. Marcia and won't have to send them to elsewhere.

Mr. Terrence Spencer, owner of Touch of Class Car Care, does business with Mr. Marcia. He sends customers to the auto body shop. He thought the building was grandfathered in and noted that the shop does honest work. Mr. Marcia should be allowed to continue with his work.

Chair Johnson asked if there was anyone present to speak in opposition to the petition. With there being none, Chair Johnson closed the public hearing.

Commissioner Gammon asked how they would go about updating the building.

Mr. Durbin responded that there are aesthetic things to be updated. When Mr. Kerr left, there was a lot of vandalism that occurred. Mr. Marcia has started to clean the space up.

Commissioner Gammon asked what is specifically proposed.

Mr. Durbin replied that they are looking at painting the building, repairing the windows, and putting up fencing for cars parked in the lot. The only cars that will be seen are finished products. The dumpster will be hidden away and no one will see any scrap body parts. The goal is to make the space aesthetically pleasing and to make it fit in with the Master Plan.

Commissioner Gammon stated that the Commission should hear what the community wants and not just adhere to an arbitrary vision. He said that he would be inclined to vote for it, but the condition that he would attach is that there must be an aesthetic rehab plan be put together with and approved by the City.

Mr. Durbin said that they would be open to that and are already in the process of making improvements.

Ms. Frischeisen stated that if there are specific conditions that the Commission has, they can include them. Keeping parts and scraps from being seen is reasonable and there is already one condition regarding the dumpster being screened, but if the Commission wants to clarify that "all discarded or junk parts shall be disposed of properly, secured and not visible from the street," that condition could also be included at the discretion of the Commission..

Commissioner Gammon stated that details on rehabilitation wouldn't hurt. If possible, an artistic rendition should be submitted.

Mr. Durbin responded that they were going in that direction, but then decided not to as they didn't want to spend more money on the property if the use wasn't approved in the rezoning petition.

Commissioner Gammon replied that if its approved then the building is there and the zoning will not change. He said that this could set a precedent, so it has to be a very good one that's set.

Commissioner Perault stated that the Future Land Use Map (FLUM) and the Fifth Street Corridor Master Plan are far from arbitrary. The precedent is the most important part of this. The report notes that staff has serious concerns and that should be taken into account. He was surprised that Planning changed their recommendation.

Commissioner Gammon replied that he was trying to keep what he was asking narrowed down to his desk and that perhaps some other comments might be in order.

Ms. Frischeisen summarized the potential conditions that had been discussed — instead of saying “the blight would be remedied”, as it is a bit vague, conditions could be the junk parts will be disposed of properly, will be secured, and will be screened from the street, and that the boarded and broken windows would be repaired.

Commissioner Gammon added other aesthetic items: signage, appearance, roof, sidewalk, parking area, and fencing.

Chair Johnson questioned the scope and potential expenses for a plan to address the blight. She then sought clarification about the grandfathered usage of the building.

Ms. Frischeisen clarified that there are two (2) uses occurring in one (1) building and when one of the uses stopped that use lost its non-conforming status.

Commissioner Perault added that the car wash and body shop are not the same use.

Chair Johnson replied that they are within the same B-5 usage.

Commissioner Gammon clarified that when the body shop shut down for a period of time, it no longer qualified to be used for those purposes.

Commissioner Rogers asked about the age of the ventilation system in the body shop. He added that DEQ has a high standard for ventilation and said that his biggest concern for this use was the impact on the community, as body shops are not great for living around due to the air quality.

Mr. Durbin replied that the DEQ and EPA are very specific about the type of ventilation system and filters required for a body shop. He said that their system is in place and that he doubted there would be a question of odor. Mr. Durbin said that they have a high-volume body shop near one of their other business and the air quality was fine.

Commissioner Rogers asked how old the system was.

Mr. Durbin explained that the ventilation system has to be good for both air quality and quality control.

Commissioner Henderson asked if any updates need to be completed for the use of the building as a repair shop.

Mr. Durbin stated that everything was updated years ago, no modifications are required, and the operation is turn key.

Commissioner Bowden inquired about the status of inspections.

Mr. Durbin stated that state and federal agents conduct inspections, due to the environmental impact of the use.

Commissioner Gammon questioned whether or not there were a way to make this project fit with the Comprehensive Plan's direction, which seeks to change the character of the area. By allowing the use to remain, it goes against the will of the current Comprehensive Plan.

Commissioner Perault stated that Planning Commission and Council were both guilty of using the Comprehensive Plan when it supports what they want to do and ignoring it when it does not; they need to be consistent.

Commissioner Rogers asked if Kerr Holdings owned other buildings surrounding the auto body shop.

Mr. Durbin stated that they do not.

Commissioner Rogers stated that the concern here was whether or not the commission would have more CUPs of a similar nature to this one.

Commissioner Bowden stated that this business was part of a neighborhood network of small businesses, and residents spoke in favor of the petition. He remarked that the issue for this CUP is the precedent that it may set and that while the Commission does not want to see everything on Fifth Street convert back to what it was, he wants to support small businesses, who give back to the neighborhood, coming back to the corridor.

Commissioner Henderson remarked that while he found the petitioner's story and presentation compelling, the automotive use does not fit with the community's vision as expressed in the Fifth Street Corridor Plan. To approve the petition would be slipping backwards from that vision.

Mr. Durbin stated that he understood the Commission's concerns, encouraged them to make incremental changes, and stated that the proposed use would be better for the community than a vacant building. He added that the building and business have been there since 1949.

Ms. Frischeisen stated that the discussions of the Planning Commission have been similar to staff discussions about this petition. The Fifth Street Corridor Plan talks about not expanding auto-orientated uses. The rezoning that previously came before Planning Commission would have expanded auto-oriented uses. The CUP would not expand the use, it would reinstate a previously non-conforming auto body shop. If approved, the Commission would be reinstating the previous use, not expanding the footprint and not opening it up to other uses.

Commissioner Marion asked if the conditions are enforceable.

Ms. Frischeisen stated that conditions need to be detailed enough for the Zoning Administrator to enforce, while at the same time not be overly rigid. Our code does have the provisions in it for revocation of a CUP and if the owner or occupant fails to comply with the conditions or it is determined to create a nuisance in the community, City Council has the ability to revoke the CUP in a public hearing. Staff would first attempt to achieve compliance through the Zoning Administrator.

Commissioner Gammon asked when the use became nonconforming.

Ms. Frischeisen replied that the nonconforming use began in 2007.

Chair Johnson stated that the property's nonconforming status as a car wash, differentiates it from other petitions which may come before the Commission.

Commissioner Rogers asked why 1111 Fifth Street was not in the petition since it is part of the use and

part of the parking lot.

Ms. Frischeisen stated that staff had discussed the matter with the petitioner who did not feel 1111 Fifth Street was necessary to include. Staff advised them that 1107 Fifth Street would need to be included if it would be used to store cars.

Commissioner Rogers replied that one of his concerns is that the petitioner will not be operating the business; the petitioner owns the land and the tenant manages the operations, inspections, and use of parking areas. He said that his biggest concern is that the same landowner has multiple buildings in that area and the possibility of more CUPs coming forward is a concern.

Mr. Durbin stated that they no longer own 1018 Fifth Street.

Ms. Frischeisen confirmed that 1018 Fifth Street is under separate ownership.

Commissioner Rogers said that he was more open to consider the petition, given the fact that it is conditional, and based on a rigid reading of the conditions.

Ms. Frischeisen asked whether the motion included any additional conditions, as discussed earlier in the meeting.

Commissioner Gammon stated that there should be a consensus on specifically how this project will conform with the Fifth Street vision.

Commissioner Marion stated that if they are voting on the petition today, they need to know those conditions before the vote. She suggested that they add a condition which says the building must be maintained in good condition.

Commissioners discussed language for the condition.

Ms. Frischeisen offered that there are design suggestions, including materials, in the Fifth Street Corridor Plan.

Chair Johnson inquired about a condition regarding the disposal of parts.

Ms. Frischeisen asked for consensus on the matter and suggested language to the effect of, "parts properly disposed of, secured, not visible from the street."

Chair Johnson affirmed that it was a reasonable condition and followed-up about the discussion over adding a condition to address maintaining the building in good condition.

Commissioner Gammon asked if the City had applicable maintenance or aesthetic guidelines.

Ms. Frischeisen replied that there are building code requirements against peeling paint, for example. She suggested adding a condition such as "the building will be maintained in proper condition."

Commissioners continued to discuss the condition.

Ms. Frischeisen stated that staff could attempt to create a condition to suggest to Council based on the input of the Planning Commission. It will be noted in these minutes that the building's condition was a point of concern for the Commission. Council could opt to add a condition if they see fit.

Commissioner Rogers reiterated that a condition about car parts should be added.

Chair Johnson said that they could also include the condition for maintaining good condition of the property; and Council could revise the condition, if needed.

Commissioner Gammon suggested wording for the condition such as, "consistent with the new construction and consistent with the Comprehensive Plan."

Chair Johnson asked for clarification about the language of new construction.

Commissioner Gammon replied that there is new construction in the area and that the auto body shop should be compatible with the new construction, the Fifth Street Corridor Plan, and the Comprehensive Plan.

Commissioner Rogers replied that he did not see where that was necessary.

Commissioner Gammon responded that the character of the property needs to conform to the vision for Fifth Street and not look like an exception.

Commissioner Rogers asked if the CUP is transferrable if the business itself stopped.

Ms. Frischeisen stated that it was her understanding that there is no automatic termination for a CUP if the business stopped. She said that staff had been working with the Durbins and it was their understanding that the owners intend to improve the appearance of the building. If the Commission felt strongly about the appearance of the building, they could include a condition that the building will be maintained in good condition and work to come up with language to that effect.

Commissioner Rogers asked for clarification regarding renewing a conditional use. He asked if it is a permanent rezoning.

Ms. Frischeisen replied that it was a Conditional Use Permit for the specific use of the body shop and that it does not rezone the property.

Commissioner Marion responded that they cannot do anything else there that is out of the zoning.

Commissioner Bowden stated that the Conditional Use Permit is conditional and asked if they could be withdrawn.

Ms. Frischeisen responded that CUPs can be revoked.

Chair Johnson asked whether or not the CUP would expire if not used for two (2) years, in a similar fashion to the non-conforming use.

Ms. Frischeisen responded that it would not expire if the use ceased. She stated that if the Commission was not comfortable voting until additional information was presented, it was in their purview to table the item.

Commissioner Gammon asked what the conditions are for the CUP.

Ms. Frischeisen replied that it was the use as described in the petition, with the added conditions.

Commissioner Bowden made the following motion, seconded by Commissioner Marion and approved by the following vote:

"Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the petition of Kerr Holdings, LLC to allow the use of an existing structure at 1101 5th Street and existing parking at 1107 5th Street as an auto body shop and associated parking,

subject to the following condition(s):

- 1. Parking of vehicles shall be off-street, behind the front face of the building, shall not impede the use of sidewalks, and shall be limited to 1101 & 1107 5th Street.**
- 2. The parking area behind the existing building shall be screened with a fence made of wood, vinyl, masonry, etc. and landscaping subject to approval of the City Planner. The fence shall not be chain link.**
- 3. The auto body repair operations shall take place within the footprint of the existing building and shall not be expanded.**
- 4. The dumpster shall be located behind the building. If it is visible from the street, it shall be screened.**
- 5. All discarded or junk parts shall be disposed of properly, secured, and not visible from the street.**
- 6. The building shall be maintained in good condition."**

AYES: Bowden, Gammon, Johnson, Marion, Rogers

5

NOES: Henderson, Perault

2

ABSTENTIONS:

0

ABSENT:

0

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: September 11, 2024
Re: **Conditional Use Permit (CUP) – 5th Street Auto Body Shop – 1101 & 1107 5th Street**

I. PETITIONER

Kerr Holdings, LLC, 142 Sailview Drive, Forest, Virginia 24551

Representative: Mrs. Nadine K. Durbin, 142 Sailview Drive, Forest, Virginia 24551

Property Owner: Same as petitioner

II. LOCATION

The subject property is located at 1101 & 1107 5th Street and contains approximately four hundred eighty-five thousandths (0.485) of an acre.

III. PURPOSE

The purpose of the CUP petition is to allow the use of an existing structure as an auto body shop and associated parking.

IV. SUMMARY

- The properties are included in the area covered by the Fifth Street Corridor Master Plan adopted by City Council on May 23, 2006.
- The properties are recommended for Neighborhood Commercial land uses on the Future Land Use Map.
- The properties are zoned B-4, Urban Commercial District. Heavy auto repair, including auto body shops, are allowed in this district upon approval of a CUP by City Council.
- Impact to the surrounding area should be limited if the recommended conditions are followed.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2013-2030* recommends a Neighborhood Commercial land use for this property. These areas are intended to consist primarily of office, retail, personal service, and restaurant uses that are scaled and designed to be compatible with and serve their immediate neighborhood. Patrons can walk, bike or take a short drive to reach them. They are comprised of individual businesses, clusters of businesses, or small shopping centers. Neighborhood shopping centers meet the day-to-day needs of a limited residential trade area of 2,500 to 10,000 people and average about 50,000 square feet of space. A small grocery store or drug store is often the anchor for a neighborhood shopping center. Office uses should be relatively small-scale with building floor areas not exceeding 20,000 square feet and heights not exceeding four stories. Residential uses may be established on the upper floors of commercial structures or as transitional structures between residential and commercial buildings. (p.75)

The Fifth Street Corridor Master Plan was adopted by City Council on May 23, 2006. The purpose of the plan is to provide a vision and a blueprint for the revitalization of the Fifth Street Corridor between Main Street and the Martin Luther King, Jr. Memorial Bridge. The primary focus is the area two blocks on either side of Fifth Street, though the surrounding neighborhoods, including College Hill, Garland Hill and Tinbridge Hill are also very important to the corridor's revitalization. Fifth Street links the Downtown/Riverfront and Midtown areas of the City, both of which are the focus of revitalization efforts as well. In order for the corridor to succeed, it must serve the needs of the residents and be an attractive gateway to both Downtown and Midtown. (p. 1)

A number of auto uses were in existence when the Fifth Street Corridor Master Plan was adopted. The plan does not recommend expansion of auto-oriented uses. (p. 13) It also notes that, parking lots and vacant lots create visually “dead” spaces. (p.30)

2. **Zoning.** The subject properties were annexed into the City in 1870. They were rezoned to B-6, Riverfront Downtown District (now B-4, Urban Commercial District) on December 11, 2007 as recommended by the Fifth Street Corridor Master Plan.
3. **Board of Zoning Appeals (BZA).** The Zoning Administrator has determined that no variances are needed for the development of the property as proposed.
4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On April 10, 2001, City Council approved the Conditional Use Permit request of Greater Lynchburg Habitat for Humanity to allow the construction of single-family residences at 406, 410, 412, and 414 Wise Street.
 - On May 23, 2006, City Council adopted the Fifth Street Corridor Master Plan.
 - On February 13, 2007, City Council approved the Conditional Use Permit request of Greater Lynchburg Habitat for Humanity to allow the construction of a single-family residence at 407 Wise Street.
 - On June 12, 2007, City Council approved the Conditional Use Permit request of Greater Lynchburg Habitat for Humanity to allow the construction of a single-family residence at 411 Wise Street.
 - On December 11, 2007, City Council rezoned the properties fronting Fifth Street to B-6, Riverfront Business District (now B-4, Urban Commercial District) as recommended in the Fifth Street Master Plan. Other adjoining properties were rezoned to R-2, Low-Medium Density, Single-Family Residential District; R-3, Medium Density, Two-Family Residential District; and R-4, Medium-High Density, Multi-Family Residential District.
 - On February 23, 2016, City Council approved the rewrite of the City's Zoning Ordinance. In the new Ordinance the B-6, Riverfront Business District became the B-4, Urban Commercial District.
 - On June 14, 2016, City Council approved the petition of Elks Lodge #181 to rezone 515, 517, 519, 523 Polk Street and 1007, 1011 6th Street from R-3, Medium Density Residential District to B-4, Urban Commercial District to allow the construction of a new lodge and parking area.
 - On December 12, 2023, City Council approved the petition of Hunter Dawson to rezone 602 Taylor Street and 1212 Park Avenue from B-4, Urban Commercial District to B-5, General Business District to allow the use of the properties for used automobile sales.

- On July 9, 2024, City Council denied the petition of Kerr Holdings, LLC, to rezone 1101 5th Street from B-4, Urban Commercial District to B-5, General Business District to allow the use of the existing structure as an auto body shop.
5. **Site Description.** The property at 1101 5th Street consists of approximately three hundred fifty-eight thousandths (0.358) of an acre and contains a one (1) story “fire resistant” structure constructed in 1949. The structure is approximately eight thousand, sixty (8,060) square feet in size.
- The property at 1107 5th Street consists of approximately one hundred twenty-seven thousandths (0.127) of an acre and contains a paved parking area.
- The properties are situated in a highly visible location at the corner of 5th Street, Park Avenue, and Monroe Street. They are surrounded by a mix of residential uses, commercial uses, parking areas, and an institution (Legacy Museum of African American History).
6. **Proposed Use of Property.** If the petition is approved, the existing building would be used as an auto body shop and associated parking.
7. **Traffic, Parking and Public Transit.** The petitioner was not required to conduct a traffic analysis as part of the petition.
- The submitted narrative indicates that the existing building would be used as an auto body shop and no new buildings or additions are proposed. The City’s Transportation Engineer noted during the Technical Review Committee (TRC) meeting that the existing entrances do not meet City Access Management Standards.
- The properties are served by the Greater Lynchburg Transit Company (GLTC) Route 1A, 5, and 9, with bus stops located adjacent to the property along 5th Street.
8. **Stormwater Management.** An Erosion & Sediment Control Plan / Stormwater Management Plan will not be required since there are no external improvements or modifications proposed at this time. An Erosion & Sediment Control Plan would be required if disturbed areas exceed one thousand (1,000) square feet. A stormwater management plan would be required if disturbed areas exceed five thousand (5,000) square feet.
9. **Emergency Services:** The City’s Fire Marshal and Police Department had no comments of concern regarding the proposed use.
10. **Impact.** The subject property is included in the area covered by the Fifth Street Corridor Master Plan. With the adoption of the Master Plan and subsequent rezoning of properties in the area, City Council made a conscious decision to move away from auto-dominated uses that ultimately aided in the decline of the area. The Master Plan provides a vision of a revitalized Fifth Street Corridor that is walkable and meets the needs of the surrounding neighborhood.

There has been significant public and private investments in the area that follow the vision in the adopted Master Plan. Land use decisions should support that vision, just as public investment has. The Master Plan explicitly recommends against the expansion of auto-oriented uses. The rezoning petition for this property, denied by City Council on July 9, 2024, would have allowed the expansion of auto-oriented uses, and permitted many other intense and inappropriate uses. In contrast, the CUP petition allows a specific use (auto body repair) within the existing building without altering the zoning. While the use of the property as an auto body shop ultimately does not align with the long-term goals of the plan, the auto body repair use should not be detrimental to the surrounding area, as long as it is limited to occur within the

existing structure and the recommended conditions are followed. Redevelopment or adaptive reuse of the property as recommended in the plan could still be pursued in the future.

Additionally, the properties are recommended for Neighborhood Commercial land uses, which are intended to consist primarily of office, retail, personal service, and restaurant uses that are scaled and designed to be compatible with and serve their immediate neighborhood while also allowing patrons to walk, bike, or take a short drive to reach them. If the use of the property as an auto body shop and parking is approved, conditions should be put in place to ensure that the use is more closely aligned with the Master Plan and limits impact to the surrounding neighborhoods.

While allowing the use of this particular existing building as an auto body repair shop should have limited impact on the corridor and surrounding neighborhoods, Planning staff has serious concerns that approval may be viewed as precedence to allow an influx of additional auto-oriented uses, either through Conditional Use Permit or rezoning petitions. This would be contrary to the vision of the Fifth Street Corridor Master Plan and should be weighed carefully, both for this petition and for future land use decisions for the area.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the CUP petition on August 6, 2024.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the petition of Kerr Holdings, LLC to allow the use of an existing structure at 1101 5th Street and existing parking at 1107 5th Street as an auto body shop and associated parking, subject to the following condition(s):

- 1. Parking of vehicles shall be off-street, behind the front face of the building, shall not impede the use of sidewalks, and shall be limited to 1101 & 1107 5th Street.**
- 2. The parking area behind the existing building shall be screened with a fence made of wood, vinyl, masonry, etc. and landscaping subject to approval of the City Planner. The fence shall not be chain link.**
- 3. The auto body repair operations shall take place within the footprint of the existing building and shall not be expanded.**
- 4. The dumpster shall be located behind the building. If it is visible from the street, it shall be screened.**
- 5. All discarded or junk parts shall be disposed of properly, secured and not visible from the street.**
- 6. The building shall be maintained in good condition.**

This matter is respectfully offered for your consideration.



Rachel Frischeisen
City Planner

pc: Wynter Benda, City Manager
Greg Patrick, Deputy City Manager
Kent White, Assistant City Manager
Tom Martin, Director of Community Development
Matthew Freedman, City Attorney
J. Lee Newland, City Engineer
Cynthia Kozerow, Lynchburg Police Department
Candace Brown, Fire Marshal
Doug Saunders, Building Official
Kevin Henry, Zoning Administrator
Kerr Holdings, LLC, Property Owner & Petitioner
Mrs. Nadine K. Durbin, Representative

VII. ATTACHMENTS

- 1. Zoning Map with Adjoining Property Owners**
- 2. Future Land Use Map**
- 3. Watershed Map**
- 4. Planimetric and Topographic Map**
- 5. Narrative and Maps**
- 6. Property Photograph**

Zoning

1107 5TH ST

1101 5TH ST

TRC

KERR HOLDINGS LLC



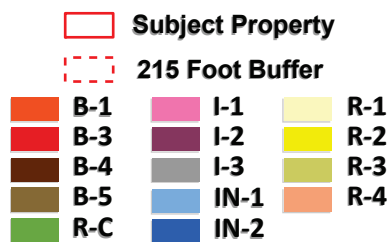
PROPERTY INFORMATION

PARCEL ID

ADDRESS

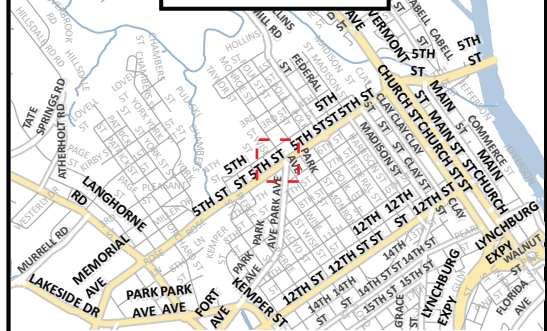
00922009	1107 5TH ST	00922007	1101 5TH ST
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LEGEND



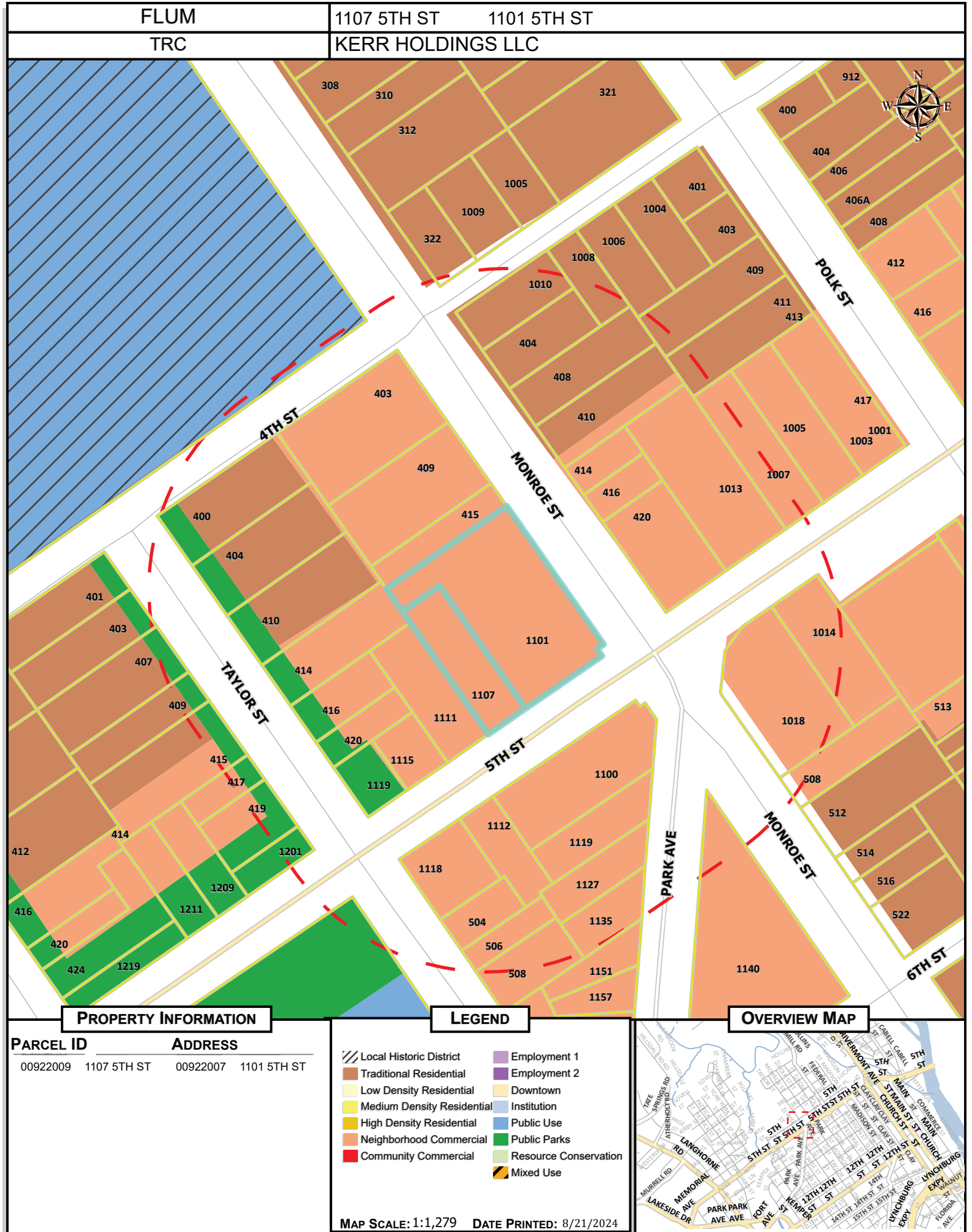
MAP SCALE: 1:1,279 DATE PRINTED: 8/21/2024

OVERVIEW MAP



1101 & 1107 5th Street

Parcel ID	Address	Owner
01029003	525 TAYLOR ST	CITY OF LYNCHBURG
00923010	1201 5TH ST	CITY OF LYNCHBURG
00923009	419 TAYLOR ST	DAVIS, TAMIKA LETTRICE
01016001	1140 PARK AVE	KERR HOLDINGS LLC
00923008	417 TAYLOR ST	TAYLOR STREET ENTERPRISE
00923007	415 TAYLOR ST	REID, REBECCA KATHLEEN JOHNSON
00923005	409 TAYLOR ST	RUSH LIFETIME HOMES
00923004	407 TAYLOR ST	CASTELLO, STEPHEN J
00923003	403 TAYLOR ST	IRVING, SHEILA L
00921011	420 MONROE ST	WARREN C SIMMONS PROPERTIES LLC
00921012	416 MONROE ST	FIFTH STREET BAPTIST CHURCH TRS
00921013	414 MONROE ST	FIFTH STREET BAPTIST CHURCH TR
00921010	1013 5TH ST	FIFTH STREET BAPTIST CHURCH OF
00921009	1007 5TH ST	FIFTH STREET BAPTIST CHURCH
00921014	410 MONROE ST	FIFTH STREET BAPTIST CHURCH TR
00921015	408 MONROE ST	FIFTH STREET BAPTIST CHURCH TR
00921016	404 MONROE ST	FIFTH STREET BAPTIST CHURCH TR
00921017	411 POLK ST	BARBOUR, ANEKA D
00921001	1010 4TH ST	APPALACHIAN MANAGEMENT LLC
00921002	1008 4TH ST	LOFTON, LATANYA D
00921006	409 POLK ST	FIFTH STREET BAPTIST CHURCH TRS
00921003	1006 4TH ST	LEE, ROSE MARY
00927001	380 TAYLOR ST	CITY OF LYNCHBURG
00922019	1119 5TH ST	SMITH, FRANKLIN & DOREEN A
00922011	1115 5TH ST	KERR HOLDINGS LLC
00922012	420 TAYLOR ST	KERR HOLDINGS LLC
00922013	416 TAYLOR ST	KERR HOLDINGS LLC
00922010	1111 5TH ST	KERR HOLDINGS LLC
00922009	1107 5TH ST	KERR HOLDINGS LLC
00922014	414 TAYLOR ST	FITZGERALD, EDWARD L & ERA MAE
00922015	410 TAYLOR ST	IRVING, SHEILA L
00922007	1101 5TH ST	KERR HOLDINGS LLC
00922006	415 MONROE ST	LEGACY PROJECT INC
00922016	404 TAYLOR ST	JIRON RIVERA, LUIS A
00922001	400 TAYLOR ST	ELDRIDGE, JESSIE
00922004	409 MONROE ST	LEGACY PROJECT INC
00922002	403 MONROE ST	LEGACY PROJECT INC
01014014	508 MONROE ST	LYNCHBURG PROPERTIES VA LLC
01014015	1018 5TH ST	LYNCHBURG PROPERTIES VA LLC
01014016	1014 5TH ST	OLD DOMINION LODGE ELKS TRS
01015009	508 TAYLOR ST	CITY OF LYNCHBURG
01015010	506 TAYLOR ST	CITY OF LYNCHBURG
01015011	504 TAYLOR ST	CITY OF LYNCHBURG
01015004	1135 PARK AVE	LAKAY CAPITAL LLC
01015003	1127 PARK AVE	LAKAY CAPITAL LLC
01015012	1118 5TH ST	MILLER-DIXON, JASMINE
01015013	1112 5TH ST	CITY OF LYNCHBURG
01015002	1119 PARK AVE	SCRUGGS FAMILY TRUST
01015001	1100 5TH ST	SCRUGGS FAMILY TRUST
00919013	322 MONROE ST	KENNY, GENEVIEVE JOHNSON



Watershed

TRC

1107 5TH ST

1101 5TH ST

KERR HOLDINGS LLC



PROPERTY INFORMATION

PARCEL ID	ADDRESS
00922009 1107 5TH ST	00922007 1101 5TH ST

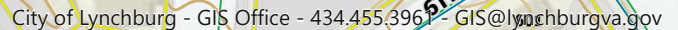
LEGEND

- Subject Property
- Base Flood Elevation
- Floodway
- Floodzone
- River / Lake / Stream

MAP SCALE: 1:1,279 DATE PRINTED: 8/21/2024

OVERVIEW MAP





M&M Auto Body Work Flow

40% of all work is customer/foot traffic, balance is from dealers.

Six vehicles will be in building at any given time during repair/paint process. Monroe St. side of building is for completed vehicles (4) and vehicles next in line to be repaired (4).

The back of the shop that faces Taylor St. is for overflow and employee parking. Overflow is a max of 8 vehicles. The parts dumpster will be located at the back (Taylor St. side), out of view from the street. It will be emptied as needed.

The plan is to have any given vehicle on the lot a max of 15 days.



Purpose of proposed change

To allow it to once again operate as an automotive body shop.

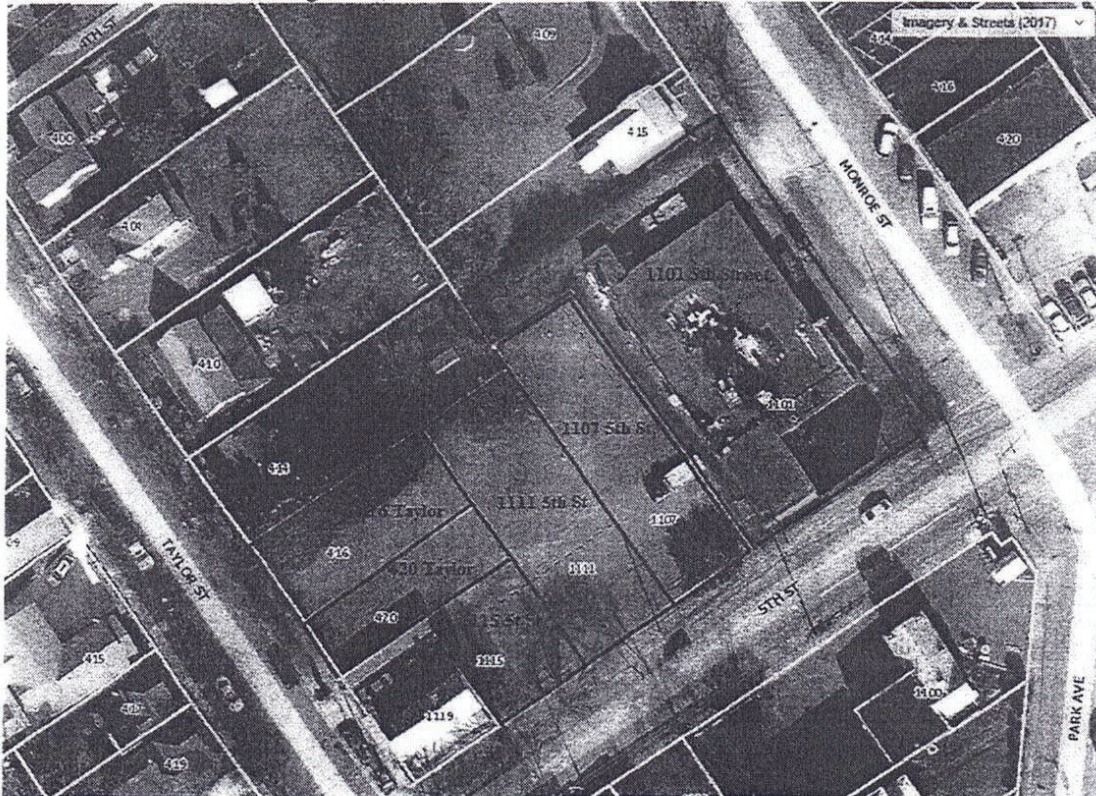
Detailed description of the request

We the petitioners/Owners request a Conditional Use Permit of the property and building located at 1101 5th street Lynchburg Va. 24504.

No structural, or physical changes to the building are planned or needed. Prior to zoning change in 2016, the building was used as a body shop and automotive repair facility. Associated equipment needed for this facility have been in the building since the 1970's for example Paint spray booth, Mixing station, etc.

See attached plan map page labeled EX2

Aerial Sketch from City GIS
Garage/Service Facility on 0.358 acre – outlined in [redacted]
Rear Parking/Excess Land Area of 0.440 Acre – outlined in Blue



0.358 ACRE SITE – DEVELOPED WITH GARAGE/SERVICE FACILITY

Description of Site:

Size: 0.358 acre, or 15,600 square feet (approximately)
Shape: Slightly L-shaped - see above sketch
Frontage: 83.7 feet, more or less, on north side of 5th Street -
153 feet, more or less, on west side of Monroe Street.
Access: Non-controlled from frontage roads.
Two entrance drives extend from Monroe Street, one entering at the northeast margin of the site and extending partially along the north property line, providing access to the overhead door entrance into the shop area at the north margin of the building. This entrance also extends parallel to Monroe Street, providing minimal parking, and exiting about 40 feet north of the 5th Street intersection. No entrance drive is available from 5th Street, as the existing building extends proximate to the property line.
Topography: Site is generally level to lightly rolling, following generally the grade of Monroe Street, which rises gradually upward from its 5th

Milton-May Appraisal Company

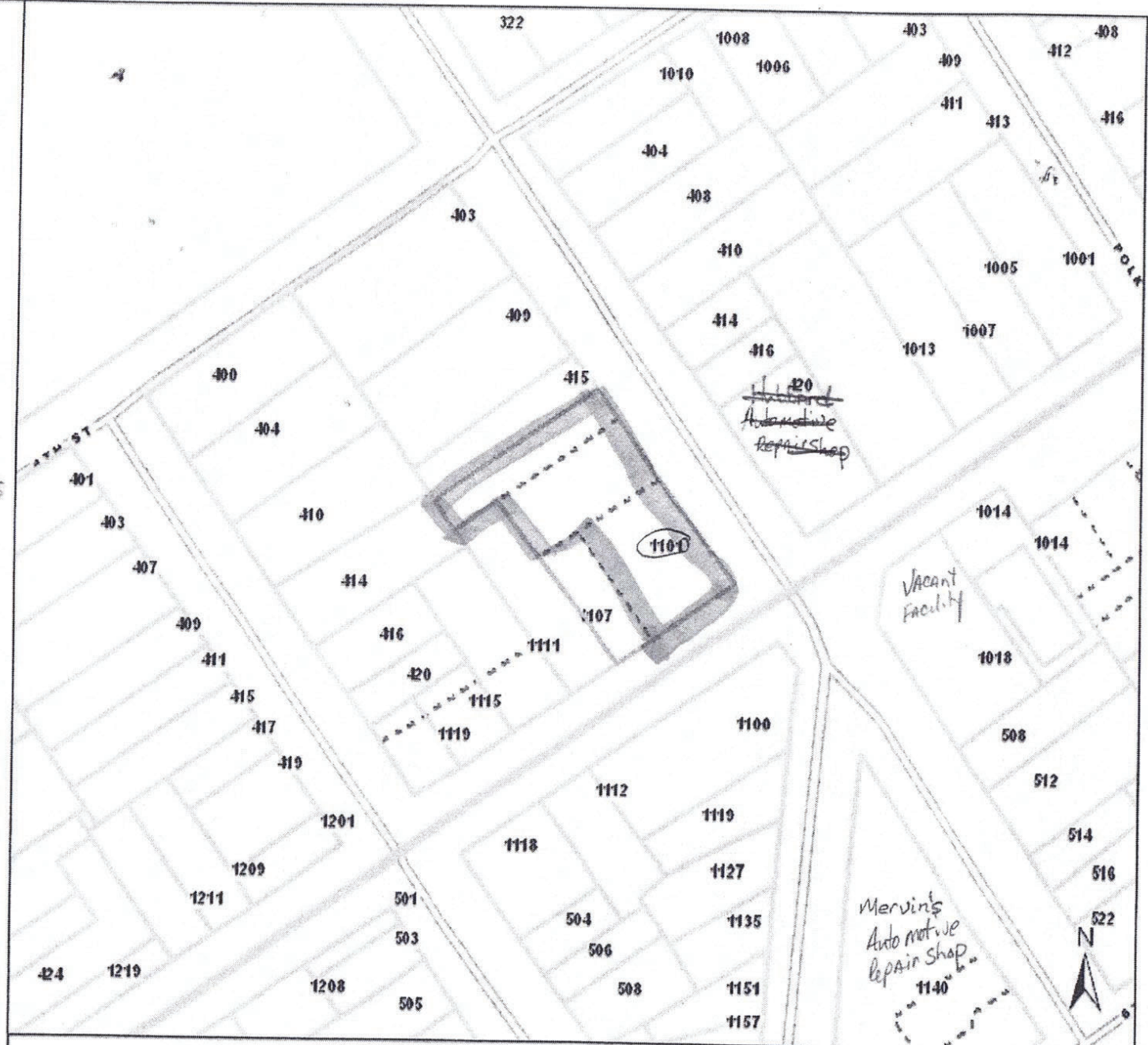
Ex 2

The City of Lynchburg, VA

Legend

-  Corporate Limit
-  Addresses
-  Vacation
-  Parcels
-  Legal Lot Line
-  Legal Lot Line
-  Vacated Right of Way

Consistent With
Adjacent Buildings/Businesses
Currently In operation



Date: 6/30/2009

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and the city of Lynchburg is not responsible for its accuracy or how current it may be.



Conditional Use Permit
1101 5th Street
September 11, 2024

PLEASE PRINT CLEARLY

[illegible]

1101 & 1107 5TH STREET CONDITIONAL USE PERMIT

Tuesday, October 22, 2024



PURPOSE & ACTION

Purpose:

Conditional Use Permit (CUP) petition to allow the use of the property as an auto body repair shop.

Recommendation:

Planning Commission recommended approval (5-2) of this petition on September 11, 2024.

1101 5TH STREET

- Built in 1949 as an auto repair and auto body shop
- 8,060 SF
- Corner of 5th Street, Park Avenue, and Monroe Street
- Proposed for CUP to allow an auto body shop



CONDITIONS

1. Parking of vehicles shall be off-street, behind the front face of the building, shall not impede the use of sidewalks, and shall be limited to 1101 & 1107 5th Street.
2. The parking area behind the existing building shall be screened with a fence made of wood, vinyl, masonry, etc. and landscaping subject to approval of the City Planner. The fence shall not be chain link.
3. The auto body repair operations shall take place within the footprint of the existing building and shall not be expanded.
4. The dumpster shall be located behind the building. If it is visible from the street, it shall be screened.
5. All discarded or junk parts shall be disposed of properly, secured and not visible from the street.
6. The building shall be maintained in good condition.



OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **Lynchburg News & Advance** on the dates indicated below. If changes are needed, please contact us prior to deadline at help@column.us

Notice ID: bezloQORisGoCOHclIxb | **Proof Updated: Oct. 02, 2024 at 04:41pm EDT**
Notice Name: City Council Legal Notice for 10/22/24 | Publisher ID: COL-4400543

This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.

FILER

Natalya Murray
natalya.murray@lynchburgva.gov
(434) 455-3900

FILING FOR

Lynchburg News &

Advance

Columns Wide: 2

Ad Class: Legals

10/08/2024: General Legal Notice	359.29
10/15/2024: General Legal Notice	359.29
Legal Processing Fee	20.00
Online Fee	10.00

Total \$748.58

See Proof on Next Page

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Lynchburg City Council will hold public hearings on **October 22, 2024, at 7:00 p.m.**, or as soon thereafter as may be heard, in the Council Chamber, first floor, City Hall, 900 Church Street, Lynchburg, Virginia 24504, for the purpose of receiving public comments concerning the following matters:

Petition of James and Carolyn Wicks to amend the Future Land Use Map from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

Petition of Daniel Cyrus, on behalf of Rosedale Investments, LLC, to rezone approximately three and three tenths (3.3) acres located at 1600 Graves Mill Road from B-3C, Community Business District Conditional to B-3C, Community Business District Conditional to revise proffers and allow an adjustment in orientation of a fueling station canopy.

Petition of Nadine Durbin, on behalf of Kerr Holdings, LLC, for a Conditional Use Permit in a B-4, Urban Commercial District to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

The full text of all draft ordinances, resolutions, Future Land Use Map amendments, rezoning, conditional use permit petitions, or any other matter advertised by this legal notice may be viewed in the Department of Community Development, City Hall, 900 Church Street, Lynchburg, Virginia 24504, Monday-Friday, 8:30 a.m. to 5:00 p.m., and on the following City-operated website: <https://www.lynchburgva.gov/265/Planning>. All persons are invited to attend the said public hearings to express their views. Questions and/or comments concerning this matter should be directed to the Planning Division at (434) 455-3900 or planning@lynchburgva.gov.
COL-4400543



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Rachel Frischeisen, City Planner

AGENDA ITEM # IV.4

Consideration of adopting Resolution #R-24-076 amending the Future Land Use Map and adopting Ordinance #O-24-077 changing the zoning of a certain area located at 273 Riverside Drive.

RECOMMENDATION

Approval of the petition to amend the Future Land Use Map (FLUM) from Low Density Residential to Resource Conservation and to rezone 273 Riverside Drive from R-2, Low-Medium Density Residential District to R-C, Conservation District to allow the conservation of the property.

SUMMARY

James and Carolyn Wicks are petitioning to amend the Future Land Use Map (FLUM) from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

The property is currently recommended for Low Density Residential and Resource Conservation uses on the City's Future Land Use Map (FLUM). The property fits the description of a Resource Conservation area in its current state, which is undeveloped, vegetated open space. The absence of street frontage and presence of steep terrain severely limit any development potential on the property. No future improvements are proposed.

PRIOR ACTION(S)

October 8, 2024: City Council Business Item Briefing.

September 11, 2024: The Planning Commission recommended approval (7-0) of the FLUM amendment and rezoning petitions.

September 11, 2024: The Planning Division recommended approval of the FLUM amendment and rezoning petitions.

FISCAL IMPACT

N/A

CONTACT(S)

Rachel Frischeisen, City Planner

ATTACHMENT(S)

1. R-24-076
2. O-24-077
3. Planning Commission Minutes, Report, and Attachments
4. 273 Riverside Drive - Rezoning & FLUM Amendment Presentation
5. Public Hearing Notice for FLUM Amendment & Rezoning - 273 Riverside Drive

REVIEWED BY



William Martin, Community Development Director

Date: October 16, 2024



Kent White, Assistant City Manager

Date: October 16, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

A RESOLUTION AMENDING THE FUTURE LAND USE MAP (FLUM) OF THE COMPREHENSIVE PLAN 2013-2030 FOR A CERTAIN AREA LOCATED AT 273 RIVERSIDE DRIVE FROM LOW DENSITY RESIDENTIAL TO RESOURCE CONSERVATION.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of James and Carolyn Wicks to amend the Future Land Use Map (FLUM) of the Comprehensive Plan 2013-2030 from Low Density Residential to Resource Conservation at a certain area located at 273 Riverside Drive is hereby approved.

Adopted: October 22, 2024

Certified: Alicia L. Fung
Clerk of Council

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 273 RIVERSIDE DRIVE FROM R-2, LOW-MEDIUM DENSITY RESIDENTIAL DISTRICT TO R-C, CONSERVATION DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, welfare and good zoning practice that Chapter 35.2 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.2- 54. which shall read as follows:

Section 35.2-54. Change of a certain area located at 273 Riverside Drive from R-2, Low-Medium Density Residential District to R-C, Conservation District.

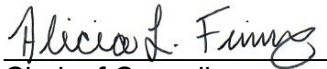
The area embraced within the following boundaries:

FROM A PIPE FOUND ON THE NORTH SIDE OF RIVERSIDE DRIVE N45°35'00"W, 150.00', TO AN IRON SET, THENCE PROCEEDING S44°25'00"W, 516.04' TO AN IRON FOUND, THENCE S15°53'00"W, 69.44', TO A POINT, THE BEGINNING, THENCE S15°53'00"W, 190.44', TO AN IRON FOUND, THENCE S74°07'00"E, 25.00', TO AN IRON FOUND, THENCE S15°53'00"W, 25.00', TO AN IRON FOUND, THENCE S15°53'00"W, 100.00', TO A PIPE FOUND, THENCE S17°44'38"W, 119.46', TO AN IRON SET, THENCE N 40°59'43"W, 185.88', TO AN IRON FOUND, POINT "A", THENCE FOLLOWING A BRANCH OF PIGEON CREEK N19°32'05"W, 48.60', TO A POINT, N21°51'58"W, 128.70', TO A POINT, N08°55'13"W, 96.69', TO A POINT, N39°06'27"E, 42.29', TO A POINT, N16°59'58"E, 92.21', TO A POINT, THENCE ALONG ZONING LINE AS TAKEN FROM ONLINE GIS MAP PER THE CITY OF LYNCHBURG, S68°17'00"E, 264.98', TO THE POINT OF BEGINNING. CONTAINING 2.125 ACRES M/L.

...is hereby changed from R-2, Low-Medium Density Residential District to R-C, Conservation District.

And the City Planner shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.2-30 of this chapter to be amended in accordance therewith.

Adopted: October 22, 2024

Certified: 
Clerk of Council

MINUTES OF THE SEPTEMBER 11, 2024 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

Petition of James and Carolyn Wicks to amend the Future Land Use Map from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

Ms. Eve Mergenthaler, Senior Planner, provided the following summary to the Commission. The subject property is located at 273 Riverside Drive and contains approximately eight and one hundred sixty-seven thousandths acres (8.167). The northern portion of the property is zoned R-C, Conservation District, and the southern portion of the property consists of approximately two and one hundred twenty-five thousandths acres (2.125) and is zoned R-2, Low to Medium Density Residential District. Both zoning districts were established in 1978. The purpose of this petition is to rezone the property from R-2 Low to Medium Density Residential District to R-C Conservation District and amend the future land use map from Low-Density Residential to Resource Conservation to allow the continued conservation of the undeveloped property. The Future Land Use Map (FLUM) currently recommends Low-Density Residential and Resource Conservation uses for the property. Low-density residential areas are dominated by single-family detached housing at densities of up to four dwelling units per acre. In addition to residential uses, they may include public and institutional uses compatible in scale with single-family residential homes. Private recreation uses, including country clubs and swim and racket clubs, and private open space, are also appropriate for low-density residential areas. Resource Conservation areas encompass lands with special natural characteristics that limit land use and development to protect the city's environmental health. These areas may include steep slopes of 25% or greater or stream valleys and are planned to remain in vegetated open space with development limited to one, trails and other passive recreational facilities that involve minimal removal of vegetation, and two, public facilities that must be located in stream valleys. The goal is to keep resource conservation areas as natural as possible to stabilize slopes, prevent soil erosion, provide natural absorption areas for urban runoff, moderate climate, and provide wooded areas for wildlife and for the respite of city dwellers. In its current state, the property fits the description of a resource conservation area. It is undeveloped, consisting of vegetated open space, and the terrain is characterized as having steep slopes of twenty-five percent or greater. Pigeon Creek and its tributary form the western borders of the property. In addition, it is likely unfeasible to develop residential uses on the property as there is insufficient frontage for a city street. The proposed Resource Conservation use should be compatible with the adjacent single-family homes, and no improvements are proposed for the property. The City's Technical Review Committee (TRC) reviewed the petition on July 23, 2024, and the Planning Division recommends approval of the petition.

Chair Johnson asked if there was anyone to speak on behalf of the petition.

Mrs. Carolyn Wicks was present to represent the petition. She referenced the petition of support that residents of the Riverside community signed in favor of the rezoning. Changing the lot to Conservation District will help in keeping a balance between green space and development and will preserve old growth areas for the younger generation. After having a survey done, it was determined that the lot was actually eight and seventeen hundred acres (8.17) and does not connect to any paper roads, which is necessary for R-2 development. It also does not have water, power, or gas utilities.

Chair Johnson asked if there was anyone to speak in favor of the petition.

Ms. Carla Hamilton stated that she lived in the Riverwood subdivision and that one of the reasons that people desire to live there is because of the green space. Those who live within the subdivision care about the area and make effort to keep it looking nice. She brought images showing the green space.

Chair Johnson asked if there was anyone present to speak in opposition to the petition. With there

being none, Chair Johnson closed the public hearing.

Commissioner Rogers asked if there was any incentive for changing the zoning to Conservation District.

Commissioner Marion noted that there would be a tax incentive.

Ms. Rachel Frischeisen, City Planner, stated that it was the petitioner's choice to move forward with the rezoning. Staff did speak with them about different mechanisms, like conservation easements, that they could utilize if the goal was conservation. The rezoning does not place it into a conservation easement, but it does limit development potential.

Commissioner Perault asked if the City taxed R-C differently in terms of assessment value.

Ms. Frischeisen replied that would have to be verified. The assessor's office may also consider the topography of the area in this case.

Mrs. Wicks responded that it is not the sole reason for rezoning the property but assessment was part of the reason. The property was originally assessed at five thousand six hundred dollars (\$5,600) but last year it was assessed for twenty thousand dollars (\$20,000). After speaking with the Assessor's Office, the assessment was reduced to the original amount but they chose to pursue the rezoning. The other reason for the rezoning is the desire to preserve this area for future generations and leave this as their legacy.

Commissioner Gammon asked about the topography regarding installation of a road.

Ms. Frischeisen stated that the property does not have frontage on a City right of way. Cool Springs Avenue right of way can be seen on the map but, as determined by the survey, the property doesn't touch it. Even if the property did, it would likely not be sufficient as the City standard is fifty feet of right of way.

Commissioner Gammon stated that the area seems to be heavily ravined.

Ms. Frischeisen replied that the topography has a thirty percent (30%) plus slope

Commissioner Gammon stated that there seems to be a tax benefit to rezoning.

Commissioner Perault responded that it is common at the state level with conservation easements to get a tax break. It is one of the incentives. It should be encouraged.

Commissioner Rogers shared agreement.

Commissioner Perault stated that the Resource Conservation Districts typically gets chipped away at in the City. The value of the R-C district should be reinforced.

Commissioner Bowden shared agreement. He noted that this property has a water source that empties out into the James River and will be preserved.

Commissioner Bowden made the following motion, seconded by Commissioner Marion, and approved by the following vote:

Commissioner Bowden made the following motion, seconded by Commissioner Marion and approved by the following vote:

"Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the request of James and Carolyn Wicks to amend the Future Land Use Map from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property."

AYES: Bowden, Gammon, Henderson, Johnson, Marion, Perault, Rogers	7
NOES:	0
ABSTENTIONS:	0
ABSENT: Henderson, Johnson	0

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: September 11, 2024
Re: **FLUM Amendment: Low Density Residential to Resource Conservation.
Rezoning: R-2, Low-Medium Density Residential District to R-C, Conservation
District – 273 Riverside Drive.**

I. PETITIONER

James and Carolyn Wicks, 415 Riverside Drive, Lynchburg, Virginia 24503

Property Owner: Same as petitioner.

II. LOCATION

The subject property proposed to be rezoned consists of approximately two and one hundred twenty-five thousandths (2.125) acres located at 273 Riverside Drive.

III. PURPOSE

The purpose of the petition is to conserve the undeveloped property.

IV. SUMMARY

- The City's *Future Land Use Map (FLUM)* recommends Low Density Residential and Resource Conservation uses. The petition proposes to amend the Low Density Residential portion to Resource Conservation.
- In its current state, the property fits the description of a Resource Conservation area. It is undeveloped, consisting of vegetated open space.
- It is likely unfeasible to develop Low Density Residential uses on the property as there is insufficient frontage for a City street and steep terrain.
- The subject property proposed to be rezoned is currently zoned R-2 Low-Medium Density Residential District. The petition proposes to rezone the entire property to R-C, Conservation District.

The Planning Division recommends approval of the FLUM amendment and rezoning petitions.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2013-2030* recommends Low Density Residential use for the area proposed for rezoning. Low Density Residential areas are dominated by single family detached housing at densities of up to four dwelling units per acre. In addition to residential uses, they may include public and institutional uses compatible in scale with single family residential homes. Private recreation uses, including country clubs and swim and racquet clubs, and private open space are also appropriate for Low Density Residential areas (p.72).

The City's *Future Land Use Map (FLUM)* also recommends Resource Conservation for the northern portion of this property. Resource Conservation Areas encompass lands with special

natural characteristics that limit land uses and development to protect the City's environmental health. The mapped Resource Conservation Areas include the steep slopes of Candler's Mountain as well as the City's stream valleys. The stream valleys, as defined in this Comprehensive Plan, include streams and rivers, their 100-year floodplains, connected wetlands and adjacent steep slopes. Steep slopes are defined as slopes of 25% or greater. The actual boundaries of the Resource Conservation Area should be determined on a site-by-site basis using the best available environmental data.

Resource Conservation Areas are planned to remain in vegetated open space with development limited to: 1) trails and other passive recreational facilities that involve minimal removal of vegetation, and 2) public facilities that must be located in stream valleys. These include sewer mains, wastewater treatment plants, water intakes and outfalls, road crossings, and public boat ramps. The goal is to keep Resource Conservation Areas as natural as possible to stabilize slopes, prevent soil erosion, provide natural absorption areas for urban runoff, moderate climate, and provide wooded areas for wildlife and for the respite of City dwellers. Many of the stream valley Resource Conservation Areas are recommended to become greenways in the Parks and Recreation element, and thus may have public access trails. Other Resource Conservation Areas, not designated as greenways on the Parks & Recreation Map, are to remain in natural vegetation for purely environmental protection reasons. On privately owned land within conservation areas, the intent of this Plan is to allow appropriate land uses and infrastructure as long as the environmental value of the areas is conserved or enhanced and public safety is protected through buffers and other best management practices (p 77).

2. **Zoning.** The subject property was annexed into the City in 1926. A portion of the property is already zoned R-C, Conservation District. The other portion of the property, proposed to be rezoned, is zoned R-2, Low-Medium Density Residential District. Both zoning districts were established in 1978.
3. **Proffers.** The petitioner has not submitted proffers.
4. **Board of Zoning Appeals (BZA).** The Zoning Administrator has determined that no variances are needed for the development of the property as proposed.
5. **Surrounding Area.** There have been a few items requiring City Council approval in the immediate area:
 - On January 13, 1981, City Council approved Mr. R. Schaefer Oglesby's petition to rezone two and seventy-five hundredths (2.75) acres located near the end of Riverside Drive to the North from R-C, Conservation District to R-2, Single-Family Residential District, to allow the construction of four (4) single-family residences.
 - On May 13, 2008, City Council approved Hernan and Guadalupe Garces' petition for a CUP to allow the operation of a bed and breakfast in an R-2, Low-Medium Density Single-Family Residential District located at 1 Vista Avenue.
6. **Site Description.** The subject property is comprised of eight and one hundred sixty-seven thousandths (8.167) acres located at 273 Riverside Drive. The portion proposed for rezoning is comprised of two and one hundred twenty-five thousandths (2.125) acres and is currently undeveloped. The property is surrounded by vacant land and single-family homes. The terrain is characterized as having steep slopes of 25% or greater. Pigeon Creek and its tributary form the western border.

7. **Proposed Use of Property.** If the petition is approved, the property will remain undeveloped, according to the submitted narrative.
8. **Traffic, Parking and Public Transit.** The City Traffic Engineer had no comments of concern regarding the petition.

The property does not have improved street frontage or access.

The property is not served by the Greater Lynchburg Transit Company (GLTC).
9. **Stormwater Management.** An Erosion & Sediment Control and Stormwater Plan will not be required as there is no development proposed.
10. **Emergency Services.** The City's Fire Marshal and Police Department had no comments of concern regarding the petition.
11. **Impact.** This petition proposes to rezone the R-2, Low-Medium Density Residential District portion of this property to R-C, Conservation District, which should have little impact on the area.

The petition proposes to amend the *Future Land Use Map (FLUM)* Low Density Residential portion of the property to Resource Conservation. The area is currently designated for both Low Density Residential and Resource Conservation. In its current state, the property fits the description of a Resource Conservation area. It is undeveloped, consisting of vegetated open space. The terrain is characterized as having steep slopes of 25% or greater. Pigeon Creek and its tributary form the western borders of the property. In addition, it is likely unfeasible to develop Low Density Residential use on the property as there is insufficient frontage for a City street. The proposed Resource Conservation use should be compatible with the adjacent residential uses.
12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the petition on July 23, 2024. Comments were minor in nature.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the request of James and Carolyn Wicks to amend the Future Land Use Map from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

This matter is respectfully offered for your consideration.



Rachel Frischeisen
City Planner

pc: Wynter Benda, City Manager
Greg Patrick, Deputy City Manager
Kent White, Assistant City Manager
Tom Martin, Director of Community Development
Matthew Freedman, City Attorney
J. Lee Newland, City Engineer
Cynthia Kozerow, Lynchburg Police Department
Candace Brown, Fire Marshal
Doug Saunders, Building Official
Kevin Henry, Zoning Administrator
James and Carolyn Wicks, Petitioner

VII. ATTACHMENTS

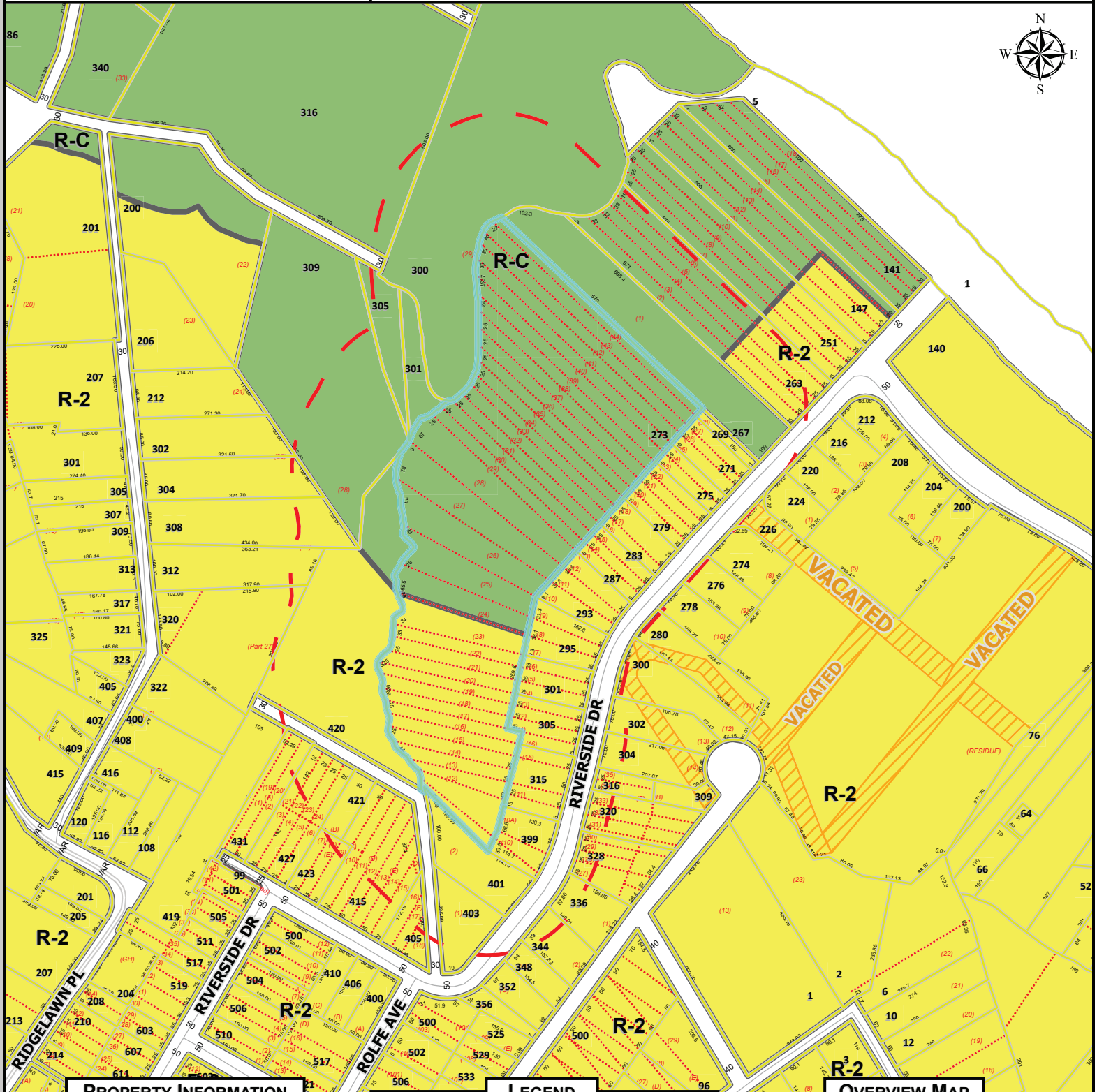
- 1. Zoning Map with Adjoining Property Owners**
- 2. Future Land Use Map**
- 3. Watershed Map**
- 4. Planimetric and Topographic Map**
- 5. Resurvey of Property**
- 6. Narrative**
- 7. Neighborhood Petition**
- 8. Property Photograph**

Zoning

273 RIVERSIDE DR

TRC

James A. & Carolyn J. Wicks



PROPERTY INFORMATION

PARCEL ID

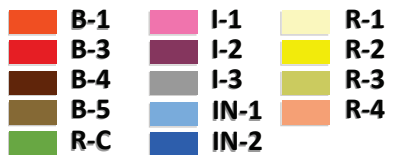
ADDRESS

04001051 273 RIVERSIDE DR

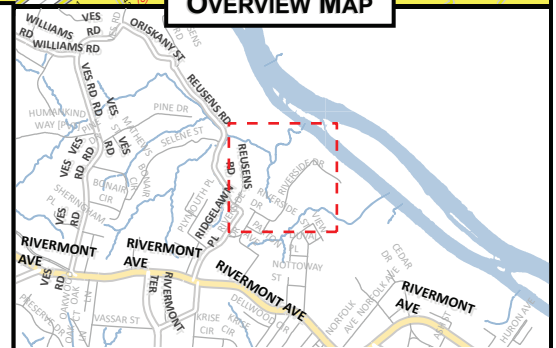
LEGEND

Subject Property

215 Foot Buffer



OVERVIEW MAP



MAP SCALE: 1:3,324 DATE PRINTED: 6/4/2024

273 Riverside Drive

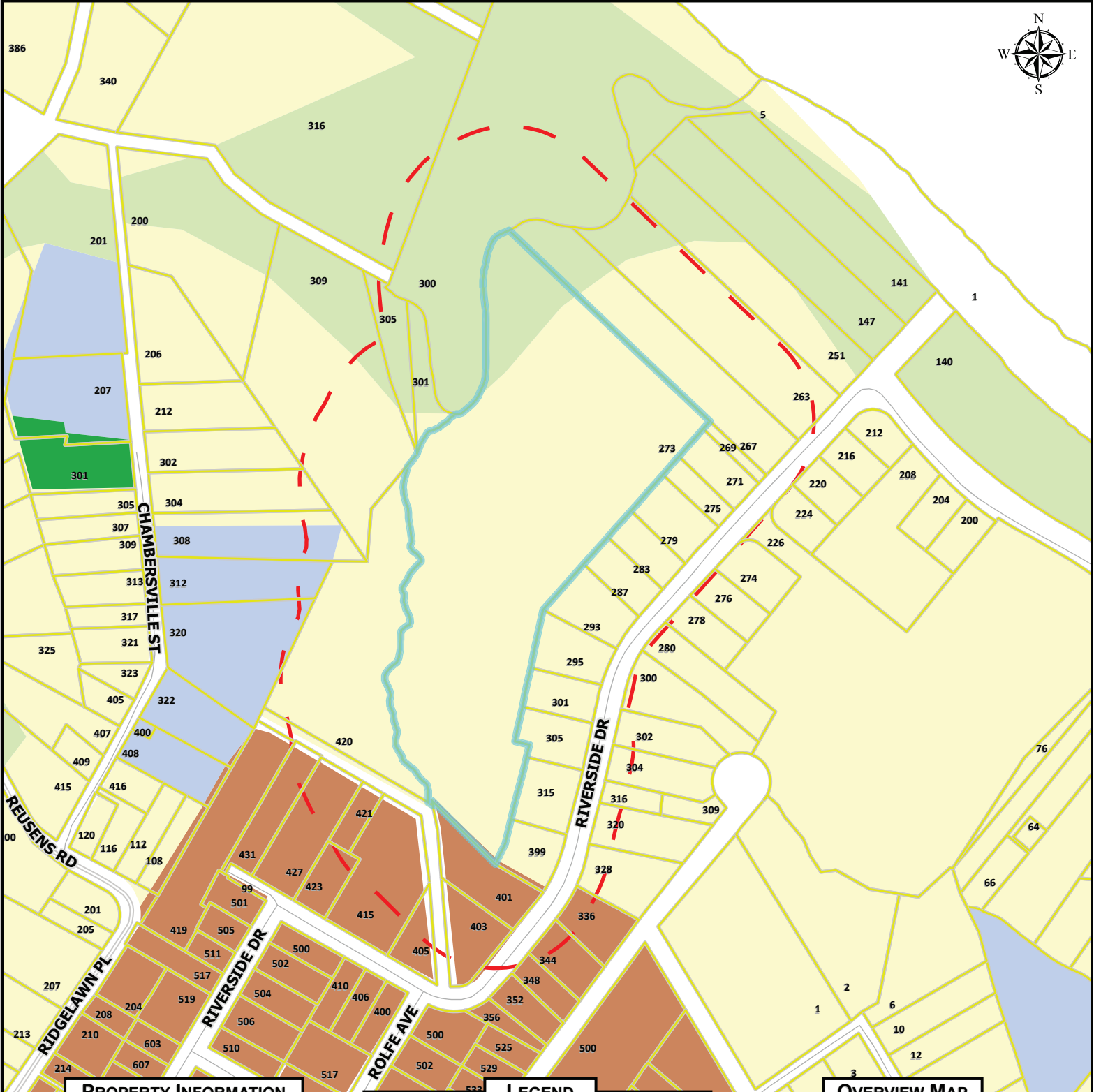
Parcel ID	Address	Owner
04003021	348 RIVERSIDE DR	POWELL, MELODY L
04003019	344 RIVERSIDE DR	WILLIAMSON, MARK & JUANITA
04003016	336 RIVERSIDE DR	TERRELL, BRANSON & KOCOL, KENDALL
04003012	328 RIVERSIDE DR	BAKER, KATHERINE P
04003009	320 RIVERSIDE DR	FUNICELLO, JAYSON T & JESSICA C
04003037	316 RIVERSIDE DR	STENGL, CHRISTOPHER &
04001049	315 RIVERSIDE DR	MILLWARD, FREDERICK C & LESLIE K
04112006	304 RIVERSIDE DR	HARRISON, BETHANY A S & ERIC E
04112005	302 RIVERSIDE DR	BANKS, PHILLIP E
04001045	305 RIVERSIDE DR	FARRINGER, NATALIE A &
04001042	301 RIVERSIDE DR	HARRISON, ERIC E & BETHANY A S
04112004	300 RIVERSIDE DR	BANKS, PHILLIP E
04112003	280 RIVERSIDE DR	MOORE, CHRISTOPHER & KELSEY
04001039	295 RIVERSIDE DR	BRAFFORD, RICKY D JR & SAMANTHA S
07105006	320 CHAMBERSVILLE ST	WINGFIELD BAPTIST CHURCH TRS
04112002	278 RIVERSIDE DR	SIMMONS, CLIFTON C & MOOSE K
04112022	276 RIVERSIDE DR	SIMMONS, CLIFTON C & MOOSE K
04001036	293 RIVERSIDE DR	CHEATHAM, MICHELE THURMAN
07105008	312 CHAMBERSVILLE ST	WINGFIELD BAPTIST CHURCH TRS
04001033	287 RIVERSIDE DR	SZANDZIK, DAVID WAYNE
04001030	283 RIVERSIDE DR	FAISON, ROY & BRENDA T
07105009	308 CHAMBERSVILLE ST	SCOTT, ROY K
04001026	279 RIVERSIDE DR	HAMILTON, CARLA
07105016	304 CHAMBERSVILLE ST	SCOTT, OLETHA
04001024	275 RIVERSIDE DR	HAMILTON, CARLA BERRY
04001021	271 RIVERSIDE DR	HUSSAMY, OMAR D
07105017	302 CHAMBERSVILLE ST	SCOTT, CHERYL J
04001020	269 RIVERSIDE DR	HUSSAMY, OMAR D
04001069	301 REUSENS RD	ARGENBRIGHT, KENNETH
04001068	305 REUSENS RD	ARGENBRIGHT, KENNETH
04001067	309 REUSENS RD	HUSSAMY, OMAR D
04001019	267 RIVERSIDE DR	HALLSTROM, HENRY A E & ELAINE C
04001014	263 RIVERSIDE DR	BANKS, EUGENE R
07104004	316 REUSENS RD	DAVIS, MADELINE P
04001070	300 REUSENS RD	BANKS, EUGENE R
04004012	405 RIVERSIDE DR	FERGUSON, PALMER W
04001057	403 RIVERSIDE DR	BARRETT, JOSEPH A & AMBER M CLOSS
04004014	423 RIVERSIDE DR	MLD PROPERTIES LLC
04001055	399 RIVERSIDE DR	VINSON, GREGORY JR & CANDACE
04001058	401 RIVERSIDE DR	PLAYER, TIMOTHY M
04004008	415 RIVERSIDE DR	WICKS, JAMES A & CAROLYN J
04004007	421 COOL SPRING DR	WICKS, JAMES A & CAROLYN J
04004003	427 RIVERSIDE DR	BRUDKE, KARL PETER & GRAY, MARSHALL & GRAY, PATRICIA
04004002	431 RIVERSIDE DR	MONTAGUE, CHER R
04004001	419 RIDGELAWN PL	COALSON, MCKENNA & COALSON, SUSAN &
04001066	420 COOL SPRING DR	BURNETTE, TIMOTHY L
04001051	273 RIVERSIDE DR	WICKS, JAMES A & CAROLYN J
04112001	274 RIVERSIDE DR	BRAFFORD, RICK D SR & KIMBROUGH L
04111001	226 RIVERSIDE DR	FRANK GOOD BUILDING CONTRACTORS INC
04113001	224 RIVERSIDE DR	FLORES, FERDINAND L & GLYNDA R
		JEREMY BRYANT, AMHERST COUNTY ADMINISTRATOR
		VDOT ATTN: RICK YOUNGBLOOD

FLUM

273 RIVERSIDE DR

TRC

James A. & Carolyn J. Wicks



PROPERTY INFORMATION

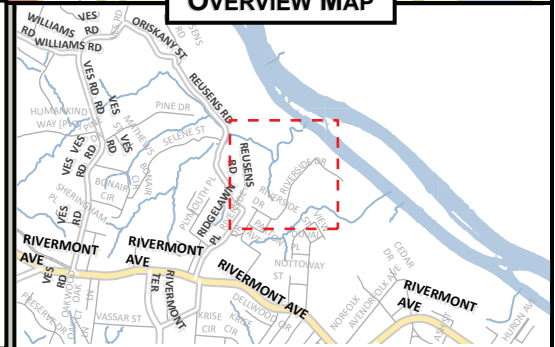
PARCEL ID	ADDRESS
04001051	273 RIVERSIDE DR

LEGEND

- Local Historic District
- Traditional Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Neighborhood Commercial
- Community Commercial
- Employment 1
- Employment 2
- Downtown
- Institution
- Public Use
- Public Parks
- Resource Conservation
- Mixed Use

MAP SCALE: 1:3,324 DATE PRINTED: 6/4/2024

OVERVIEW MAP



Watershed

273 RIVERSIDE DR

TRC

James A. & Carolyn J. Wicks



PROPERTY INFORMATION

PARCEL ID

ADDRESS

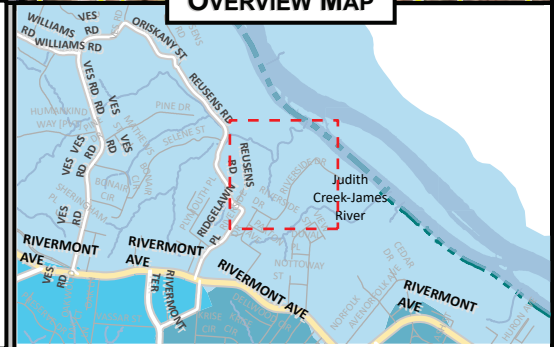
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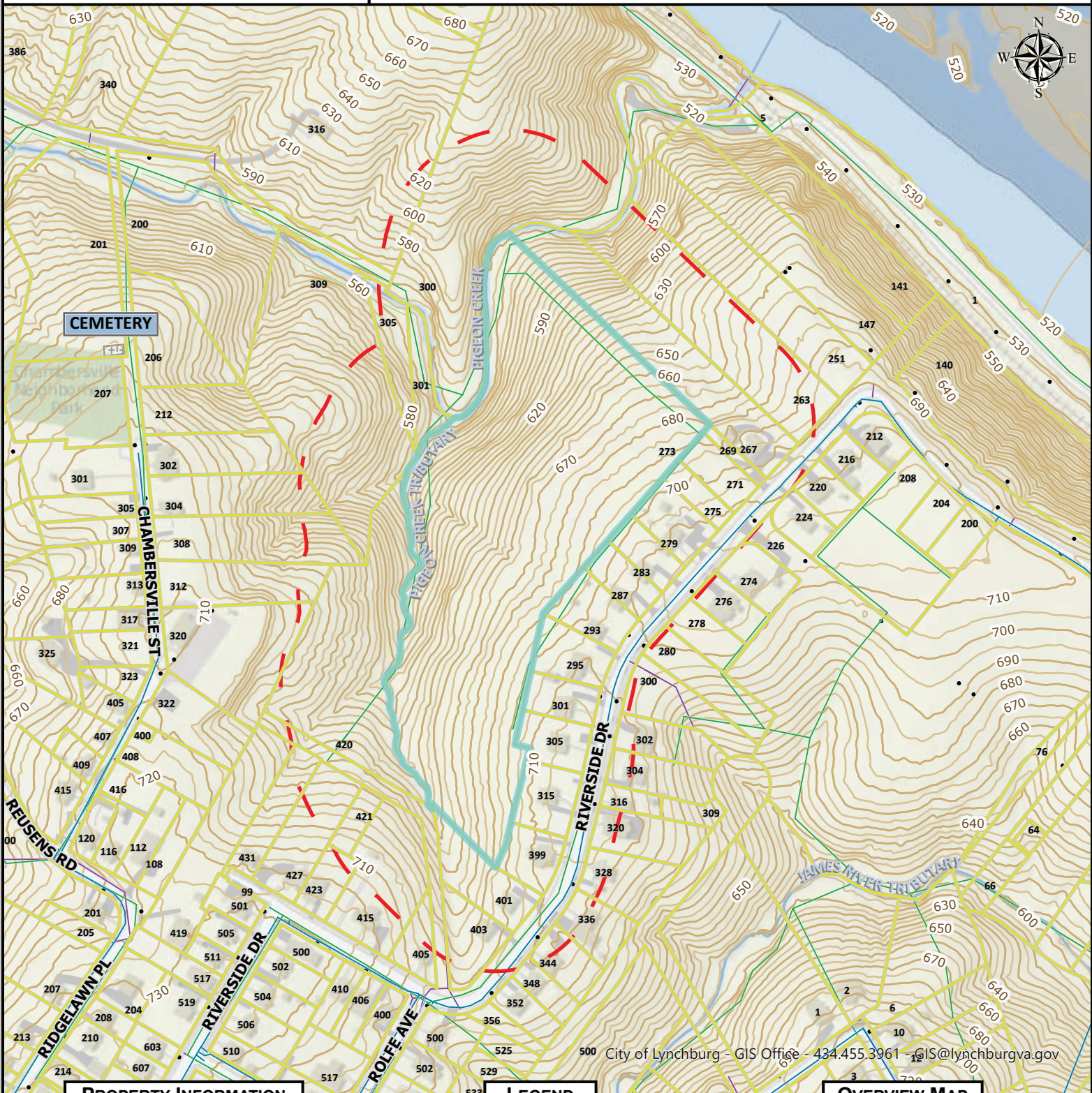
LEGEND

- Subject Property
- Base Flood Elevation
- Floodway
- Floodzone
- River / Lake / Stream

MAP SCALE: 1:3,324 DATE PRINTED: 6/4/2024

OVERVIEW MAP





City of Lynchburg - GIS Office - 434.455.3961 - GIS@lynchburgva.gov

PROPERTY INFORMATION

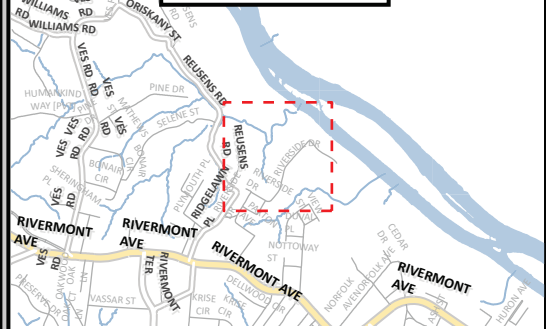
PARCEL ID	ADDRESS
04001051	273 RIVERSIDE DR

LEGEND

	Active	Proposed	Abandoned
Utilities	Water	Sanitary	Storm
Planimetrics	Paved	Unpaved	Other
Structure	Roadway	Parking	Sidewalk
Topography	Contour	100'	50'

MAP SCALE: 1:3,324 DATE PRINTED: 6/4/2024

OVERVIEW MAP



REF
D.B. 322, PG. 198

N/F
KENNETH ARGENTBRIGHT
D.B. 1132, PG. 805
PID #04001069
ZONED R-C

N/F
KENNETH ARGENTBRIGHT
C/O ANGEL OSBORNE
D.B. 1132, PG. 805
PID #04001068
ZONED R-C

N/F
OMAR D. HUSSAMY
DOC. #230004982
PID #04001067
ZONED R-C

N/F
TIMOTHY L. BURNETTE
D.B. 848, PG. 426
PID #04001066
ZONED R-2

N/F
JAMES A. WICKS &
CAROLYN J. WICKS
DOC. #120003443
PID #04004008
ZONED R-2

N/F
PALMER W. FERGUSON
DOC. #170007049
PID #04004012
ZONED R-2

N/F
EUGENE R. BANKS
D.B. 810, PG. 596
PID #04001070
ZONED R-C

N/F
HENRY A. E. HALLSTROM
& ELAINE C. HALLSTROM
D.B. 1117, PG. 843
PID #04001019
ZONED R-C

PROPERTY LINES FROM POINT "A"
TO POINT "B" TO POINT "C" ARE
FOR CALCULATION OF AREA ONLY

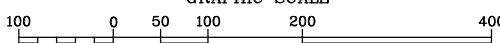
LINE	BEARING	LENGTH
L1	N 19°32'05" W	48.60'
L2	N 21°51'58" W	128.70'
L3	N 08°55'13" W	96.69'
L4	N 39°06'27" E	42.29'
L5	N 18°59'58" E	97.62'
L6	N 05°39'51" W	56.91'
L7	N 33°44'37" E	54.10'
L8	N 30°31'40" E	18.51'
L9	N 27°47'41" W	34.33'
L10	N 05°37'33" W	88.17'
L11	N 02°54'03" E	60.88'
L12	N 38°48'10" E	105.33'
L13	N 53°33'32" E	40.74'
L14	N 68°06'36" E	46.77'
L15	N 34°58'11" E	67.85'
L16	N 08°07'07" E	68.19'
L17	N 03°01'48" E	72.74'
L18	N 06°19'06" E	91.20'
L19	N 07°24'31" E	24.42'

LINE	BEARING	LENGTH
L20	S 74°07'00" E	25.00'
L21	S 15°53'00" W	25.00'
L22	S 15°53'00" W	100.00'
L23	S 17°44'38" W	119.46'

NOTES:

- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
- THIS PROPERTY IS IN FLOOD ZONE "X" AS SHOWN AND SCALED OFF F.E.M.A. MAP # 5100930033D, EFFECTIVE DATE JUNE 3, 2008.
- THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.
- NO DETERMINATION OF WETLANDS HAS REQUESTED, NOR WAS ANY DETERMINATION MADE BY JAMES C. MAY & ASSOCIATES, P.C. OR THIS SURVEYOR. THIS PLAT DOES NOT ADDRESS THE EXISTENCE OF THE AFOREMENTIONED IN OR AROUND THE BOUNDARIES OF THIS PROPERTY.
- NO SUBSURFACE INVESTIGATIONS HAVE BEEN PERFORMED AND THE SURVEYOR DISCLAIMS RESPONSIBILITY FOR THE EXISTENCE OR NON-EXISTENCE OF ANY AND ALL UNDERGROUND UTILITIES, STRUCTURES, ROCK-DEPOSITS, ETC. ASSOCIATED WITH THIS PROJECT.
- THIS PROPERTY IS ZONED R-2 LOW-MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL AND R-C RESOURCE CONSERVATION.
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND PUBLIC SEWER SYSTEMS.
- THIS PROPERTY IS IN THE OPOSSUM CREEK-JAMES RIVER WATERSHED DISTRICT. THEREFORE A 75' WIDE VEGETATED STREAM BUFFER IS REQUIRED ON EACH SIDE OF THE STREAM AS SHOWN ON THIS PLAT. THE FOLLOWING ARE NOT PERMITTED WITHIN THE BUFFERS: ANY ON-SITE SEWAGE SYSTEM, DRAINFIELD, RESERVE DRAINFIELD, WASTE PUMP STATION, OR WASTE FORCE MAIN; BUILDING STRUCTURES, DRAINAGE DITCHES WHICH CONCENTRATE THE FLOW OF SURFACE WATER ACROSS THE STRIP; ABOVE OR BELOW GROUND STORAGE TANKS; ROW CROPS REQUIRING TILLAGE, EXCEPT IN STRICT ACCORDANCE WITH BEST MANAGEMENT PRACTICES AND A CONSERVATION PLAN; OR LOGGING OR SILVICULTURAL ACTIVITIES, EXCEPT IN STRICT ACCORDANCE WITH BEST MANAGEMENT PRACTICES FOR PUBLIC WATER SYSTEMS.
- FROM POINT "A" TO POINT "B" TO POINT "C" THE CENTERLINE OF THE BRANCH AND PIGEON CREEK AS IT MEANDERS IS THE PROPERTY LINE. BEARINGS AND DISTANCES ARE FOR COMPUTATION OF AREA ONLY.
- TOPOGRAPHIC LINES ON THIS PLAT WERE SCALED FROM CITY OF LYNCHBURG GIS SITE.

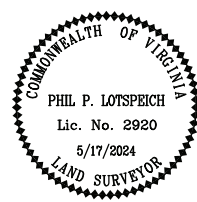
GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

REVISED 6/19/2024: AS SHOWN ACREAGE FOR R-2 ZONING AND CALLS.

JAMES C. MAY AND ASSOCIATES, P.C. SURVEYORS-PLANNERS 4449 S. AMHERST HWY, MADISON HEIGHTS, VA, 24572 434-528-1005		PLAT SHOWING RESURVEY OF LAND STANDING IN THE NAMES OF JAMES A. WICKS & CAROLYN J. WICKS, DESCRIBED IN DOC. #200000989 CITY OF LYNCHBURG, VIRGINIA	
SOURCE OF TITLE: JAMES A. WICKS & CAROLYN J. WICKS DOC. # 200000989		TAX ID.: 04001051, 52, 54	
SCALE: 1" = 100'		DATE: 5/17/2024	COMM. NO.: 24018
FOR: JAMES A. WICKS & CAROLYN J. WICKS		F.B. REF.: PPL	



273 Riverside Drive Rezoning Narrative

Planning Commission and City Council,

Our family requests you consider rezoning 273 Riverside Drive, a forested lot, to only R-C Conservation which is a change from its current mixed zoning of R-C Conservation and R-2 Low-Medium Density Single-Family Residential. This is a beneficial and needed change for several reasons:

- 1) This change supports the desire of Lynchburg City to balance development with beautification. This forested lot beautifies Riverside Drive for many houses that border this undeveloped land. The petition signed by the residents of Riverside Drive (see 61 signatures on 5 page signature petition) speaks to residents' desire to preserve this land in an undeveloped state with only R-C Conservation zoning. As the owners of this parcel, it is our purpose to maintain this forest land in an undeveloped state with only R-C Conservation zoning for the beautification of our residence/neighborhood and the preservation of animal habitat.
- 2) Zoning precedence for the connecting forest lots of which 273 Riverside Drive is part of the canyon is only R-C Conservation (see PID #04001067, PID #04001068, PID #04001069, PID #04001070, and PID #04001019). The one forested lot (PID #04001066) that is zoned R-2 is connected to the paper road "Cool Spring Ave".
- 3) The forested lot, 273 Riverside Drive, does not have any paper road or paved, maintained road access (see 2024 plat map) which is needed for R-2 development. The lot does not have water, power, or gas utilities.
- 4) Updating the zoning of 273 Riverside Drive to only R-C Conservation will heighten the accuracy of the city master development plan, zoning, and GIS based on the updated 2024 plat (for example, see GIS discrepancy in acreage 6.8 to 8.1 acres). We believe the mixed zoning was a discrepancy in the record based on a perception that 273 Riverside Drive connected to a paper road. The 2024 plat shows that 273 Riverside Drive does not legally connect at any point to the paper road "Cool Spring Ave." or any other road access point which is needed for R-2 development.

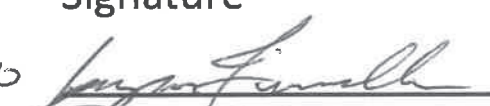
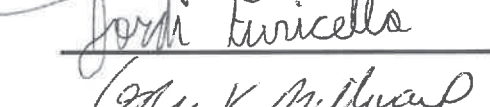
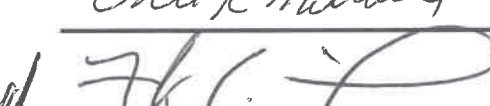
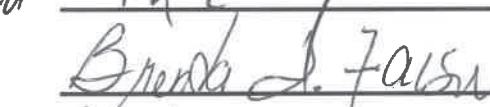
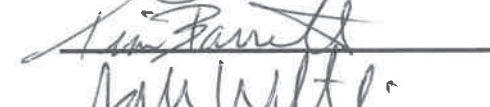
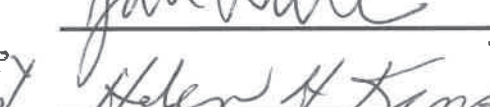
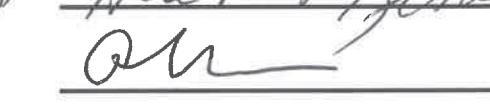
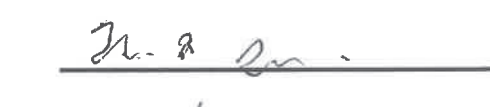
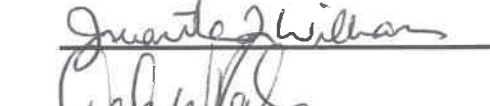
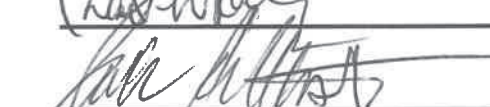
We are grateful for your consideration of our family request to rezone the forested lot, 273 Riverside Drive, to only R-C Conservation.

Signed: James A. Wicks and Carolyn J. Wicks (Owners)

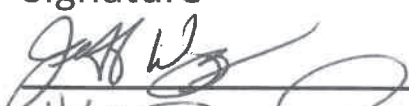
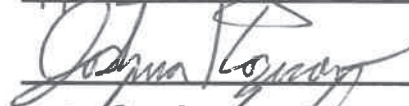
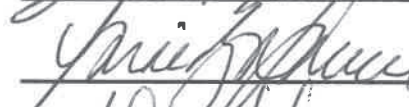
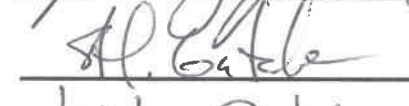
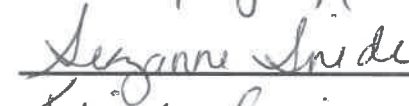
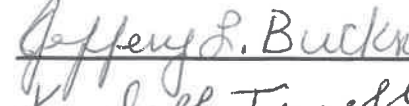
I am a resident of the Riverside Community and
I want the forest lot, 273 Riverside Dr., to be
rezoned to only R-C Conservation.

Print name	Signature	House #
Madeleine Fergus		405
Palmer Fergus		405
Patrick Fergus		405
Amber Barrett		403
Joseph Barrett		403
Anderson Barrett		403
Timothy Player		401
Gres Vinson		399
Rosemary Sule		301
Pick Bradford, Jr.		295
DAVID SZANDZIK		287
Carla Hamilton		279
Henry Hallstrom		267
Telle Willis		212
Kari Marshall		216

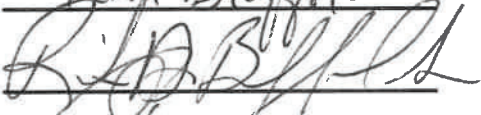
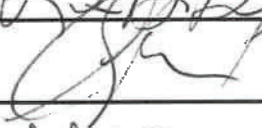
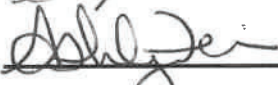
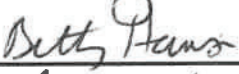
I am a resident of the Riverside Community and
I want the forest lot, 273 Riverside Dr., to be
rezoned to only R-C Conservation.

Print name	Signature	House #
Jayson Funicello		320
Jessica Funicello		320
Jordi Funicello		320
Leslie Millward		315
Frederick C. Millward		315
Brenda J. Faison		283
Vicki Z Barrett		506
Tim Barrett		506
Joshua Williams		500 Rolfe
Helen H Kinsey		607
Allison Jablonski		406
Brian Jablonski		406
Juanita Williams		344
DAVID ROBERTS		517
Joseph Hallstrom		267

I am a resident of the Riverside Community and
I want the forest lot, 273 Riverside Dr., to be
rezoned to only R-C Conservation.

Print name	Signature	House #
Jeff Wissins		521
Heather Ryan-Siger		410
Joshua Kozarov		504
Lisa Broughman		506
Steve Gatzke		612
Libby Gatzke		612
Suzanne Snider		511
Klint Snider		511
Sara Kozarov		504
Jeremiah Guelzo		505
Mark Williamson		344
Karl P Brudke		427
Jeffery L. Buckner		352
Kendall Terrell		336
Branson Terrell		336

I am a resident of the Riverside Community and
I want the forest lot, 273 Riverside Dr., to be
rezoned to only R-C Conservation.

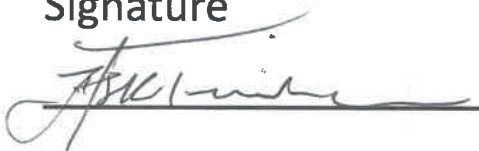
Print name	Signature	House #
GLYNDA FLORES		224
Kim Brafford		274
Rice BrAFFORD		274
CHRIS MOORE		280
Ashley Farringer		305
Bethany Harrison		304
Eric Harrison		304
Chris Stangl		316
Frances Carey Stangl		316
Quinton Williamson		344
Melody Powell		319/24
Colt Riley		502
Emma Balmer		510
Cole Balmer		510
TRICIA Kirby-WISSINS		521

I am a resident of the Riverside Community and
I want the forest lot, 273 Riverside Dr., to be
rezoned to only R-C Conservation.

Print name

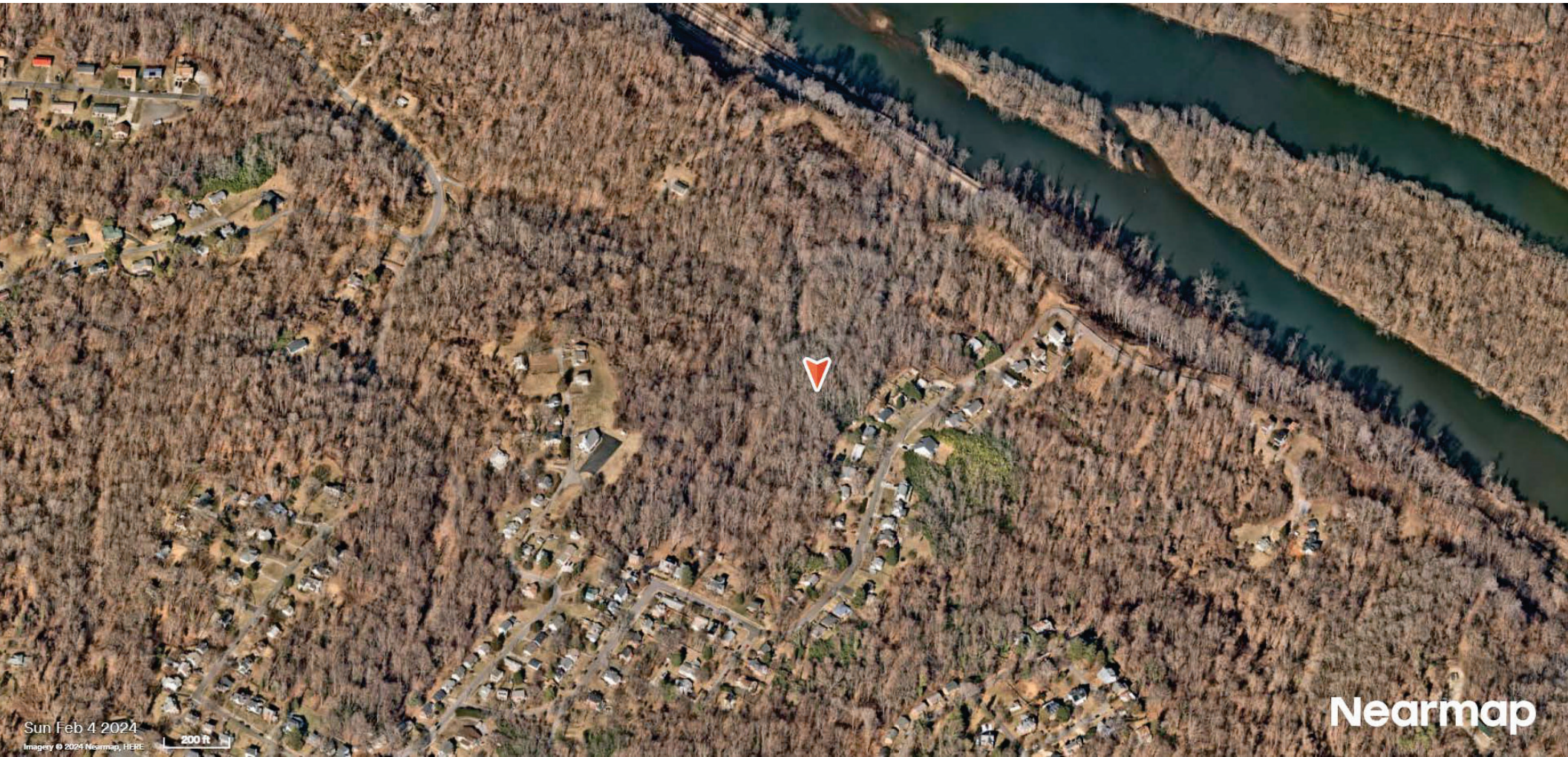
Jacqueline Timmer

Signature



House #

615



Sun Feb 4 2024
Imagery © 2024 Nearmap, HERE

200 ft

Nearmap

Rezoning: R-2 to R-C & FLUM Amendment
273 Riverside Drive
September 11, 2024

PLEASE PRINT CLEARLY

NAME	ADDRESS	PHONE	IN FAVOR	IN OPPOSITION	NEUTRAL
Carolyn Alicks			X		
James Wild			X		
Aiden Wild			X		
Carla Hamble			X		

RIVERSIDE DRIVE REZONING & FLUM AMENDMENT

Tuesday, October 22, 2024



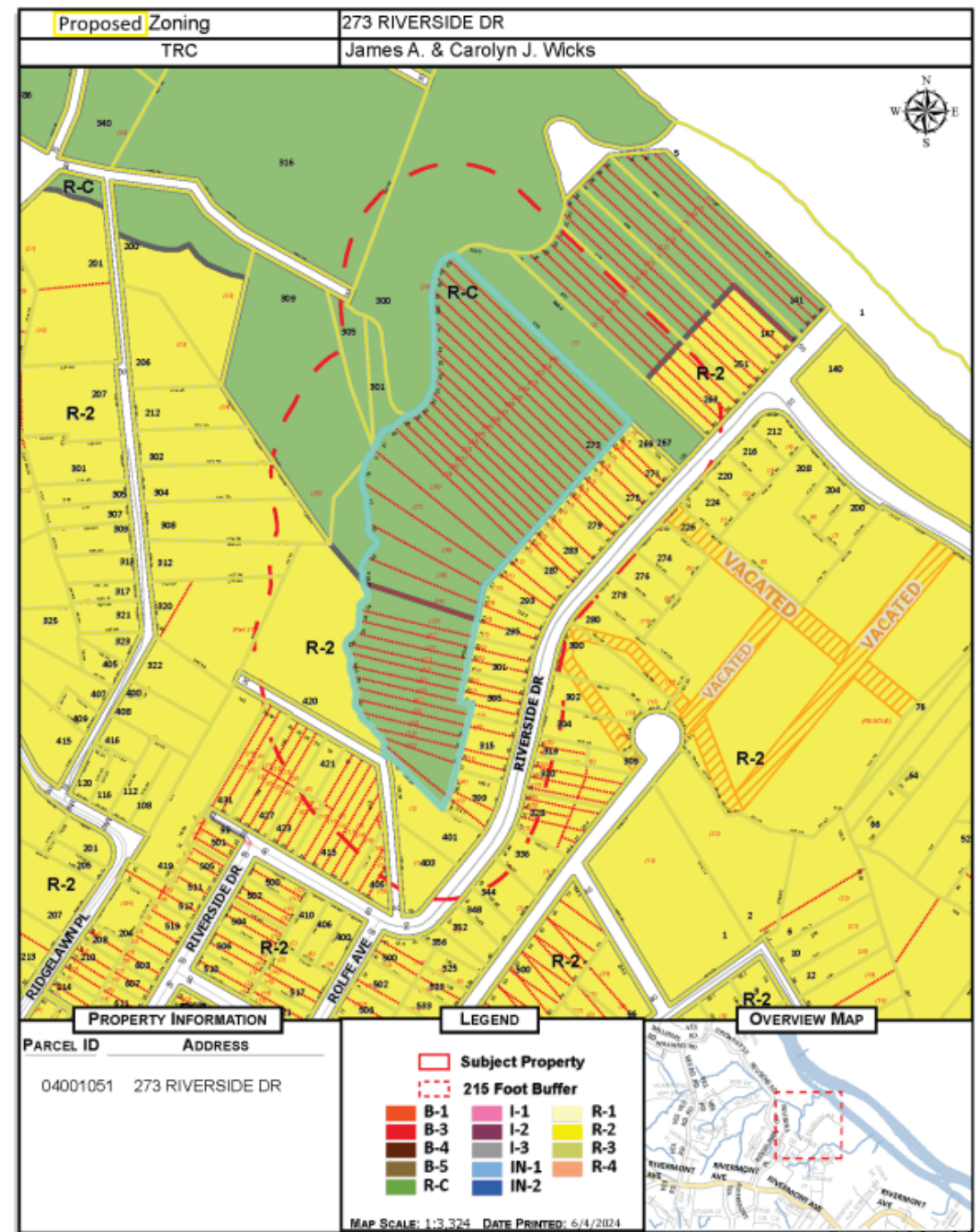
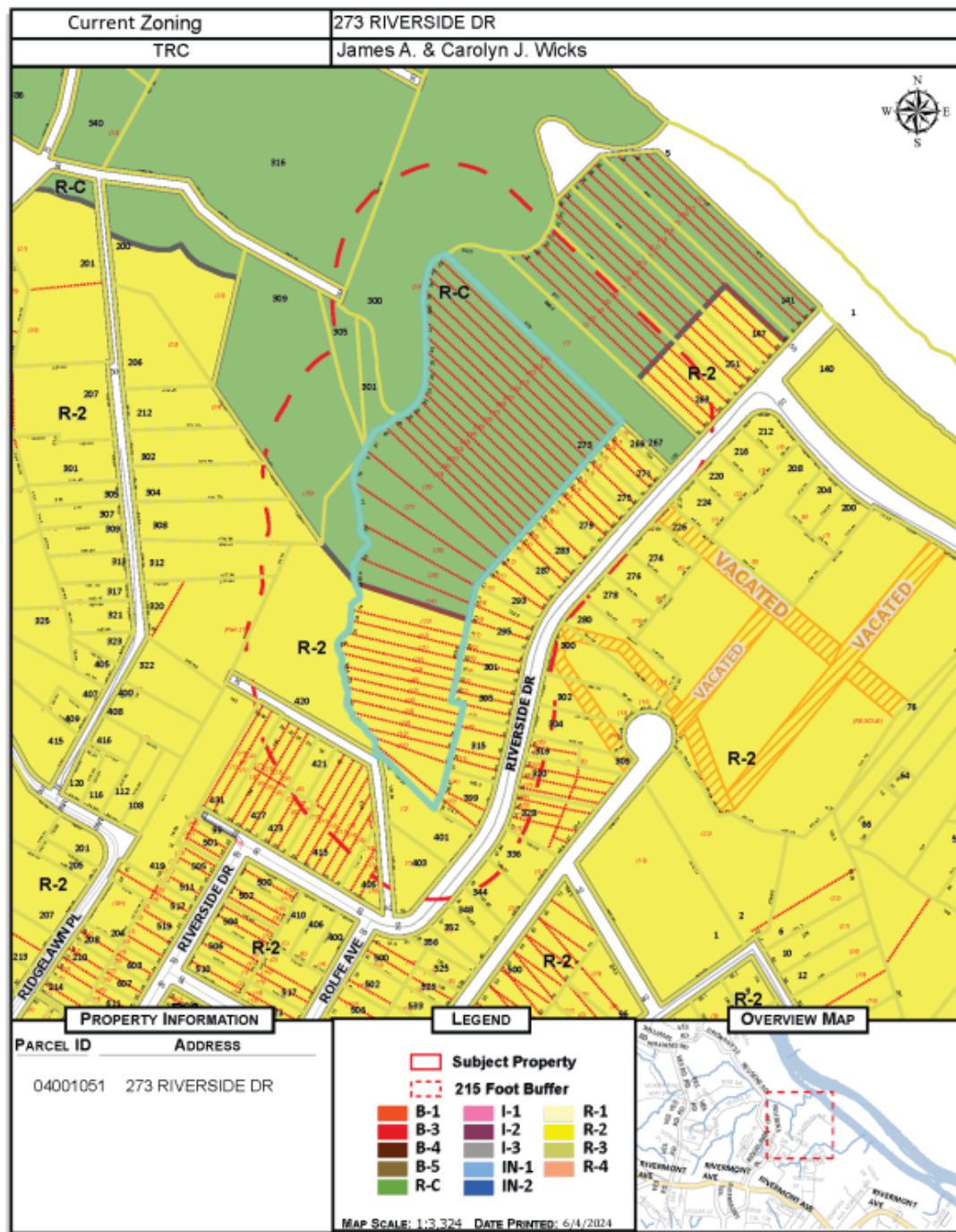
PURPOSE & ACTION

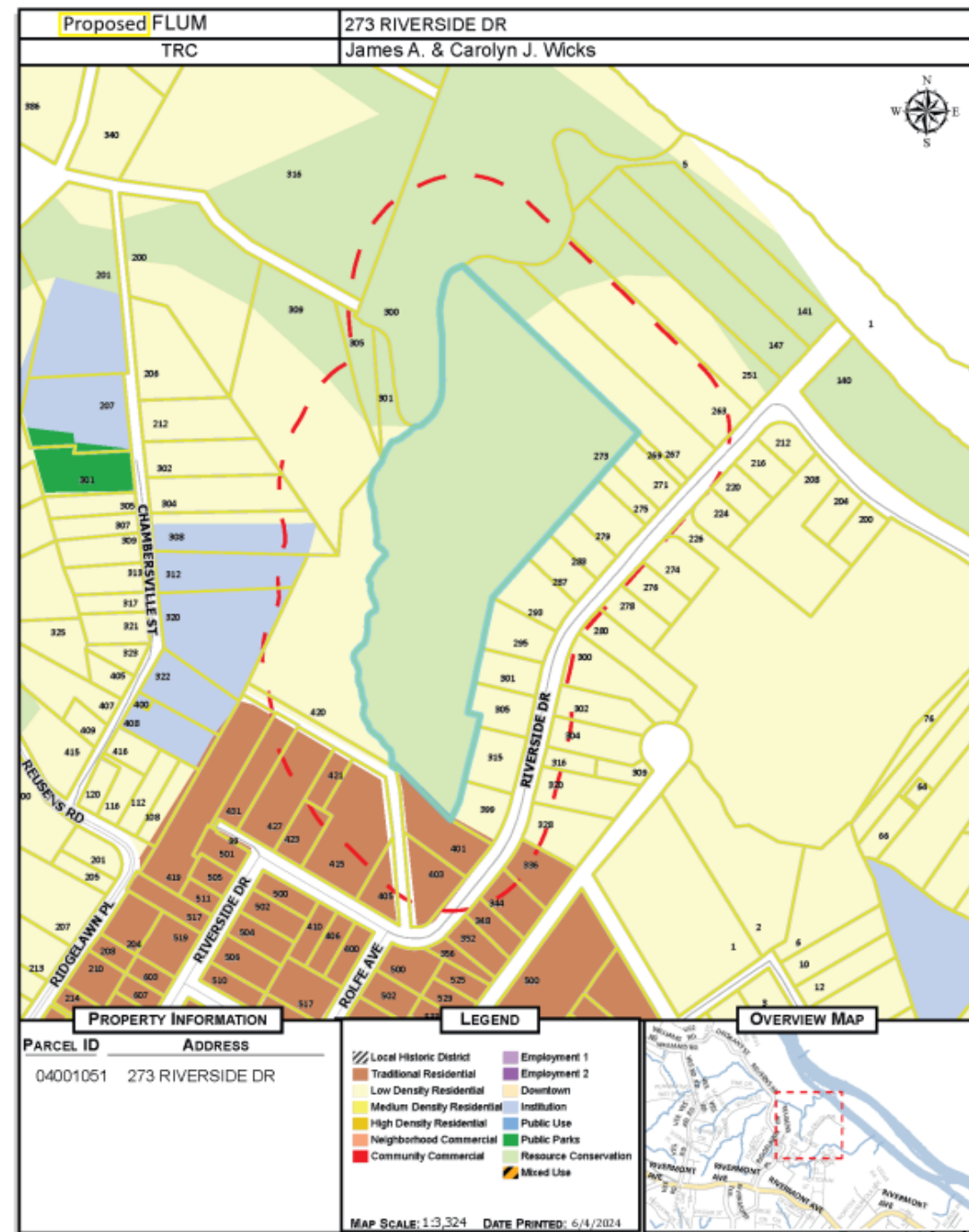
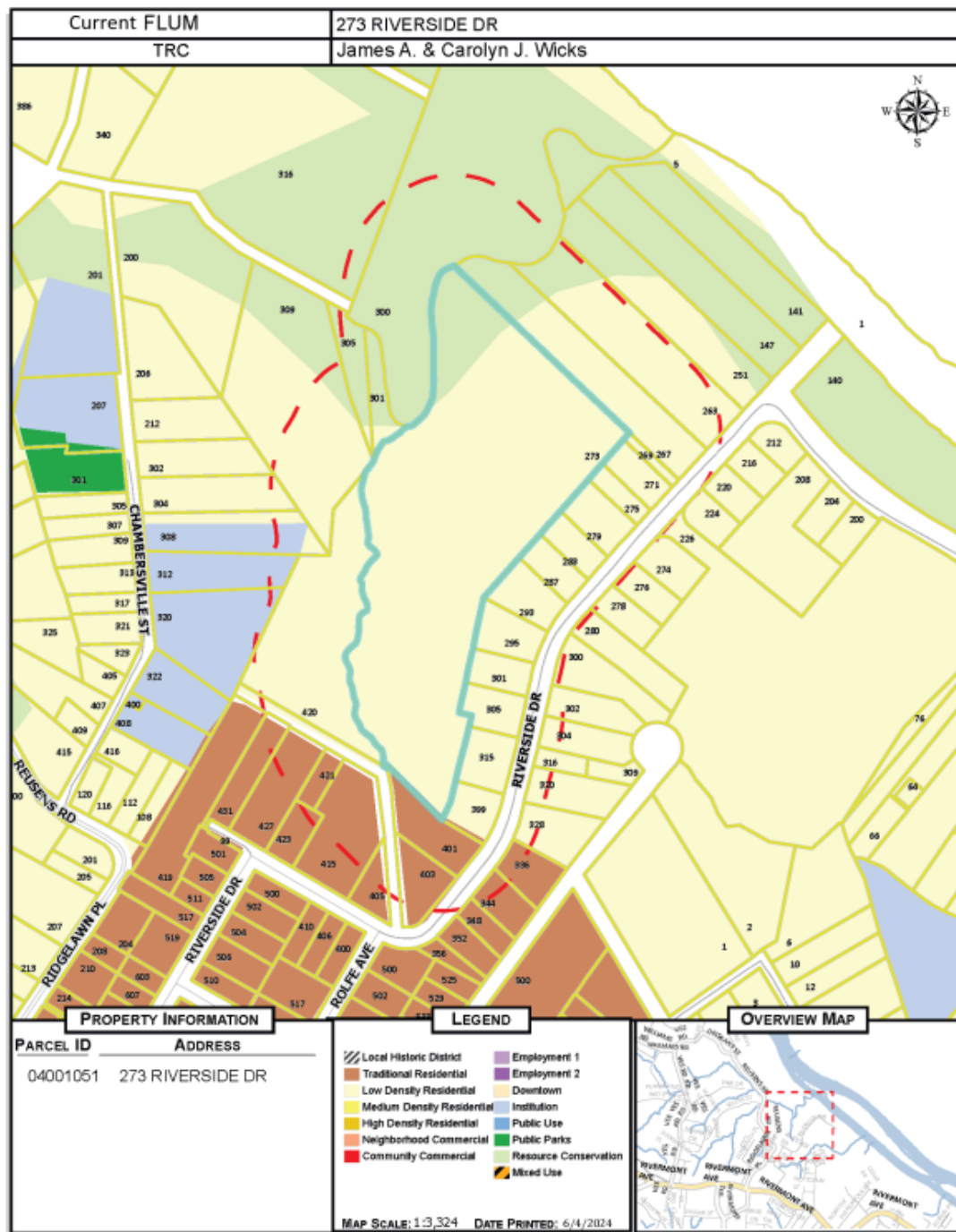
Purpose:

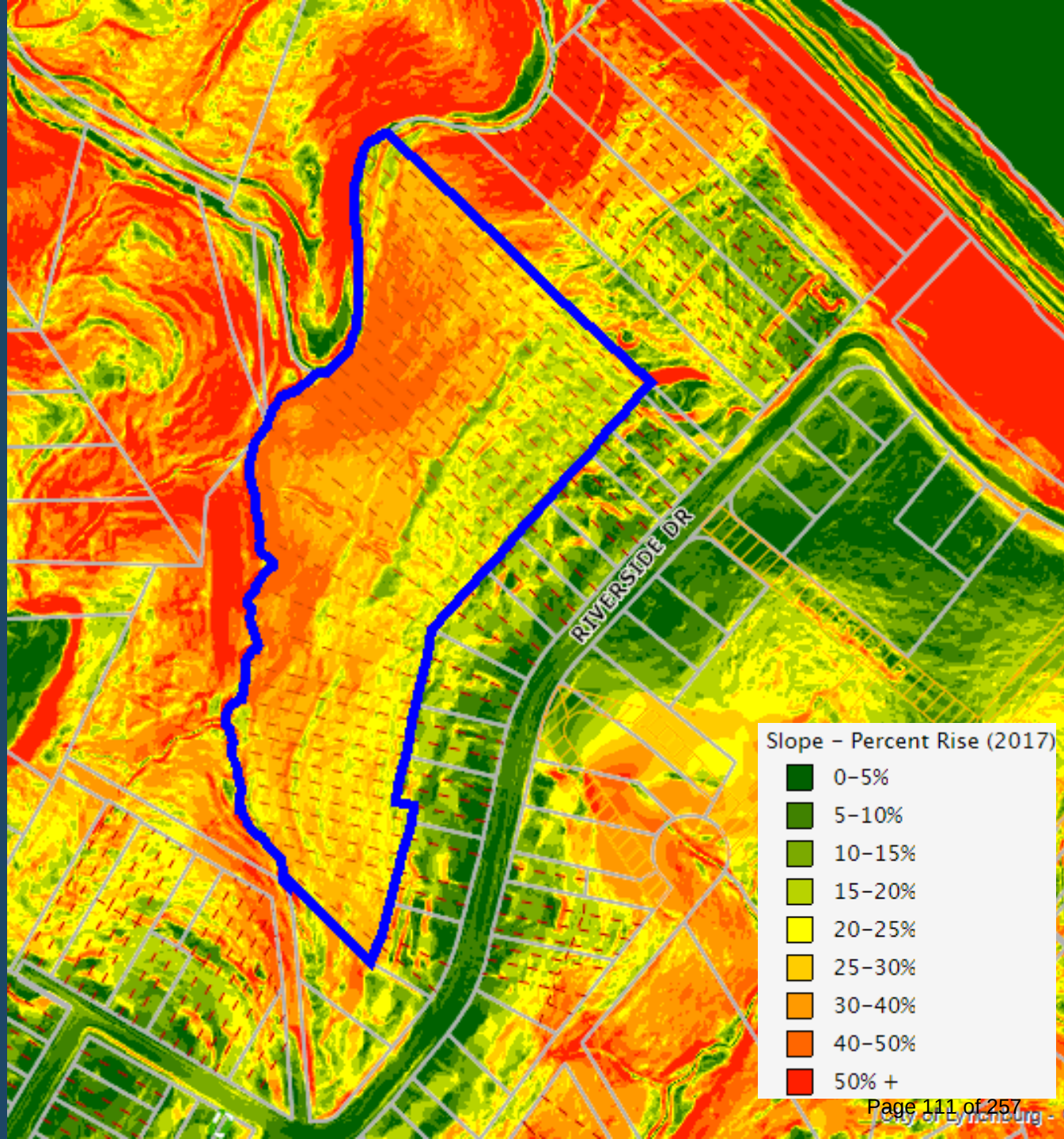
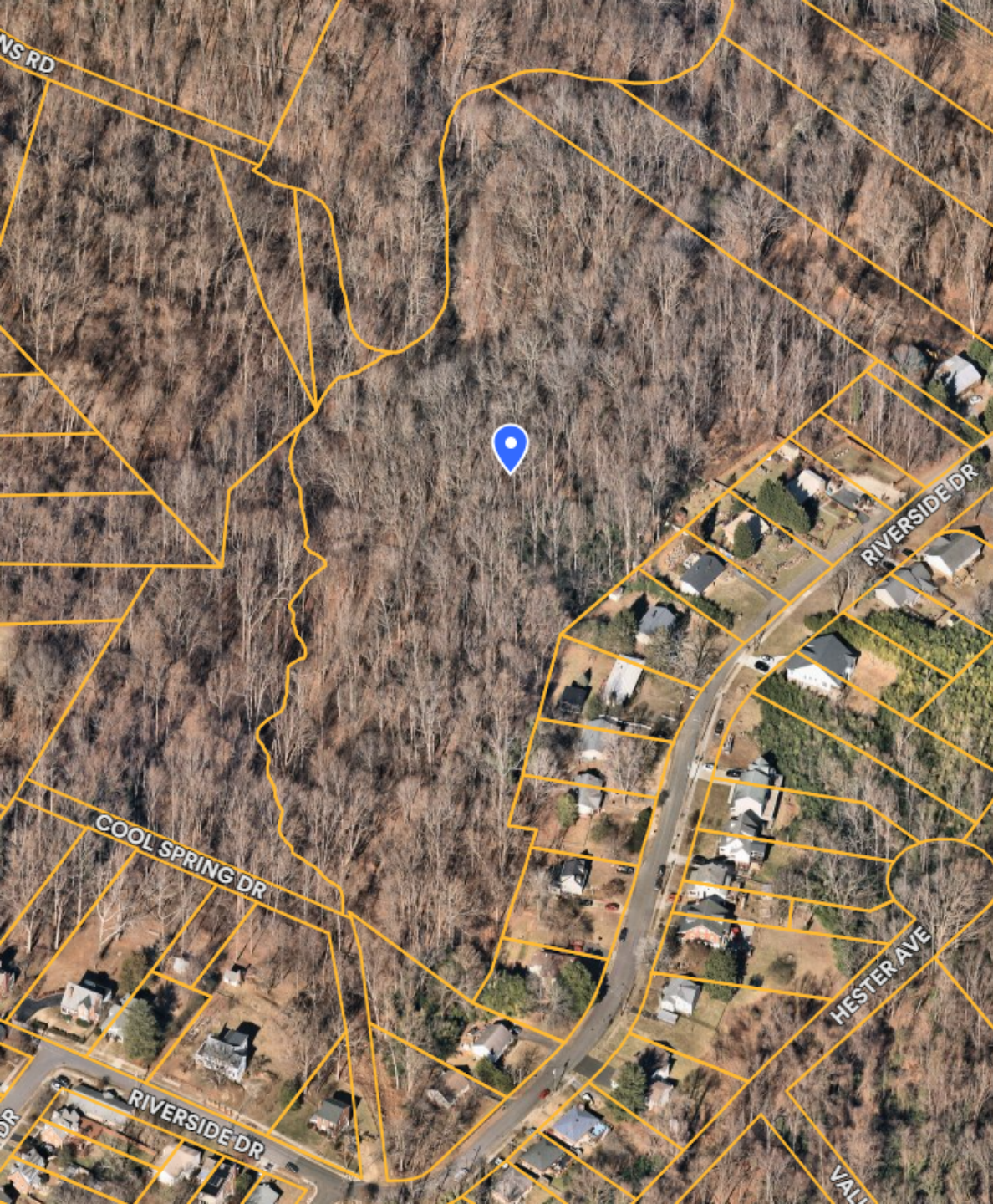
Petition to 273 Riverside Drive from R-2, Low-Medium Density Residential District to R-C, Conservation District and amend the Future Land Use Map (FLUM) from Low Density Residential to Resource Conservation to allow the conservation of the property.

Recommendation:

Planning Commission recommended approval (7-0) of this petition on September 11, 2024.









OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **Lynchburg News & Advance** on the dates indicated below. If changes are needed, please contact us prior to deadline at help@column.us

Notice ID: bezloQORisGoCOHclIxb | **Proof Updated: Oct. 02, 2024 at 04:41pm EDT**
Notice Name: City Council Legal Notice for 10/22/24 | Publisher ID: COL-4400543

This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.

FILER	FILING FOR
Natalya Murray natalya.murray@lynchburgva.gov (434) 455-3900	Lynchburg News & Advance

Columns Wide: 2	Ad Class: Legals
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10/08/2024: General Legal Notice	359.29
10/15/2024: General Legal Notice	359.29
Legal Processing Fee	20.00
Online Fee	10.00

Total	\$748.58
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See Proof on Next Page

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Lynchburg City Council will hold public hearings on **October 22, 2024, at 7:00 p.m.**, or as soon thereafter as may be heard, in the Council Chamber, first floor, City Hall, 900 Church Street, Lynchburg, Virginia 24504, for the purpose of receiving public comments concerning the following matters:

Petition of James and Carolyn Wicks to amend the Future Land Use Map from Low Density Residential to Resource Conservation and to rezone approximately two and one hundred twenty-five thousandths (2.125) acres from R-2, Low-Medium Density Residential District to R-C, Conservation District located at 273 Riverside Drive to allow the conservation of the property.

Petition of Daniel Cyrus, on behalf of Rosedale Investments, LLC, to rezone approximately three and three tenths (3.3) acres located at 1600 Graves Mill Road from B-3C, Community Business District Conditional to B-3C, Community Business District Conditional to revise proffers and allow an adjustment in orientation of a fueling station canopy.

Petition of Nadine Durbin, on behalf of Kerr Holdings, LLC, for a Conditional Use Permit in a B-4, Urban Commercial District to allow the use of an existing structure as an auto body shop at 1101 5th Street and associated parking at 1107 5th Street.

The full text of all draft ordinances, resolutions, Future Land Use Map amendments, rezoning, conditional use permit petitions, or any other matter advertised by this legal notice may be viewed in the Department of Community Development, City Hall, 900 Church Street, Lynchburg, Virginia 24504, Monday-Friday, 8:30 a.m. to 5:00 p.m., and on the following City-operated website: <https://www.lynchburgva.gov/265/Planning>. All persons are invited to attend the said public hearings to express their views. Questions and/or comments concerning this matter should be directed to the Planning Division at (434) 455-3900 or planning@lynchburgva.gov.
COL-4400543



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Donna Witt, Chief Financial Officer

AGENDA ITEM # IV.5

Consideration of introducing Ordinance #O-24-078 approving the FY 2025 First Quarter Adjustments.

RECOMMENDATION

Following a public hearing, adopt an ordinance amending the FY 2025 Operating and Capital Budgets and appropriating or rescinding funds to reflect the FY 2025 First Quarter Adjustments as listed in Attachment A.

SUMMARY

The General, City/Federal/State Aid, Community Development Block Grant (CDBG), Forfeited Assets, Home Investment Partnerships Program (HOME), Regional Juvenile Detention Center, Technology, Fleet Services, as well as the City Capital Projects and Airport Capital/Grant Projects Funds are amended to reflect the FY 2025 First Quarter Adjustments.

PRIOR ACTION(S)

May 23, 2023: City Council, Adoption of the FY 2024 Operating Budget
June 13, 2023: City Council, Adoption of the FY 2024 Capital Budget
October 10, 2023: City Council, FY 2024 First Quarter Adjustments adoption
May 28, 2024: City Council, Adoption of the FY 2025 Operating and Capital Budgets
June 11, 2024: City Council, Adoption of the FY 2025 Schools Operating Budget
June 25, 2024: City Council, FY 2024 Third Quarter Adjustments adoption
September 10, 2024: City Council Worksession, Business Item Briefing

FISCAL IMPACT

As noted on Attachment A.

CONTACT(S)

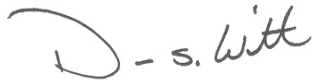
Donna Witt, Chief Financial Officer

ATTACHMENT(S)

1. Attachment A - FY 2025 First Quarter Adjustments
2. Ordinance FY 2025 First Quarter Adjustments

3. Public Hearing Notice for FY25 First Quarter Adjustments

REVIEWED BY



Donna Witt, Chief Financial Officer

Date: September 23, 2024



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

ATTACHMENT A**FY 2025 First Quarter Adjustment
SUMMARY BY FUND**

	Expenditures	Additional Revenues	Transfer or Use of Committed/ Assigned/ Unassigned Fund Balance
GENERAL FUND	5,565,483	318,141	5,247,342
CITY/FEDERAL/STATE AID FUND	218,157	218,157	0
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND	13,779	13,779	0
FORFEITED ASSETS FUND	43,183	0	43,183
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUND	(75,309)	(75,309)	0
REGIONAL JUVENILE DETENTION CENTER FUND	45,000	45,000	0
TECHNOLOGY FUND	75,625	106,911	(31,286)
CITY CAPITAL PROJECTS FUND	10,420,474	10,420,474	0
AIRPORT CAPITAL/GRANT PROJECTS FUND	4,941,976	4,941,976	0
FLEET SERVICES FUND	13,046	0	13,046
TOTALS	\$21,261,414	\$15,989,129	\$5,272,285

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/Assigned/Unassigned Fund Balance	
GENERAL FUND				
Circuit Court Clerk's Office	30,235	7,277	22,958	Appropriate additional State revenue for the approved State salary increase and additional City funds needed to cover expenditures above State reimbursement.
Commissioner of the Revenue	4,835	4,835		Appropriate additional State revenue for the approved State salary increase.
Commonwealth's Attorney	101,344	101,344		Appropriate additional State revenue for the approved State salary increase and additional City funds needed to cover expenditures above State reimbursement.
Commonwealth's Attorney - Fines and Fees	1,792		1,792	Appropriate additional City funds for the approved State salary increase.
Human Services	6,000	6,000		Appropriate additional federal revenue for Adoption Incentive.
Human Services	34,380	34,380		Appropriate additional federal revenue for Adult Protective Services Covid.
Human Services	12,500	12,500		Appropriate additional federal revenue for Fatherhood Engagement.
Human Services	20,000	20,000		Appropriate additional State and federal revenue for IV-E Prevention Services.
Human Services	8,172	8,172		Appropriate additional federal revenue for Refugee Resettlement.
Human Services	28,000	28,000		Appropriate additional State and federal revenue for Surge Overtime Medicaid Unwinding.
Human Services	0		0	Funding was appropriated for VIEW in the Adopted FY 2025 budget. The funding included a full-time position that was not included in the FTE count for FY 2025. This request is to add one full-time position no additional funding needed.
Human Resources	50,000		50,000	Appropriate funds for consulting services to adjust pay structures to account for the new overtime requirements per the Department of Labor final rule.
Library	17,610	17,610		Appropriate additional State Aid revenue from the Library of Virginia.

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/Assigned/Unassigned Fund Balance	
Parks and Recreation	59,254		59,254	Appropriate remaining funds to replace current chemical monitoring and feed system for the spray ground at Riverside Park (\$8,720), install UV lamp system to the splash pad at Riverside Park for higher water quality (\$28,134), and the initial payment for purchasing and installing new recreation registration software and associated hardware (\$22,400).
Police Department	140,000		140,000	Appropriate remaining funds to purchase two vehicles: a Co-Responder and a K9 unit.
Police Department	60,000		60,000	Appropriate remaining funds to purchase and train two Canine Officers.
Police Department	135,000		135,000	Appropriate remaining funds to purchase replacement laptops that were originally purchased with CARES Grant funding; replacement responsibility falls on the LPD.
Police Department - Emergency Communications	147,000		147,000	Appropriate remaining funds to update the CAD Console, Firewall/IPS, Wireless Access Points, Backup solutions, Training Laptops (3) and radio monitoring system. Addition of Card access system to make building/site compliant with other city buildings.
Police Department - Emergency Communications	725,942		725,942	Appropriate remaining funds to replace and expand the camera system, window security film, Stratus server replacement, replacement of 2 servers, 4 training consoles and related equipment. Addition of perimeter security fencing and gate.
Police Department - Emergency Communications	23,072		23,072	Appropriate remaining funds for contractual services with Central square to rehost CAD and associated services.
Police Department - Range	7,816		7,816	Appropriate remaining funds and revenues received over adopted budget to be used for FY 2025 firing range purposes.
Public Works	40,000		40,000	Appropriate remaining funds to purchase a compact SUV for the Assistant Director of Public Works position.
Registrar and Electoral Board	5,990	2,202	3,788	Appropriate additional funds for the approved State salary increase and increased stipends.
Sheriff's Office	72,103	72,103		Appropriate additional State revenue for the approved State salary increase.
Treasurer	3,718	3,718		Appropriate additional State revenue for the approved State salary increase.

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/ Assigned/ Unassigned Fund Balance	
TRANSFERS				
Transfer to City/Federal/State Aid Fund from General Fund	97,387		97,387	Transfer to City/Federal State Aid Fund from General Fund to appropriate the amount collected from a percentage of Amusement Tax in the Arts and Cultural District that relates to the Arts Grant.
Transfer to Technology Fund from Information Technology General Fund	106,911		106,911	Transfer to Technology Fund from General Fund of non-personnel unexpended funds to the Technology Fund per June 2000 Council approved Information Technology Policy.
Transfer to City Capital Projects Fund from the General Fund - Public Safety Building Reserve	3,626,422		3,626,422	Transfer to City Capital Projects Fund from the General Fund - Public Safety Building Reserve to appropriate funds for the Police Headquarters project.
GENERAL FUND Total	5,565,483	318,141	5,247,342	

CITY/FEDERAL/STATE AID FUND

Commonwealth's Attorney	26,114	26,114		Appropriate additional funds for the Victim Witness Program.
Commonwealth's Attorney	45,000	45,000		Appropriate additional funds for the Virginia Sexual and Domestic Violence Victim Funds grant including funds to continue supplemental funding for a full-time position not included in the Adopted FY 2025 budget.
Economic Development	97,387	97,387		<i>Transfer to City/Federal State Aid Fund from General Fund Operating Fund to appropriate additional revenue received above the budgeted amount compared to collected from a percentage of Amusement Tax in the Arts and Cultural District that relates to the Arts Grant true up FY 2024.</i>
Fire	1,741	1,741		Appropriate additional funds received for FY 2025 EMS 4-for-Life.
Fire	44,915	44,915		Appropriate additional funds received for FY 2025 Fire Funding Entitlement.
Information Technology	3,000	3,000		Appropriate funds awarded for the FY 2025 Enterprise GIS software PSAP grant.
CITY/FEDERAL/STATE AID FUND Total	218,157	218,157	0	

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/Assigned/Unassigned Fund Balance	
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND				
Community Development	13,779	13,779		Appropriate additional funds to reflect the final HUD allocation of federal entitlement funds for FY 2025.
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND Total	13,779	13,779	0	
FORFEITED ASSETS FUND				
Commonwealth's Attorney	19,031		19,031	Appropriate Asset Forfeiture revenues received in FY 2024.
Police Department	24,152		24,152	Appropriate Asset Forfeiture revenues received in FY 2024.
FORFEITED ASSETS FUND Total	43,183	0	43,183	
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUND				
Community Development	(75,309)	(75,309)		Rescind funds to reflect the final HUD allocation of federal entitlement funds for FY 2025.
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUND Total	(75,309)	(75,309)	0	
REGIONAL JUVENILE DETENTION CENTER FUND				
Detention	45,000	45,000		Appropriate additional funds to cover workers' compensation indemnity payment.
REGIONAL JUVENILE DETENTION CENTER FUND Total	45,000	45,000	0	

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/Assigned/Unassigned Fund Balance	
TECHNOLOGY FUND				
Information Technology	50,000		50,000	Appropriate remaining funds for Personal Property revenue billing system PCI/RBS upgrade.
Information Technology	22,125		22,125	Appropriate remaining funds for network telephony updates.
Information Technology	3,500		3,500	Appropriate remaining funds for two air-conditioning mini-splits in the Data Center closet.
Information Technology	0	106,911	(106,911)	Transfer to Technology Fund from General Fund of non-personnel unexpended funds to the Technology Fund per June 2000 Council approved Information Technology Policy.
TECHNOLOGY FUND Total	75,625	106,911	(31,286)	

CITY CAPITAL PROJECTS FUND

Community Development	(500,000)	(500,000)		Rescind FY25 appropriation for Diamond Hill Neighborhood Improvements. The appropriation was included in both the City Capital Projects Fund and the CDBG Fund, therefore it is necessary to rescind one of these appropriations.
Parks and Recreation	(2,000,000)	(2,000,000)		Rescind FY23 appropriation for Ivy Creek Park to Peaks View Park Trail Extension that was to be funded via a VDOT contribution. The project will now be managed and paid for directly by VDOT.
Police	129,364	129,364		Appropriate Series 2023 Bond Proceeds SNAP interest earnings to the Police Headquarters projects.
Transfer to City Capital Projects Fund from the General Fund - Public Safety Building Reserve	3,626,422	3,626,422		<i>Transfer to City Capital Projects Fund from the General Fund - Public Safety Building Reserve</i> to appropriate funds for the Police Headquarters projects.
Public Works - Engineering	1,048,030	1,048,030		Appropriate federal funds awarded by VDOT for the Lynchburg Center for Industry - Phase II project.
Public Works - Engineering	8,116,658	8,116,658		Appropriate additional Revenue Share funds awarded by VDOT and local funds as a match for the Hollins Mill Road Bridge Replacement and Bikeway Improvements project.
CITY CAPITAL PROJECTS FUND Total	10,420,474	10,420,474	0	

Department/Division	Amount	Source of Funding		Purpose
		Additional Revenues	Transfer or Use of Committed/Assigned/Unassigned Fund Balance	
AIRPORT CAPITAL/GRANT PROJECTS FUND				
Airport Capital/Grant Projects	4,941,976	4,941,976		Appropriate additional funds for the Runway 4-22 rehab project per latest bids received.
AIRPORT CAPITAL/GRANT PROJECTS FUND Total	4,941,976	4,941,976	0	
FLEET SERVICES FUND				
General Fund	9,269		9,269	Appropriate additional funds from the reserve due to inflation for the purchase of vehicles.
General Fund	3,777		3,777	Appropriate additional funds from the reserve due to quotes coming in above budget to install the heavy-duty lift.
FLEET SERVICES FUND Total	13,046	0	13,046	

ORDINANCE:

#O-24-____

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the FY 2025 Adopted Budget is hereby amended and funds are appropriated or rescinded to reflect the First Quarter Adjustments in the General, City/Federal/State Aid, Community Development Block Grant (CDBG), Forfeited Assets, Home Investment Partnerships Program (HOME), Regional Juvenile Detention Center, Technology, Fleet Services, as well as the City Capital Projects and Airport Capital/Grant Projects Funds as reflected in Attachment A.

BE IT FURTHER ORDAINED that the said funds shall be used as identified in Attachment A.

Introduced:

Adopted:

Certified: _____
Clerk of Council

AFFIDAVIT OF PUBLICATION

State of Pennsylvania, County of Lancaster, ss:

Tatiana Dorval, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Lynchburg News & Advance, a newspaper printed and published in the City of Lynchburg, County of Campbell, State of Virginia, and that this affidavit is Page 1 of 2 with the full text of the sworn-to notice set forth on the pages that follow, and the hereto attached:

PUBLICATION DATES:

Oct. 7, 2024, Oct. 14, 2024

NOTICE ID: NrVNGvOI0YJvJKoP6gUK

PUBLISHER ID: COL-4400529

NOTICE NAME: FY 2025 First Quarter Adj - publish twice

Publication Fee: 511.22

Ad Size: 2 X 24 L

Category: General Legal Notice

Under penalty of perjury, I, the undersigned affiant swear or affirm that the statements above are true and accurate to the best of my knowledge and belief.

(Signed) Tatiana Dorval

VERIFICATION

State of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 10/15/2024

Nicole Burkholder

Notary Public

Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that, in accordance with the requirements of Sections 15.2-2507 and 15.2-1427 of the Code of Virginia, the Lynchburg City Council will hold a public hearing on **October 22, 2024, at 7:00 p.m.**, or as soon thereafter as may be heard, in the Council Chamber of the City Hall, 900 Church Street, Lynchburg, Virginia 24504 for the purpose and with the intent of amending the Fiscal Year 2025 Budget by Ordinance to reflect the carrying forward of appropriations for ongoing activities not expended in FY 2024, and appropriating supplemental funds and rescinding appropriations for both the Capital and Operating Budgets for the twelve month period beginning July 1, 2024 and ending June 30, 2025 (i.e. to reflect the First Quarter Adjustments in the General, City/Federal/State Aid, Community Development Block Grant (CDBG), Forfeited Assets, Home Investment Partnerships Program (HOME), Regional Juvenile Detention Center, Technology, Fleet Services, as well as the City Capital Projects and Airport Capital/Grant Projects Funds). A copy of the full text of the ordinance is on file in the office of the Clerk of Council in the City Hall, Council/Manager's Office, 900 Church Street – 3rd Floor, Lynchburg, VA 24504, and is available for public inspection and review Monday-Friday, 8:30 a.m. to 5:00 p.m. Questions and/or comments may be referred to Alicia Finney, the Clerk of Council for the City of Lynchburg, who may be contacted at (434) 455-3990 or at alicia.finney@lynchburgva.gov.
COL-4400529

From: [Finney, Alicia](#)
To: [JEFF ROSNER](#)
Cc: [Fuentes, Sarah](#)
Subject: RE: Public Comment
Date: Friday, October 18, 2024 10:47:15 AM
Attachments: [image003.png](#)

Hi Jeff,

Confirming you are on the agenda for Public Comment at the October 22, 2024, City Council meeting beginning at 7:00pm. Since your topic includes “national election reform” I just wanted to provide a gentle reminder that public comments are to be kept to issues that only concern the services, policies, affairs of the Council or the City, per Council’s Rules of Procedure.

Also, City Council’s Rules of Procedure for Public Comment states that once Council has heard a presentation from an individual or organization on a particular subject, the individual or organization may not make another presentation on the same subject within three (3) months of the first presentation. At the September 10, 2024 meeting, you spoke about “recent developments in City Council elections.” I only wanted to caution you to make sure your remarks at the October 22nd meeting are dissimilar to your remarks at the September 10th meeting. A minute excerpt from that meeting is provided below for your review.

September 10, 2024: *“In the matter of Public Comment, Agenda Item #14, Jeff Rosner of Lynchburg Democratic Committee addressed Council regarding recent developments in City Council elections. He stated that the Electoral Board Chair and Registrar have both confirmed that there is no evidence of the actions described in the Lynchburg Republican Committee and Peter Alexander’s Facebook posts regarding the June primary election ballot drop box, so he requested that they provide retractions of those statements and apologize. He expressed concern that the timing of Councilmember Jeff Helgeson’s resignation did not allow for new candidates to participate in the state-run primary in June, or for independent candidates to file documents and gather petition signatures by the September 6 deadline.”*

Thank you!
Alicia



From: JEFF ROSNER <rosner03@comcast.net>
Sent: Friday, October 18, 2024 8:11 AM
To: Finney, Alicia <Alicia.Finney@lynchburgva.gov>
Cc: JEFF ROSNER <rosner03@comcast.net>

Subject: Public Comment

CAUTION: External Sender

Please add me to the 7:00 PM October 22 City Council meeting agenda to make a public comment. My topic is "Local and national election reform and election acceptance." Thank you.

from Jeff Rosner, Lynchburg resident



Public Comment Sign-Up

City of Lynchburg

Submitted On:

Oct 18, 2024, 11:37AM EDT

Full Name	First Name: Heather Last Name: Cash
Name of group represented, if applicable:	
Locality of Residence	
Council Meeting:	
Email	hgriffin21@liberty.edu
Phone Number	4052038241
Topic of Discussion	City Towing Contract
Acknowledgement - Three (3) Month Rule	I acknowledge that I have read the following statement: Once the Council has heard a presentation from an individual or organization on a particular subject, the individual or organization may not make another presentation on the same subject within three (3) months of the first presentation, except by a majority vote of the Councilmembers present and voting.
Acknowledgement - Decorum and Prohibited Content	I acknowledge that I have read the following statement: All persons appearing before the Council or in the Council Chamber while a meeting of the Council is in session will not be allowed to: campaign for public office; promote private business ventures; use profanity or vulgar language or gestures; use language which insults or demeans any person or which, when directed at a public official or employee, is not related to his or her official duties, however, citizens have the right to comment on the performance, conduct, and qualifications of public figures; make non-germane or frivolous statements; interrupt other speakers or engage in behavior that disrupts the meeting, including but not limited to, applause, cheers, jeers, etc.; engage in behavior that intimidates others; or, address the Council on issues that do not concern the services, policies, or affairs of the Council or the City.

From: [Finney, Alicia](#)
To: [Gary Taylor](#)
Cc: [Fuentes, Sarah](#)
Subject: RE: Public speaking 10-22
Date: Friday, October 18, 2024 10:49:24 AM

Hi Gary!

Confirming you are on the agenda for Public Comment at the October 22, 2024 City Council meeting beginning at 7:00pm. Thank you!

-Alicia

-----Original Message-----

From: Gary Taylor <gltaylor50@yahoo.com>
Sent: Friday, October 18, 2024 10:27 AM
To: Finney, Alicia <Alicia.Finney@lynchburgva.gov>
Cc: Gary Taylor <gltaylor50@yahoo.com>
Subject: Public speaking 10-22

CAUTION: External Sender

Good morning Ms. Finney,

William you please put me down for public speaking at Tuesday's council meeting. Topic-Media, speaking on behalf of group Citizens for a Better Lynchburg..thank you.
You have any additional questions, please feel free to reach out to me.
Respectfully, Gary Taylor, 980-406-8868
Sent from my iPhone



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Erin Hawkins, Water Quality Manager

AGENDA ITEM # VI.9

Consideration of adopting Ordinance #O-24-079 consolidating the City's Erosion Control and Stormwater Management Requirements and revising the City's Illicit Discharge Requirements.

RECOMMENDATION

Approval of the consolidation of the City's erosion control and stormwater control requirements and revising the City's illicit discharge requirements.

SUMMARY

The City is one of many cities in the Commonwealth required to have ordinances to meet federal and state requirements for erosion and sediment control management, stormwater runoff, and illicit discharge controls. City Code chapters 16.1 and 16.2 currently outline those requirements.

Recent changes by the state require the consolidation of the erosion control requirements and stormwater control requirements into one ordinance. The illicit discharge revisions are separate, related, and included as part of this process under the proposed revised City Code chapter 16.2. The proposed ordinance amendments to the erosion control requirements and stormwater control requirements are consistent with the state-mandated regulations.

PRIOR ACTION(S)

October 8, 2024 - City Council Worksession Business Item Briefing (BIB)

FISCAL IMPACT

None

CONTACT(S)

Timothy Mitchell, Director of Water Resources
Erin Hawkins, Water Quality Manager

ATTACHMENT(S)

1. O-24-079
2. PAMPHLET_O-24-079

REVIEWED BY



Timothy Mitchell, Director of Water Resources

Date: October 11, 2024



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTIONS 16.1-1 THROUGH 16.1-14 OF CHAPTER 16.1 (INCLUDING THE CHAPTER'S TITLE AND SECTION 16.1-11.1); REPEALING SECTIONS 16.1-15 AND 16.1-16 OF CHAPTER 16.1; AMENDING SECTIONS 16.1-17 AND 16.1-18 OF CHAPTER 16.1; CREATING NEW SECTIONS 16.1-19 AND 16.1-20 OF CHAPTER 16.1; AMENDING SECTIONS 16.2-1 THROUGH 16.2-6 OF ARTICLE I OF CHAPTER 16.2 (INCLUDING THE CHAPTER'S TITLE); REPEALING SECTION 16.2-7 OF ARTICLE I OF CHAPTER 16.2; AMENDING SECTIONS 16.2-8 AND 16.2-9 OF ARTICLE I OF CHAPTER 16.2; AND REPEALING SECTIONS 16.2-10 THROUGH 16.2-76 OF ARTICLES II THROUGH VI OF CHAPTER 16.2; WITH ALL OF THE SAME BEING CONNECTED TO UPDATING THE CITY'S EROSION AND SEDIMENT CONTROL AND STORMWATER MANGEMENT PROGRAM AND THE PROHIBITIONS SPECIFIC TO ILLICIT DISCHARGES INTO THE CITY'S SEPARATE STORM SEWER SYSTEM ("MS4")

ORDINANCE:

#O-24-079

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of City of Lynchburg, 1981, be and the same is hereby amended and reenacted by (i) amending Sections 16.1-1 through 16.1-14 of Chapter 16.1 (including the Chapter's title and Section 16.1-11.1); (ii) repealing Sections 16.1-15 and 16.1-16 of Chapter 16.1; (iii) amending Sections 16.1-17 and 16.1-18 of Chapter 16.1; and (iv) creating new Sections 16.1-19 and 16.1-20 of Chapter 16.1 of such code, all as follows:

Chapter 16.1

EROSION AND SEDIMENT CONTROL
EROSION AND STORMWATER MANAGEMENT

This chapter is adopted as part of an initiative to integrate the City's stormwater management program with its erosion and sediment control program. Further, it is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the City and those responsible for compliance.

Sec. 16.1-1. Purpose Title, Purpose, and Authority.

~~The purpose of this chapter is to conserve the land, water, air and other natural resources of the City of Lynchburg and promote the public health and welfare of the people in the city by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced. These procedures will apply to any land disturbing activity as done by government and private entities in the City of Lynchburg.~~

(a) This chapter shall be known as the "Erosion and Stormwater Management Ordinance".

(b) The purpose of this chapter is to ensure the general health, safety, and welfare of the citizens of the City, protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land-disturbing activity causing unreasonable degradation of property, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water

quality and quantity shall be administered and enforced.

(c) This chapter is authorized by § 62.1-44.15:27 of the Code of Virginia.

(d) Unless excepted by applicable law, all construction activities occurring in the City shall be subject to the requirements of this chapter.

Sec. 16.1-2. Authority for chapter Definitions.

This chapter is authorized by the Code of Virginia, 1950, as amended, Title 10.1, Chapter 5, Article 4, (10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

"Agreement in lieu of a plan" means a contract between the City and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the Virginia Erosion and Stormwater Management Act, "VESMA", and this chapter for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five (5) percent; such contract may be executed by the City in lieu of a soil erosion control and stormwater management plan.

"Applicant" means person submitting a soil erosion control and stormwater management plan to the City for approval in order to obtain authorization to commence a land-disturbing activity.

"Best management practice" or "BMP" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems.

(a) "Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark, patent, or copyright.

(b) "Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark, patent, or copyright.

"Board" means the State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Channel" means a natural stream or manmade waterway.

"City" means the City of Lynchburg, Virginia.

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

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

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

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

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

"CWA and regulations" means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Virginia Department of Environmental Quality.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

"Discharge" when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

(a) Any addition of any pollutant or combination of pollutants to state waters from any point source; or

(b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Energy dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Environmental Planner" means the Environmental Planner of the City, or his/her designee(s). The Environmental Planner acts on behalf of the City as the VESMP Authority.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

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

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"ESC" means erosion and sediment control.

"ESM plan" means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

"Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in §

3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes the floodway designated by the Federal Emergency Management Agency.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

"General permit" means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Inspection" means an on-site review of the project's compliance with any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA and applicable regulations.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

"Land-disturbance approval" means an approval allowing a land-disturbing activity to commence issued by the City after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met.

"Large construction activity" means construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five (5) acres of total land area. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, the construction of electric and telephone utility lines, and natural gas pipelines; the construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; highway construction projects; construction of stormwater channels and stream restoration activities; and water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Locality" means the City of Lynchburg, Virginia.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Manmade" means constructed by man.

"Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

"Minor modification" means modifications and amendments not requiring extensive review and evaluation including changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

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

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being

irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

"Operator" means the owner or operator of any facility or activity subject to the VESMA and this chapter. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (a) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (b) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e. they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

"Owner" means the same as that term is defined in § 62.1-44.3 of the Code of Virginia. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by one hundred.

"Permit" means VPDES permit coverage issued by the Department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

"Permittee" means the person to whom the permit is issued.

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

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters: (a) harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Predevelopment" refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the City acting as the VESMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the commencement of land-disturbing activity shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

"Responsible land disturber" or "RLD" means an individual holding a certificate issued by the Department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan or ESM plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan, ESM plan, or permit as defined in this chapter as a prerequisite for engaging in land disturbance.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" includes maximum velocity, peak flow rate, volume, and flow duration.

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

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shoreline erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the Department, or the United States Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"Site hydrology" means the movement of water on, across, through, and off the site as determined by parameters including soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Small construction activity" means:

(a) Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one (1) acre and less than five (5) acres. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(b) Any other construction activity designated by either the Department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil erosion control and stormwater management plan," commonly referred to as the erosion control and stormwater management plan, or "ESM plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements

adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this chapter.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"State" means the Commonwealth of Virginia.

"State application" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the Department for applying for a permit.

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

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

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

"Stormwater", for the purposes of the VESMA, means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity, including the following:

(a) "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;

(b) "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or

(c) "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"Stormwater detention" means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater management facility" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of the VESMP.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VESMP for construction activities shall identify and require the implementation of control measures and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

"Surface waters" means:

- (a) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate wetlands;
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (i) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) That are used or could be used for industrial purposes by industries in interstate commerce.
- (d) All impoundments of waters otherwise defined as surface waters under this definition;
- (e) Tributaries of waters identified in subdivisions 1 through 4 of this definition;
- (f) The territorial sea; and
- (g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions a through f of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"SWM" means stormwater management.

"Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in ten (10) years. It may also be expressed as an exceedance probability with a ten (10) percent chance of being equaled or exceeded in any given year.

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

"Two-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two (2) years. It may also be expressed as an exceedance probability with a fifty (50) percent chance of being equaled or exceeded in any given year.

"Virginia Erosion and Stormwater Management Act" or "VESMA" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia.

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the City is the designated program authority through its Department of Community Development, approved by the Department to operate the VESMP.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the Department pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Virginia Stormwater BMP Clearinghouse" means a collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the Department with advice from a stakeholder advisory committee.

"Wasteload allocation" or "wasteload" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. Wasteload allocations are a type of water quality-based effluent limitation.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 16.1-3. Terms beginning with "A" through "C" Program Established.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- ~~(a) Agreement in lieu of a plan: Means a contract between the plan approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan.~~
- ~~(b) Applicant: Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.~~
- ~~(c) Board: The Virginia Soil and Water Conservation Board, created under Sec. 10.1-502, Code of Virginia.~~
- ~~(d) Certified inspector: Means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.~~
- ~~(e) Certified plan reviewer: Means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or landscape surveyor pursuant to Article 1 (§ 54.1-400 et. seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.~~
- ~~(f) Certified program administrator: Means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.~~
- ~~(g) Channel: A natural stream or manmade waterway.~~
- ~~(h) City: The City of Lynchburg.~~

- ~~(i) Clearing: Any activity which removes the vegetative ground cover including, but not limited to, root mat removal and/or topsoil removal.~~
- ~~(j) Conservation plan, erosion and sediment control plan, or plan: A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water control plan inventory, and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives. It shall also address the stormwater management criteria as specified by this chapter.~~

Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulation(s) that specify(ies) standards and specifications for VESMPs promulgated by the State Water Control Board and expressly incorporates the same herein by reference. The Environmental Planner with the City's Department of Community Development shall serve as the Administrator of the City's Virginia Erosion and Stormwater Management Program.

Sec. 16.1-4. Terms beginning with "D" through "F" Regulated Land Disturbing Activities.

~~As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:~~

- ~~(a) *Denuded*: A term applied to land that has been physically disturbed and presently does not supports vegetative cover.~~
- ~~(b) *Development*: A tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or contained within a subdivision for residential dwelling units.~~
- ~~(c) *District or soil and water conservation district*: A political subdivision of the commonwealth organized in accordance with the provisions of Article 3, Sec. 10.1-506 et seq., Chapter 5, of the Code of Virginia.~~
- ~~(d) *Dormant*: Denuded land not actively being brought to a desired grade or condition.~~
- ~~(e) *Erosion impact area*: An area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 1,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.~~
- ~~(f) *Excavating*: Any digging, scooping or other methods of removing earth materials.~~
- ~~(g) *Filling*: Any depositing or stockpiling of earth materials.~~
- ~~(h) *Floodplain*: Those areas adjoining a river, stream, channel, ocean, bay or lake which are likely to be covered by flooding.~~

(a) Land-disturbing activities that meet one of the criteria below are regulated as follows:

(i) Land-disturbing activity that disturbs one thousand (1,000) square feet or more, is less than five thousand (5,000) square feet, and is not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 *et seq.*) of Part V of the Virginia Erosion and Stormwater Management Regulation (the "Regulation").

(ii) Land-disturbing activity that disturbs five thousand (5,000) square feet or more, is less than one (1) acre, and is not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 *et seq.*) and Article 3 (9VAC25-875-570 *et seq.*) of Part V of the Regulation.

(iii) Land-disturbing activity that disturbs less than one (1) acre, but is part of a larger common plan of development or sale that disturbs one (1) acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 *et seq.*) and Article 3 (9VAC25-875-570 *et seq.*) of Part V of the Regulation unless Article 4 (9VAC25-875-670 *et seq.*) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

(iv) Land-disturbing activity that disturbs one (1) acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 *et seq.*) and Article 3 (9VAC25-875-570 *et seq.*) of Part V of the Regulation unless Article 4 (9VAC25-875-670 *et seq.*) of Part V of the same is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

(b) Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law or section 16.1-6 of this chapter.

Sec. 16.1-5. Terms beginning with "G" through "K" Review and Approval of Plans; Prohibitions.

~~(a) *Governing body*: The council of the City of Lynchburg.~~

~~(b) *Grading*: Any excavating or filling with earth materials or any combination thereof, including the land in its excavated or filled condition.~~

~~(c) *Inspection*: An on-site review of compliance with the approved plan, and any applicable design criteria.~~

(a) The Environmental Planner shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA). Activities not required to comply with VESMA are defined in 9VAC25-875-90.

(b) A person shall not conduct any land-disturbing activity in the City until:

(i) An application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to the Environmental Planner;

(ii) The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia is submitted to the Environmental Planner, except that such certificate shall not be required where an agreement in lieu of a plan is provided; however, if a violation occurs during the land-disturbing activity, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and

(iii) The Environmental Planner has issued its land-disturbance approval on behalf of the City.

(c) The Environmental Planner may require changes to an approved ESM plan in the following cases:

(i) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or

(ii) Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the Act, are agreed to by the City and the owner.

(d) In order to prevent further erosion, the Environmental Planner may require approval of an erosion and sediment control plan and a stormwater management plan for any land it identifies as an erosion impact area.

(e) Prior to issuance of any land-disturbance approval, the Environmental Planner may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement it finds acceptable, to ensure that it can take measures at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions it imposes as a result of his land-disturbing activity. If the Environmental Planner takes such action upon such failure by the applicant, it may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty (60) days of the completion of Environmental Planner's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

(f) No exception to, or waiver of, post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with subsection D of § 62.1-44.15:35 of the Code of Virginia.

Sec. 16.1-6. ~~Terms beginning with "L" through "O"~~ Stormwater Permit Requirement; Exemptions.

~~As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:~~

- ~~(a) *Land disturbing activity*: Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:~~
- ~~(1) Minor land disturbing activities such as home gardens and individual home landscaping, repair and maintenance work;~~
 - ~~(2) Individual service connections;~~
 - ~~(3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced;~~
 - ~~(4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;~~
 - ~~(5) Surface or deep mining;~~
 - ~~(6) Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas;~~
 - ~~(7) Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act Article 2, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Chapter 11 (§ 10.1-1100 et. seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;~~
 - ~~(8) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Chapter 8.1 (Sec. 62.1-115.1 et. seq.), ditches, strip cropping lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;~~
 - ~~(9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;~~

- ~~(10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;~~
- ~~(11) Shore erosion control projects or projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the U.S. Army Corps of Engineers;~~
- ~~(12) Emergency work to protect life, limb, or property, and emergency repairs; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this chapter;~~
- ~~(13) Disturbed land areas of less than 1,000 square feet in size.~~

~~Best management practices will be encouraged to all exceptions to land disturbing activity.~~

- ~~(b) *Land disturbing permit*: A permit issued by the city for the clearing, filling, excavating, grading, or transferring, or any combination thereof, or for any purpose set forth herein.~~
- ~~(c) *Licensed design professional*: A professional engineer, land surveyor III B, or landscape architect certified and licensed by the Commonwealth of Virginia.~~
- ~~(d) *Local erosion and sediment control program or local control program*: An outline or explanation of the various elements or methods employed by the city to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinance, policies and guidelines, technical materials, inspection, enforcement and evaluation.~~
- ~~(e) *Locality*: The City of Lynchburg.~~
- ~~(f) *Owner*: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.~~

(a) Except as provided herein, no person may engage in any land-disturbing activity until a land-disturbance approval has been issued by the Environmental Planner in accordance with the provisions of this chapter.

(b) Notwithstanding any other provisions of this chapter, the following activities are not required to comply with the requirements of this chapter unless required by federal law:

- (i) Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;
- (ii) Installation, maintenance, or repair of any individual service connection;
- (iii) Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or

sidewalk that is hard surfaced;

(iv) Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

(v) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;

(vi) Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation, or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 *et seq.* of the Code of Virginia) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia;

(vii) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(viii) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers, however, any associated land that is disturbed outside of this exempted area shall remain subject to the VESMA and the regulations adopted pursuant thereto;

(ix) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

(x) Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Environmental Planner shall be advised of the disturbance within seven (7) days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection (a) above is required within thirty (30) days of commencing the land-disturbing activity; and

(xi) Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.

(c) Notwithstanding the requirements of this chapter and in accordance with the Virginia Erosion and Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the following activities are required to comply with the soil erosion control requirements, but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

- (i) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (ii) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
- (iii) Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Sec. 16.1-7. Terms beginning with "P" through "R" Stormwater Pollution Prevention Plan; Contents.

~~As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:~~

- ~~(a) *Peak flow rate*: The maximum instantaneous flow from a given storm condition at a particular location.~~
- ~~(b) *Permittee*: The person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.~~
- ~~(c) *Person*: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, any interstate body, or any other legal entity.~~
- ~~(d) *Plan approving authority*: The city's certified plan reviewer is responsible for determining the adequacy of a conservation plan submitted for land disturbing activities on a unit or units of land and for approving plans.~~
- ~~(e) *Post-development*: Conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.~~
- ~~(f) *Pre-development*: Conditions existing at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.~~
- ~~(g) *Program authority*: Means a district, county, city or town which has adopted a soil erosion and sediment control program which has been approved by the board. The City of Lynchburg is the designated program authority through the department of community development.~~
- ~~(h) *Responsible land disturber*: An individual from the project or development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a responsible land~~

~~disturber certificate of competence, (ii) hold a current certificate of competence from the board in the areas of combined administration, program administration, inspection or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control or (iv) is licensed in Virginia as a professional engineer, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.~~

~~(i) *Runoff*: That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.~~

~~(j) *Runoff volume*: The volume of water that runs off the land development project from a prescribed storm event.~~

(a) A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection (d) of this section.

(b) A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and applicable regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the Environmental Planner in accordance with the VESMA, this chapter, and applicable regulations.

(c) A pollution prevention plan shall identify potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site, describe control measures that will be used to minimize pollutants in stormwater discharges from a construction site, and be developed before land disturbance commences.

(d) In addition to the requirements of subsections (a) through (c) above, if a specific wasteload allocation for a pollutant has been established in an approved TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the wasteload allocation.

(e) The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:

(i) Control stormwater volume and velocity within the site to minimize soil erosion;

(ii) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(iii) Minimize the amount of soil exposed during construction activity;

(iv) Minimize the disturbance of steep slopes;

(v) Minimize sediment discharges from the site because the design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

(vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;

(vii) Minimize soil compaction and, unless infeasible, preserve topsoil;

(viii) Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) days. Stabilization must be completed within a period of time determined by the VESMP authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the VESMP authority; and

(ix) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

(f) The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

Sec. 16.1-8. Terms beginning with "S" through "Z" Stormwater Management Plan; Contents.

~~As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:~~

- ~~(a) *Single-family residence*: A noncommercial dwelling that is occupied exclusively by one family and not part of a residential subdivision development.~~
- ~~(b) *Stabilized*: An area expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.~~
- ~~(c) *State erosion and sediment control program or state program*: The program administered by the Virginia Soil and Water Conservation Board pursuant to the state code including regulations designed to minimize erosion and sedimentation.~~
- ~~(d) *State waters*: All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdictions.~~

~~(e) *Subdivision*: Division of any tract, parcel or lot of land into two or more parts at one time or any extended period of time; except, however:~~

~~(1) The term "subdivision" shall not include the division of land into ten acres or more for agricultural purposes, provided no new streets are required;~~

~~(2) The agent may, however, permit the separation of one parcel from a tract of land without complying with all requirements of this chapter if it is (a) not in conflict with the general meaning and purpose of the chapter, and (b) no new streets are required to serve the parcel; and~~

~~(3) The word "subdivide" and any derivative thereof shall have reference to the term "subdivision" as defined in section 24.1-5(26) of the subdivision ordinance.~~

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

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

(a) A stormwater management plan shall be developed and submitted to the Environmental Planner. The stormwater management plan shall be implemented as approved or modified by the Environmental Planner, and shall be developed in accordance with all the following:

(i) A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this chapter and Article 3 (9VAC25-875-570 *et seq.*) of Part V of the Regulation to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities.

(ii) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.

(b) A complete stormwater management plan shall include the following elements:

(i) Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment and post-development drainage areas;

(ii) Contact information including the name, address, telephone number, and email address of the owner and the tax reference number and parcel number of the property or properties affected;

(iii) A narrative that includes a description of current site conditions and final site conditions or if allowed by the VESMP authority, the information provided and

documented during the review process that addresses the current and final site conditions;

(iv) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

(v) Information on the proposed stormwater management facilities, including a detailed narrative on the conversion to a long-term stormwater management facility if the facility was used as a temporary ESC measure, the type of facilities, the location, including geographic coordinates, acres treated; and the surface waters or karst features into which the facility will discharge;

(vi) Hydrologic and hydraulic computations, including runoff characteristics;

(vii) Documentation and calculations verifying compliance with the water quality and quantity requirements of these regulations;

(viii) A map of the site that depicts the topography of the site and includes:

1. All contributing drainage areas;

2. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

3. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

4. Current land use including existing structures, roads, and locations of known utilities and easements;

5. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

6. The limits of clearing and grading, and the proposed drainage patterns on the site;

7. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

8. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including planned locations of utilities, roads, and easements.

(ix) If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and

(x) If the Environmental Planner requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with section 16.1-19 of this chapter must have been submitted.

(c) All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapters 4 (§ 54.1-400 *et seq.*) or 22 (§ 54.1- 2200 *et seq.*) of Title 54.1 of the Code of Virginia shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence or licensing.

Sec. 16.1-9. ~~Local erosion and sediment control program~~ Pollution Prevention Plan; Contents.

~~(a) The City of Lynchburg adopts the regulations promulgated by the Virginia Soil and Water Conservation Board pursuant to section 10.1-562 of the Code of Virginia for the effective control of soil erosion, sediment deposition and nonagricultural runoff to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. The Virginia Erosion and Control Regulations, The Virginia Erosion and Sediment Control Handbook, as amended, and the Lynchburg Erosion and Sediment Handbook, are adopted as the standards, reference and guidelines for the local program. The standards and amendments contained within these publications are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of an erosion and sediment control plan. The plan approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.~~

~~(b) Any erosion and sediment plan submitted for review must address stormwater management in accordance with the Lynchburg Stormwater Ordinance, Chapter 16.2.~~

~~(c) Violators of this chapter shall be deemed guilty of a class 1 misdemeanor for each violation. In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the City of Lynchburg in a civil action for damages. The civil penalty for any one violation shall be not less than \$100.00, nor more than \$1,000.00, except that the civil penalty for commencement of land disturbing activities without an approved plan as provided in subsection 16.1-10(a) shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000.00 and a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.~~

(a) A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) and 40 CFR 450.21(c) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

(i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater;

(iii) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures; and

(iv) Prohibit discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by lawful controls described under 40 CFR 450.21(c).

(b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e):

(i) Wastewater from washout of concrete, unless managed by an appropriate control;

(ii) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

(iii) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(iv) Soaps or solvents used in vehicle and equipment washing.

Sec. 16.1-10. Regulated land disturbing activities Erosion and Sediment Control Plan; Contents.

~~(a) Except as provided herein, no person shall engage in any land disturbing activity until he has submitted to the department of community development an erosion and sediment plan for land disturbing activity and such plan has been approved by the plan approving authority. Where land disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan may, at the option of the applicant, be submitted to the board for review and approval rather than each jurisdiction concerned. Where land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan approving authority.~~

~~(b) As a prerequisite to engaging in land disturbing activities shown on an approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program administrator and/or designee, as provided in § 10.1-561 of the Code of Virginia, who will be in charge of and responsible for carrying out the land disturbing activity. However, the plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan when construction of a single-family residence is the purpose of a land disturbing activity. Failure to provide the name of~~

~~an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan.~~

~~(c) The plan shall be acted upon within 30 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When a plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken within 30 days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.~~

~~(d) An approved plan may be changed by the plan approving authority when:~~

~~(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or~~

~~(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan approving authority and the person responsible for carrying out the plan.~~

~~No changes may be made to an approved plan without review and written approval by the plan approving authority. The plan shall be acted upon within 15 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When a plan is determined to be inadequate, the plan approving authority shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken within 15 days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.~~

~~(e) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and approval. The specifications shall apply to:~~

~~(1) Construction, installation or maintenance of electric transmission, natural gas and telephone utility lines and pipelines; and~~

~~(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.~~

~~The Virginia Soil and Water Conservation Board shall have 60 days in which to approve the specifications. If no action is taken by the board within 60 days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions (1) and (2) of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions (1) and (2) of this subsection shall comply with the requirements of the city erosion and sediment control program. The board shall have the authority to enforce approved specifications.~~

~~(f) In order to prevent further erosion, the administrator may require approval of a conservation plan for any land identified in the local program as an erosion impact area.~~

~~(g) When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.~~

(a) An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives in 9VAC25-875-560. The erosion and sediment control plan may include:

(i) Appropriate maps;

(ii) An appropriate soil and water plan inventory and management information with needed interpretations; and

(iii) A record of decisions contributing to conservation treatment.

(b) The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the Environmental Planner.

(c) If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan, or an "Agreement in Lieu of a Plan" signed by the property owner.

(d) Land-disturbing activity of less than one thousand (1,000) square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than one thousand (1,000) square feet.

Sec. 16.1-11. Administrative procedures; conditions of approval Technical Criteria for Regulated Land-Disturbing Activities.

~~Each plan approved by a locality shall be subject to the following conditions:~~

~~(a) The applicant shall comply with all applicable requirements of the approved plan, the local program, these regulations and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan. Certification by a licensed design professional is required for all land disturbing activities where it is anticipated that the effects of erosion will have a significant detrimental impact on adjacent properties. It is the responsibility of the licensed design professional to insure that the plan meets or exceeds all the criteria outlined in this chapter.~~

~~(b) The land development project shall be conducted only within the area specified in the approved plan.~~

~~(c) The locality shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project.~~

~~(d) No transfer, assignment or sale of the rights granted by virtue of an approved plan shall be made unless a written notice of transfer is filed with the locality and the transferee certifies agreement to comply with all obligations and conditions of the approved plan.~~

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 of the Regulation expressly to include 9VAC25-875-580 [water quality design criteria requirements], 9VAC25-875-590 [water quality compliance], 9VAC25-875-600 [water quantity], 9VAC25-875-610 [offsite compliance options], 9VAC25-875-620 [design storms and hydrologic methods], 9VAC25-875-630 [stormwater harvesting], 9VAC25-875-640 [linear development project], and 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this chapter, except as expressly set forth in subsection (b) below. The City adopts 9VAC25-875-480 and 9VAC25-875-490 for time limited and grandfathered projects.

(b) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

Sec. 16.1-11.1. State agency projects Long-Term Maintenance of Permanent Stormwater Facilities.

- ~~(a) A state agency shall not undertake a project involving a land disturbing activity unless (i) the state agency has submitted annual specifications for its conduct of land disturbing activities which have been reviewed and approved by the State Department of Conservation and Recreation as being consistent with the state program or (ii) the state agency has submitted a conservation plan for the project which has been reviewed and approved by the department.~~
- ~~(b) The department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land disturbing activity (i) in any locality which has not adopted a local program with more stringent regulations than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the conservation plan is consistent with the requirements of the state program.~~
- ~~(c) The department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land disturbing activity in one locality with a local program with more stringent regulations than those of the state program unless the conservation plan is consistent with the requirements of the local program. If a locality has not submitted a copy of its local program regulations to the department, the provisions of section (b) of this section shall apply.~~
- ~~(d) The department shall have 60 days in which to comment on any specifications or conservation plan submitted to it for review and its comments shall be binding on the state agency and any private business hired by the state agency.~~
- ~~(e) As on-site changes occur, the state agency shall submit changes in a conservation plan to the department.~~

~~(f) The state agency responsible for the land disturbing activity shall ensure compliance with the approved plan or specifications.~~

(a) The operator shall submit a construction record drawing for permanent stormwater management facilities to the Environmental Planner in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge the construction record drawing shows all adjustments and revisions to the Stormwater Management Plan made during construction and serve as a permanent record of the actual location of all constructed elements.

(b) The operator shall submit documentation to the Environmental Planner providing for long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Environmental Planner and shall at a minimum:

(i) Be submitted to the Environmental Planner on a form prescribed by the City for review and approval prior to the approval of the stormwater management plan;

(ii) Be stated to run with the land;

(iii) Where portions of land are to be sold (versus entire parcels), provide for continuing permanent maintenance responsibilities to manage quality and quantity of runoff;

(iv) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;

(v) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Environmental Planner;

(vi) Be enforceable by all appropriate governmental parties; and

(vii) Allow for the Environmental Planner to enter upon applicable property to inspect, maintain, and repair a stormwater maintenance facility where the owner of the same fails to fulfill their duties.

(c) In the event that a stormwater management facility needs maintenance or becomes a danger to public safety or public health, the owner of the same shall be notified in writing, and given a reasonable period of time to take necessary action. If the owner of the same fails or refuses to perform such maintenance and repair, the City may perform the work and to recover the costs from the owner of the facility. Any costs which remain unpaid, may be collected in any manner permitted by applicable law, ordinance, and/or written agreement.

(d) To ensure proper performance of a stormwater management facility, the owner of the same is responsible for inspecting the stormwater management facility on an annual basis and after any storm which causes the capacity of the facility to be exceeded. More frequent inspections may be required if deemed necessary by the Administrator. The owner must file written record of inspections to the City within five (5) working days of the inspection.

Sec. 16.1-12. ~~Administrative procedures; exceptions~~ Monitoring and Inspections.

- (a) ~~A request for an exception shall be submitted, in writing, to the locality. An exception from the erosion and sediment control regulations may be granted, provided that: (1) exceptions to the criteria are the minimum necessary to afford relief, and (2) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so the purpose and intent of the erosion and sediment control plan is preserved.~~
- (b) ~~Economic hardship is not sufficient reason to grant an exception from the requirements of these regulations.~~

(a) The land-disturbing activity is subject to monitoring and inspections during construction by the Environmental Planner for:

- (i) Compliance with the approved erosion and sediment control plan;
- (ii) Compliance with the approved stormwater management plan;
- (iii) Development, updating, and implementation of a pollution prevention plan; and
- (iv) Development and implementation of any additional control measures necessary to address a TMDL.

(b) The land-disturbing activity is subject to periodic inspections by the Environmental Planner on the following schedule:

- (i) An inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within forty-eight (48) hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
- (ii) If the City has established an alternative inspection program, on that schedule.

(c) Permanent stormwater management facilities are subject to an inspection program by the City's Department of Water Resources that ensures that facilities are being adequately maintained as designed after completion of land-disturbing activities.

- (i) The City's Department of Water Resources may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection (b) of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the Department.
- (ii) If a recorded instrument is not required pursuant to 9VAC25-875-130, the City's Department of Water Resources shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater

runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the City's Department of Water Resources.

Sec. 16.1-13. Land-disturbing permits; fees; bonding; and maintenance agreement Circuit Court Appeal.

- ~~(a) No person shall engage in any land disturbing activity until he has acquired a land disturbing permit, and has paid the fees and posted the required bond, unless the proposed land disturbing activity is specifically exempt from the provisions of this chapter.~~
- ~~(b) Fees: A plan review fee and inspection fee for (1) one and two-family residential development of \$50.00 per acre and (2) multi-family/commercial/industrial development of \$150.00 per acre, not to exceed \$5,000.00, paid to the city at the time of filing erosion and sediment control plans.~~
- ~~(c) No land disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed. An approved plan is required for issuance of grading, building or other permits.~~
- ~~(d) Bond: All applicants for permits shall provide to the city a performance bond with surety, cash escrow, or an irrevocable letter of credit equal to the amount necessary to implement and maintain all approved erosion and sediment control measures, including stormwater control measures in accordance with the Lynchburg Stormwater Ordinance, chapter 16.2 on the approved plan. The city reserves the right to use this performance bond, cash escrow, or letter of credit to implement these measures should the applicant fail within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land disturbing activity. Should it be necessary for the city to take such conservation action, the city may collect from the applicant any costs in excess of the amount of the surety held. Within 60 days of the achievement of adequate stabilization, as determined by the department of community development, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements of such permits.~~

(a) A final decision by the City, shall be subject to judicial review, provided that an appeal is filed in the appropriate court within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in a land-disturbing activity.

(b) The appeal must be filed in writing with the Clerk of the City's Circuit Court within thirty (30) days of the final decision being rendered. Such petition must specify the grounds on which the appeal is based. The filing of the petition shall not stay the decision of the locality unless otherwise ordered by the circuit court.

(c) The burden of proof shall be upon the party filing the appeal to designate and demonstrate that the decision of the City's decision was arbitrary and capricious, failed to comply with this chapter, and/or Virginia law.

Sec. 16.1-14. Monitoring, reports, and inspections Right of Entry.

- ~~(a) The program administrator or his designee shall provide for and/or conduct inspections at least once in every two-week period and within 48 hours following any runoff producing storm event of the land disturbing activity and may require monitoring and reports from the person responsible for carrying out the plan to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given an opportunity to accompany the inspector. If the administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and, upon conviction, shall be subject to the penalties provided by the chapter.~~
- ~~(b) Upon receipt of a sworn complaint of violation of this chapter, the program administrator or his designee either may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of Lynchburg. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the administrator or his designee may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or land records of the locality in which the site is located. The owner may appeal the issuance of an order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Any person violating or failing, neglecting or refusing to obey an order issued by the chief administrative officer or his designee may be compelled in a proceeding instituted in the Lynchburg Circuit Court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the administrator from taking any other action authorized by this chapter.~~

(a) Where permitted by agreement and/or as otherwise authorized by Virginia law, the Environmental Planner or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this chapter.

(b) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, the Environmental Planner may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by conditions imposed by the Environmental Planner on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified. The owner shall be responsible for all costs and expenses that may be incurred by the City in relation to the same, and the owner all such amounts to the City within thirty (30) days of a written demand being made.

Sec. 16.1-15. Penalties, injunctions and other legal actions. Repealed.

- ~~(a) Violators of this chapter shall be deemed guilty of a class 1 misdemeanor for each violation.~~
- ~~(b) The City of Lynchburg may apply to the circuit court of the City of Lynchburg to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.~~
- ~~(c) In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the City of Lynchburg in a civil action for damages.~~
- ~~(d) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation.~~
- ~~(e) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the City of Lynchburg may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under paragraph (d).~~
- ~~(f) For the purpose of enforcing the provisions of this chapter, the program administrator, or his duly authorized agent, shall have the authority to apply for the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The program administrator or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this chapter has occurred, request that the magistrate or court grant the program administrator or his agent an inspection warrant to enable the program administrator or his agent to enter the subject property for the purpose of determining whether violations of this chapter exist. The program administrator or his agent shall make a reasonable effort to obtain consent from the owner or managing agent of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this chapter for any owner, managing agent or other person, to deny the program administrator, or his duly authorized agent, access to any property after the program administrator, or his duly authorized agent have obtained an inspection warrant from a magistrate or a court of competent jurisdiction.~~
- ~~(g) The city attorney shall, upon request of the city, take legal civil action to enforce the provisions of this chapter.~~

- ~~(h) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.~~

Sec. 16.1-16. Administrative appeal; judicial review Repealed.

- ~~(a) Final decisions of the administrator under this chapter shall be subject to review by the city board of adjustments and appeals, provided an appeal is filed within 30 days from the date of any written decision by the administrator which adversely affects the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.~~
- ~~(b) Final decisions of the city board of adjustments and appeals under this chapter shall be subject to review of the circuit court of the city; provided an appeal is filed within 30 days from the date of the final written decision which adversely affects the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.~~

Sec. 16.1-17. Self-imposed restrictions Enforcement.

~~The subdivider may place restrictions on the development greater than the provisions of this chapter or the city zoning ordinance. Such restrictions, if any, shall be indicated on the subdivision plat.~~

(a) If the Environmental Planner determines that there is a failure to obtain a required land-disturbance approval, failure to comply with the land-disturbance approval conditions or any ordinance or provision of the City's program adopted pursuant to State Law, notice shall be served upon the operator or person responsible for carrying out the conditions or other requirements by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(i) The notice shall specify the measures needed to comply with the land-disturbance approval conditions or other requirements and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a Stop Work Order may be issued in accordance with subsections (ii) and (iii) below or the land-disturbance approval may be revoked by the Administrator.

(ii) If an operator or other person fails to comply with a notice issued in accordance with this section within the time specified, the Environmental Planner may issue a Stop Work order requiring the owner, operator, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required land-disturbance approval to cease all land-disturbing activities until the violation has ceased, or an approved plan and required approvals are obtained, and specified corrective measures have been completed.

(iii) Stop Work Orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address on record with the City,

or by personal delivery by the Environmental Planner. However, if the Environmental Planner finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Environmental Planner may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with subsection (c).

(b) In addition to any other remedy provided by this chapter, if the Environmental Planner or his designee determines that there is a failure to obtain a required land-disturbance approval, to comply with the land-disturbance approval, or to comply with any ordinance or provision of the City's program adopted pursuant to State Law, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with local policy. Such procedures may include, but are not limited to:

- (i) Verbal warning;
- (ii) Notices of corrective actions;
- (iii) Consent special orders and civil charges pursuant to subsection (e) below;
- (iv) Notices to comply; and
- (v) Special and emergency special orders.

(c) Any person violating or failing, neglecting, or refusing to obey any provision of the City's ordinance or order or any condition issued by the Environmental Planner may be compelled in a proceeding instituted in Circuit Court by the City of Lynchburg to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Any person violating or failing, neglecting, or refusing to object any injunction, mandamus, or other remedy obtained pursuant to the City's Code or State law shall be subject, in the discretion of the court, to a civil penalty that shall be assessed and used in accordance with the provisions of section (f) below.

(d) Violations for which a penalty may be imposed under this subsection shall include, but not be limited to, the following:

- (i) No state permit registration;
- (ii) No SWPPP;
- (iii) Incomplete SWPPP;
- (iv) SWPPP not available for review;
- (v) No approved erosion and sediment control plan;

- (vi) Failure to install stormwater BMPs or erosion and sediment controls;
- (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (viii) Operational deficiencies;
- (ix) Failure to conduct required inspections;
- (x) Incomplete, improper, or missed inspections; or
- (xi) Discharges not in compliance with 9VAC25-880-70.

(e) The Environmental Planner may seek payment of a civil penalty not exceeding \$5,000 per violation with a limit of \$50,000 within the discretion of the court, and the action may be prosecuted in an appropriate court. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$50,000. When imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance. Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid into a fund specific to the City's stormwater management program.

(f) Notwithstanding any other civil or equitable remedy provided by this chapter or by applicable law, any person who willfully or negligently violates any provision of this chapter or applicable State law, any order of the Environmental Planner, any condition of a land-disturbance approval, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than twelve (12) months or a fine of not less than \$2,500 nor more than \$32,500, or both.

(g) If addition to other penalties provided by this chapter and/or by applicable law, any person violating subsection (e)(xi) above shall be responsible for all costs and expenses that may be incurred by the City in relation to the same, and such person shall pay all such amounts to the City within thirty (30) days of a written demand being made.

Sec. 16.1-18. Projects commenced before adoption of conservation standards not affected Fees.

~~Nothing in this chapter shall affect any project commenced prior to the adoption of this chapter.~~

(a) Fees to cover costs associated with implementation of a VESMP related to land-disturbing activities and issuance of general permit coverage and VESMP authority approvals shall be imposed in accordance with Table 1. [NOTE: Such fee attributes include the costs associated with plan review, VESMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs.] When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

<u>Fee type</u>	<u>Total fee to be paid by applicant (includes both VESMP authority and department portions where applicable)</u>	<u>Department portion of “total fee to be paid by applicant” (based on 28% of total fee paid*)</u>
<u>General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)</u>	<u>\$290</u>	<u>\$81</u>
<u>General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)</u>	<u>\$2,700</u>	<u>\$756</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$3,400</u>	<u>\$952</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$4,500</u>	<u>\$1,260</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$6,100</u>	<u>\$1,708</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$9,600</u>	<u>\$2,688</u>

* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

(b) Fees for the modification or transfer of registration statements from the general permit issued by the department shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee

paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

(c) The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500

<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$650</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$900</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)</u>	<u>\$1,400</u>

General permit coverage maintenance fees shall be paid annually to the City by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

(d) The fees set forth in subsections (a) through (c) of this section, shall apply to:

- (i) All persons seeking coverage under the general permit.
- (ii) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
- (iii) Persons whose coverage under the general permit has been revoked shall apply to the department for an Individual Permit for Discharges of Stormwater from Construction Activities.

(e) Permit and permit coverage maintenance fees outlined under section 16.1-19 may apply to each general permit holder.

(f) No general permit application fees will be assessed to:

- (i) Permittees who request minor modifications to general permits as defined in section 16.1-2 of this chapter. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Environmental Planner shall not be exempt pursuant to this section.
- (ii) Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the Environmental Planner or errors related to the acreage of the site.

(g) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in § 58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over ninety (90) days

past due) account. The City shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Sec. 16.1- 19. Sureties and Bonds.

Prior to issuance of any land-disturbance approval, the applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the City Attorney and the Environmental Planner, to ensure that measures could be taken by the City at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the land-disturbance approval conditions as a result of his land-disturbing activity. If the City takes such action upon such failure by the applicant, the City may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within ninety (90) days of the completion of the requirements of the land-disturbance approval, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

Sec. 16.1-20. Severability.

The provisions of this chapter are hereby declared to be severable, and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this chapter is declared to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this chapter, since the same would have been enacted without the incorporation in this chapter of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, paragraph, subsection or section.

Secs. 16.1-21 — 16.1-50. Reserved.

2. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by (i) amending Sections 16.2-1 through 16.2-6 of Article I of Chapter 16.2 (including the Chapter's title); (ii) repealing Section 16.2-7 of Article I of Chapter 16.2; (iii) amending Sections 16.2-8 and 16.2-9 of Article I of Chapter 16.2; and (iv) repealing Sections 16.2-10 through 16.2-76 of Articles II through VI of Chapter 16.2, all as follows:

Chapter 16.2

STORMWATER MANAGEMENT DISCHARGES

Article I. General Provisions

Sec. 16.2-1. Purpose.

~~The purpose of this chapter is to reduce the adverse impacts of stormwater runoff from development sites in the City of Lynchburg to the greatest extent possible, by establishing minimum requirements and procedures to control the quantity and quality of stormwater runoff associated with land development. By converting more or less natural landscapes to sites with impervious surfaces, development can cause increases in the quantity and velocity of stormwater runoff and decreases in the water quality of stormwater runoff. Adverse impacts from development~~

~~shall not be allowed to affect adjacent or downstream property owners. The Lynchburg City Council has determined that the lands and waters comprising the watersheds of the city are valuable and important natural resources, which provide subsistence for life. Therefore, it is in the public interest to establish requirements to regulate the discharge of stormwater runoff from land development projects as provided for in this chapter. The waters and waterways within the city are at times subjected to flooding. Such flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the city. Land development tends to accentuate such flooding by increasing stormwater runoff, due to alteration of the hydrologic response of the watershed in changing from the undeveloped to the developed condition. The flooding produced by the development of real property contributes increased quantities of water-borne pollutants, and tends to increase channel erosion. Such flooding, erosion, and pollution constitute deterioration of the water resources of the City of Lynchburg and downstream communities. The adverse environmental effects of development can be limited by the regulation of stormwater runoff from such land development. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, reduce local flooding, and maintain as nearly as possible, the pre-development runoff characteristics of the area. Procedures provided in this document to reduce stormwater runoff will apply to land-disturbing activity, as done by public and private entities in the City of Lynchburg.~~

The purpose of this chapter is to deter discharges of pollutants into the City's municipal separate storm sewer system ("MS4"). The City finds the health, safety, and general welfare of the public is well served in protecting its lands and waters. Illicit discharges and placement of substances other than stormwater could result in a significant source of pollutants to the City's MS4 and receiving waters.

Sec. 16.2-2. Title and Authority.

~~The provisions of this chapter shall constitute and be known as the "Lynchburg Stormwater Management Ordinance," as authorized by the Virginia Stormwater Management Act, Title 62.1, Chapter 3.1, Article 2.3 of the Code of Virginia as amended through 2014.~~

The provisions of this chapter shall be known as the "Stormwater Discharge Ordinance". The adoption of this chapter is permitted by § 62.1-44.15:27 *et seq.* of the Code of Virginia.

Amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) Program, which requires permits for discharges from certain municipal separate storm drain systems into the waters of the United States of America. The United States Environmental Protection Agency (EPA) has promulgated regulations implementing the NPDES program. Moreover, the EPA has authorized the Commonwealth of Virginia to issue NPDES permits under the Virginia Pollutant Discharge and Elimination System (VPDES) permit system. Pursuant to the same, stormwater discharges require certain municipalities, including the City, to work to control the contribution of unauthorized nonstormwater discharges to the City's MS4, to prohibit illicit discharges to the City's MS4, and to inspect, monitor, and enforce, as appropriate, the prohibitions of illicit discharges to the City's MS4.

Sec. 16.2-3. Authority Definitions.

- (a) ~~The provisions of this chapter are adopted pursuant to the Virginia Stormwater Management Act, Article 2.3 (§ 62.1-44.15:27 et seq.) of Chapter 3.1 of Title 62.1, of the Code of Virginia, which enables counties, cities and towns to prepare and adopt a stormwater management program and implement the ordinance. The application of this chapter and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by the state statute.~~
- (b) ~~Except as specifically provided here in the stormwater management standards contained in this ordinance are based on the stormwater regulations adopted by the Commonwealth of Virginia and the Federal government.~~

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Best Management Practices (BMPs)" means the schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollutants from entering the storm drain system or being improperly discharged from the storm drain system. BMPs include, but are not limited to, treatment methods and practices to control the discharge of pollutants.

"City" means the City of Lynchburg, Virginia.

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

"Discharge" means to dispose, deposit, spill, pour, inject, dump, pump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, pumped, leaked, or placed by any means.

"Illicit connection" means any connections to the city's storm drain system which are not authorized by the city, by a valid NPDES or VPDES permit, or as may otherwise be authorized by law.

"Illicit discharge" means any discharge to the City's MS4 that is not composed entirely of stormwater, except discharges pursuant to a separate VPDES or State permit (other than the state permit for discharges from the municipal separate storm sewer), discharges resulting from firefighting activities, and discharges listed in section 16.2-4(b) of this chapter unless the City identifies such discharges as a significant contributor of pollutants discharging to the City's MS4.

"Inspection" means an on-site review of a project's or work's compliance with applicable permits, laws, ordinances, and/or regulations or an onsite review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of State law or regulations.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, stormwater management BMPs, or storm drains, that is:

1. Owned or operated by a federal entity, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including a special district under state law such as a sewer district, flood control district, drainage district or similar entity, or a designated and approved management agency under § 208 of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) that discharges to state waters;
2. Designed or used for collecting or conveying stormwater;
3. Not a combined sewer; or
4. Not part of a publicly owned treatment works.

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

"Pollution prevention plan" means a stand-alone management document that provides information on the facility operations that directly or indirectly produce waste or use toxic substances. This written plan will record the toxic substance use, emissions, and waste from current work practices, outline potential pollution prevention opportunities and provide specific performance goals including a schedule for implementing these pollution prevention activities.

"Sanitary sewer system" means the pipelines, conduits, pumping stations, force mains, and other structures, devices, appurtenances, and facilities for collecting and conveying domestic, commercial and industrial sanitary wastewater.

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

Sec. 16.2-4. Program administration Unlawful Discharges to the City's Municipal Separate Storm Sewer System.

~~The City of Lynchburg administrator or his/her designee shall be responsible for the coordination, administration and enforcement of the provisions of this chapter.~~

(a) It shall be unlawful for any person to:

- (i) Connect, cause, or allow to be connected, any sanitary sewer to the City's municipal separate storm sewer system ("MS4");
- (ii) Discharge anything that is not composed entirely of stormwater in any amount to the City's municipal separate storm sewer system ("MS4") unless the discharge is permitted by a Virginia pollution discharge elimination system [VPDES] permit;

1. Sewage;

2. Greases;
3. Fuels;
4. Oil or oil waste;
5. Antifreeze;
6. Other automotive, motor or equipment fluids;
7. Paints and/or organic solvents;
8. PCBs;
9. Toxic materials;
10. Waste disposal site leachate;
11. Radioactive materials;
12. Fertilizers, Pesticides, and/or Herbicides;
13. Organic matter;
14. Any fluid at a temperature greater than 65° celsius;
15. Any fluid having a pH less than 5.0 or greater than 9.0;
16. Any fluid containing more than 15 milligrams per liter of total suspended solids;
17. Any fluid containing dyes or coloring material which discolor the water no more than 50 American dye manufacturers institute [ADMI] units;
18. Any fluid containing material which causes a visible film, sheen or discoloration on the water surface;
19. Any substance which may cause or do any injury to, interfere with the proper operation of, obstruct the flow into or through, or pollute a stormwater management facility;
20. Any commercial, industrial, or manufacturing process water, wash water, or unpermitted discharge;
21. Boiler blowdown;
22. Any substance of non-stormwater origin unless specifically exempted from this article; or

23. Matter of any type which may result in a hazard to any person, animal, property, or vegetation, or, impair the quality of the water in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse.

(b) Subject to the provisions of subsection (c) of this section, the non-stormwater discharges or flows listed below have not been identified by the City as significant contributors of pollutants to the City's municipal separate storm sewer system ("MS4"):

(i) Water line flushing, managed in a manner to avoid an instream impact;

(ii) Landscape irrigation;

(iii) Diverted stream flows;

(iv) Rising groundwaters;

(v) Uncontaminated groundwater infiltration, as defined at 40 CFR 35.2005(20);

(vi) Uncontaminated pumped groundwater;

(vii) Discharges from potable water sources managed in a manner to avoid instream impact;

(viii) Foundation drains;

(ix) Air conditioning condensation;

(x) Irrigation water;

(xi) Springs;

(xii) Water from crawl space pumps;

(xiii) Footing drains;

(xiv) Lawn watering;

(xv) Individual residential car washing;

(xvi) Flows from riparian habitats and wetlands;

(xvii) Dechlorinated freshwater swimming pool discharges managed in a manner to avoid instream impact;

(xviii) Street and pavement wash waters that do not contain cleaning additives or are otherwise managed in a manner to avoid instream impact;

(xix) Routine external building washdown provided no soaps, solvents, or detergents are used, external building surfaces do not contain hazardous

substances, and the wash water is filtered, settled, or similarly treated prior to discharge;

(xx) Discharges or flows from emergency firefighting activities;

(xxi) Discharges or flows of water for fire prevention or firefighting training activities managed in a manner to avoid instream impact in accordance with § 9.1-207.1 of the Code of Virginia;

(xxii) Discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners in accordance with § 15.2-2114.1 of the Code of Virginia; or

(xxiii) Other activities generating discharges identified by the department as not requiring VPDES authorization.

(c) If any of the activities listed in subsection (b) of this section are found to be significant contributors of pollutants to the City's municipal separate storm sewer system ("MS4"), the Director of the City's Water Resources Department, or his/her designee, shall so notify the person performing such activities and shall order that such activities be stopped or performed in such a manner as to avoid discharge of pollutants into the City's municipal separate storm sewer system ("MS4"). The failure to comply with any such order shall be unlawful and a violation of this section.

(d) The City's Director of Water Resources, or his/her designee, shall enforce this chapter.

Sec. 16.2-5. Scope of chapter Inspections and monitoring.

~~For land development projects that disturb 5,000 square feet or more of land area, no person shall develop any land for residential, commercial, industrial or institutional use without having provided for appropriate stormwater management measures that control or manage stormwater runoff quality, quantity, and velocity as provided within this article, except those development activities exempted in accordance with subsections 16.2-9(c)2, 16.2-9(c)3, 16.2-9(c)4, 16.2-9(c)5, 16.2-9(c)6, 16.2-9(c)7 and 16.2-9(c)8. A VSMP authority permit is only required for projects that disturb one acre or more of land or are part of a common plan of development, except as provided in subsection 16.2-9(b).~~

(a) The City's Director of Water Resources, or his/her designee, shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this chapter, including the prohibition of illicit discharges to the City's municipal separate storm sewer system ("MS4"). The City's Director of Water Resources, or his/her designee, may monitor stormwater outfalls or other components of the municipal separate storm sewer system ("MS4") as may be appropriate in the administration and enforcement of this chapter.

(b) The City's Director of Water Resources, or his/her designee, shall have the authority to prohibit any discharges that cause or may cause a violation of the MS4 permit.

(c) The City's Director of Water Resources, or his/her designee, shall have the authority to enter into private property to conduct investigations relative to this chapter. No inspection shall be conducted without the consent of the tenant, occupant, property owner or the owner's

representative or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means.

Sec. 16.2-6. ~~Compatibility with other permit and ordinance requirements~~ Good Housekeeping Requirements.

~~Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. If more stringent requirements concerning the regulation of stormwater runoff are contained in the other code, rule, act or ordinance, the more stringent regulation shall apply.~~

The following good housekeeping requirements shall be adhered to by all persons in the City:

(a) The uncovered outdoor storage of unsealed containers containing hazardous substances or waste material is prohibited.

(b) Unless otherwise approved, objects such as vehicle motor parts containing grease, oil, or other hazardous materials, shall not be stored in such a manner as to cause leaks, spills, or discharges into the City's municipal separate storm sewer system ("MS4") or stormwater management facilities owned by the City.

(c) Unless otherwise approved, work on any machine that is to be repaired or maintained in an uncovered outdoor area shall be performed in such a manner as to prevent leaks, spills, or discharges into the City's municipal separate storm sewer system or stormwater management facilities owned by the City.

(d) Fuel and chemical residue or other types of potentially harmful material, garbage, or batteries, which are located in an area susceptible to runoff, shall be removed immediately and disposed at a hazardous waste collection site.

Sec. 16.2-7. ~~Severability~~ Repealed.

~~The provisions of this chapter are hereby declared to be severable, and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this chapter is declared to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this chapter, since the same would have been enacted without the incorporation in this chapter of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, paragraph, subsection or section.~~

Sec. 16.2-8. ~~Definitions~~ Violations and penalties.

~~Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

~~(1) "Administrator" means the VSMP authority including the City of Lynchburg department or staff person responsible for administering the VSMP on behalf of the locality.~~

- (2) ~~"Agreement in lieu of a stormwater management plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.~~
- (3) ~~"Applicant" means any person submitting an application for a permit or requesting issuance of a permit under this chapter.~~
- (4) ~~"Best management practice (BMP)" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.~~
- (5) ~~"Board" means the State Water Control Board.~~
- (6) ~~"Channel" means a natural or manmade waterway.~~
- (7) ~~"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.~~
- (8) ~~"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.~~
- (9) ~~"Common plan of development or sale" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.~~
- (10) ~~"Control measure" means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.~~
- (11) ~~"Department" means the Department of Environmental Quality.~~
- (12) ~~"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.~~
- (13) ~~"Disturbed area" means all ground surface area which will be physically impacted by construction activities, including material storage areas and adequate vehicular access routes to all construction activities. No construction activity including material storage and vehicle access will be permitted outside the area designated as "disturbed area" on the approved plan. If use of such area is desired, a plan revision must be submitted for review and approval prior to such use.~~

- (14) ~~"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.~~
- (15) ~~"Floodplain" means those areas adjacent to a channel, river stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.~~
- (16) ~~"General permit" means the state permit titled general permit for discharges of stormwater from construction activities found at 9VAC25-880-1 et seq., of the regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.~~
- (17) ~~"Illicit discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater, except discharges pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) permit. This definition shall not include the discharges listed in subsection 16.2-71(b) unless the city identifies such discharges as sources of pollutants to state waters.~~
- (18) ~~"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil. For the purposes of billing stormwater utility fees as provided in chapter 16.3 of City Code, impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.~~
- (19) ~~"Infiltration facility" means a stormwater management facility, which temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during non-rainfall periods. Infiltration basin, infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration facilities.~~
- (20) ~~"Inspection" means an on-site review of the project's compliance with the permit or state permit, the local stormwater management program, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation of this chapter.~~
- (21) ~~"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 16.2-9 of this chapter.~~
- (22) ~~"Layout" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.~~
- (23) ~~"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to the construction of (i) electric and telephone utility lines and natural gas pipelines; (ii) tracks, rights-of-way, bridges, communication facilities or other related structures of a railroad company; (iii) highway reconstruction projects; (iv)~~

construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development.

- (24) "Local stormwater management program" or "local program" means a statement of the various methods adopted by this chapter and implemented by the City of Lynchburg to manage the runoff from land development projects with provisions to require the control of post-development stormwater runoff rate of flow and may include such items as local ordinances, policies and guidelines, technical materials, inspections, enforcement and evaluation.
- (25) "Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 9VAC25-870-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor state permit modification or amendment does not substantially alter state permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.
- (26) "Onsite stormwater management facilities" means facilities, which are designed to control stormwater runoff emanating from a specific site, at the specific site.
- (27) "Operator" means the owner or operator of any facility or activity subject to regulation under this ordinance.
- (28) "Percent impervious" means the impervious area within the site divided by the total area of the site multiplied by 100.
- (29) "Permit" or "VSMP Authority Permit" means an approval to conduct a land-disturbing activity issued by the administrator for the initiation of a land-disturbing activity, in accordance with this ordinance, and which may only be issued after evidence of general permit coverage has been provided by the department.
- (30) "Permittee" means the person to whom the VSMP Authority Permit is issued.
- (31) "Person" means any individual, partnership, firm, association, public or private corporation, commission, city, town or other political subdivision of the Commonwealth, state or political subdivision of a state, governmental body, including federal, state or local entity as applicable, any interstate body or any other legal entity.
- (32) "Planning area" means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

- (33) ~~"Plan approving authority" refers to the administrative person or body responsible for the review and approval of land development and stormwater management in the jurisdiction in which the project is located.~~
- (34) ~~"Pollution prevention plan" means a stand-alone management document that provides information on the facility operations that directly or indirectly produce waste or use toxic substances. This written plan will record the toxic substance use, emissions, and waste from current work practices, outline potential pollution prevention opportunities and provide specific performance goals including a schedule for implementing these pollution prevention activities.~~
- (35) ~~"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.~~
- (36) ~~"Pre-development" refers to the land use conditions that exist at the time that plans for the land development are submitted for approval. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.); the existing land use conditions at the time the first item/phase is submitted shall establish pre-development conditions.~~
- (37) ~~"Regional stormwater management facility" or "regional facility" means a facility or series of facilities designed to control stormwater runoff from a specific contributing watershed area, although only portions of the watershed may experience land development.~~
- (38) ~~"Regional stormwater management plan" or "regional plan" means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.~~
- (39) ~~"Runoff" means stormwater runoff.~~
- (40) ~~"Regulations" means the Virginia Stormwater Management Program Regulations (9VAC25-870 et seq.) as amended.~~
- (41) ~~"Sanitary sewer system" means the pipelines, conduits, pumping stations, force mains, and other structures, devices, appurtenances, and facilities for collecting and conveying domestic, commercial and industrial sanitary wastewater.~~
- (42) ~~"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.~~
- (43) ~~"State" means the Commonwealth of Virginia.~~
- (44) ~~"State board" means the Virginia State Water Control Board.~~
- (45) ~~"State permit" means an approval to conduct a land-disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under~~

- ~~a state general permit or an approval issued by the state board for stormwater discharges from a municipal separate storm sewer system (MS4). Under these state permits, the commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the regulations.~~
- (46) ~~"State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.~~
- (47) ~~"State waters" means all waters, on the surface or under the ground, wholly or partially within or bordering the commonwealth or within its jurisdiction, including wetlands.~~
- (48) ~~"Storm sewer system" means stormwater management system.~~
- (49) ~~"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, surface runoff and drainage.~~
- (50) ~~"Stormwater management" is the design and use of structural or nonstructural practices to achieve the responsible discharge of stormwater runoff as defined by the requirements of this chapter.~~
- (51) ~~"Stormwater management facility" or "stormwater facility" means a device that controls or conveys stormwater runoff or changes the characteristics of that runoff including, but not limited to, the quantity, quality, period of release or velocity of flow.~~
- (52) ~~"Stormwater management plan" or "plan" means a document describing how a land development project shall comply with the requirements of this chapter.~~
- (53) ~~"Stormwater management system" means one of or a series of structural and non-structural stormwater management facilities and best management practices.~~
- (54) ~~"Stormwater pollution prevention plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this chapter. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.~~
- (55) ~~"Subdivision" means the division of a parcel of land into five or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.~~
- (56) ~~"Virginia Stormwater Management Act" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.~~

- (57) ~~"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.~~
- (58) ~~"Virginia stormwater BMP clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.~~
- (59) ~~"Virginia stormwater management program" or "VSMP" means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.~~
- (60) ~~"Virginia stormwater management program authority" or "VSMP authority" means an authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.~~
- (61) ~~"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.~~

(a) A willful violation of the provisions of this chapter shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(b) Any person who commits any act prohibited by this chapter shall be liable to the City for all costs of detecting, tracing, testing, containment, cleanup, abatement, removal, and disposal of any substance unlawfully discharged into the City's municipal separate storm sewer system ("MS4").

(c) Any person who commits any act prohibited by this chapter shall be subject to a civil penalty in an amount not to exceed \$1,000.00 for each day that a violation exists. The City may issue a summons for the collection of the civil penalty and the action may be prosecuted in the local courts. Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid into the treasury of the City for the purpose of abating, preventing or mitigating environmental pollution.

(d) The City may bring legal action to enjoin the continuing violation of and to ensure compliance with the provisions of this chapter, including injunction, abatement or other appropriate action or proceeding. The existence of any other remedy, at law or in equity, shall be no defense to any such action.

(e) The City's Director of Water Resources, or his/her designee, shall have authority to order that any activity found to be in violation of this chapter be stopped or conducted in such a manner as to avoid the discharge of any illicit materials into the City's municipal separate storm sewer system ("MS4").

(f) Any discharge caused or permitted to exist in violation of any provisions of this chapter constitutes a threat to the public health, safety and welfare, and is hereby declared and deemed a public nuisance. Following receipt of written notice of such nuisance from those authorized to enforce this section, if the responsible person fails to abate or obviate such nuisance, then the City may do so and charge and collect the cost thereof from the responsible person, in any manner provided by law (including any manner provided for the collection of unpaid local taxes).

(g) The remedies set forth in this chapter shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

Sec. 16.2-9. Stormwater permit requirement; exemptions Severability.

~~(a) Except as provided herein, no person may engage in any land-disturbing activity until a stormwater management plan or an executed agreement in lieu of a stormwater management plan and a VSMP authority permit, if such permit is required, has been issued by the administrator, in accordance with the provisions of this chapter.~~

~~(b) For construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale, projects must adhere to the requirements of General Permit for Discharges of Stormwater from Construction Activities but neither a registration statement nor payment of the department's portion of the statewide permit fee shall be required for coverage under the permit.~~

~~(c) Notwithstanding any other provisions of this chapter, the following activities are exempt, unless otherwise required by federal law:~~

~~(1) Land-disturbing activities that disturb less than one acre of land that are not part of a larger common plan of development or sale that is one acre or greater of disturbance;~~

~~(2) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;~~

~~(3) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;~~

- ~~(4) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;~~
- ~~(5) Discharges to a sanitary sewer or combined sewer system;~~
- ~~(6) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;~~
- ~~(7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and~~
- ~~(8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) is required within 30 days of commencing the land-disturbing activity.~~

The provisions of this chapter are hereby declared to be severable, and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this chapter is declared to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this chapter, since the same would have been enacted without the incorporation in this chapter of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, paragraph, subsection or section.

Sec. 16.2-10. Establishment of a stormwater management program.

- ~~(a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Lynchburg hereby establishes a Virginia Stormwater Management Program for land-disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the state board for the purposes set out in section 16.2-1 of this chapter. The City of Lynchburg hereby designates the ESC program administrator or designee as the administrator of the Virginia Stormwater Management Program.~~
- ~~(b) No VSMP authority permit shall be issued by the administrator, until the following items have been submitted to and approved by the administrator as prescribed herein:~~
 - ~~(1) A permit application that includes a general permit registration statement;~~
 - ~~(2) An erosion and sediment control plan approved in accordance with the City of Lynchburg's erosion and sediment control ordinance as found in City Code Chapter 16.1; and~~
 - ~~(3) A stormwater management plan approved in accordance with section 16.2-20 of this chapter.~~

- ~~(c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.~~
- ~~(d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to section 16.2-56, are received, and a reasonable performance bond required pursuant to section 16.2-42 of this chapter has been submitted.~~
- ~~(e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.~~
- ~~(f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the administrator.~~

Secs. 16.2-11—16.2-19. Reserved.

ARTICLE II. DESIGN CRITERIA

Sec. 16.2-20. Technical criteria.

- ~~(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City of Lynchburg hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the regulations, as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this article, except as provided for in 9VAC25-870-48 or as expressly set forth in subsection (b) of this section.~~
- ~~(b) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto, was approved by a locality prior to July 1, 2012, and for which no coverage under the general permit for discharges of stormwater from construction activities has been issued prior to July 1, 2014, shall be considered grandfathered by the VSMP authority and shall not be subject to the technical criteria of Part II B, but shall be subject to the technical criteria of Part II C [9VAC25-870-93 through VAC25-870-99] for those areas that were included in the approval, provided that the VSMP authority finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto, (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C [9VAC25-870-93 through VAC25-870-99]. In the event that the locality-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through~~

~~stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.~~

- ~~(c) Until June 30, 2019, for locality, state, and federal projects for which there has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the department has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by the VSMP authority and shall not be subject to the technical criteria of Part II B, but shall be subject to the technical criteria of Part II C [9VAC25-870-93 through VAC25-870-99] for those areas that were included in the approval.~~
- ~~(d) For land-disturbing activities grandfathered under subsections (a) and (b) of this section, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical criteria of Part II B.~~
- ~~(e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C [9VAC25-870-93 through VAC25-870-99].~~
- ~~(f) Nothing in this section shall preclude an operator from constructing to a more stringent standard at their discretion.~~

Sec. 16.2-21. Regional stormwater management.

~~Where possible all subdivisions, especially those for commercial and industrial use, shall employ a regional detention facility for all lots within the development. If a regional stormwater management plan has been adopted by the City of Lynchburg for the watershed in which the proposed land development is located, the applicant shall comply with the requirements of the regional watershed plan.~~

Sec. 16.2-22. Floodplain management.

- ~~(a) A study will be required for all new construction that provides a net increase in impervious area of the site and/or filling within the floodplain as determined by the most recent floodplain study adopted by the City of Lynchburg. This study shall meet the requirements as specified in section 35.1-45, Flood hazard districts.~~
- ~~(b) In addition, such construction shall be in compliance with all applicable regulations under the national flood insurance program and code of the City of Lynchburg.~~

Secs. 16.2-23—16.2-35. Reserved.

ARTICLE III. STORMWATER MANAGEMENT PLAN REQUIREMENTS

Sec. 16.2-36. Plan required.

- ~~(a) Except as provided for in subsection 16.2-5(b) of this chapter, no land-disturbing, building, or other permit shall be issued for land development unless a stormwater management plan has been submitted to and approved by the administrator or his designee.~~

- ~~(b) The applicant shall demonstrate that the project meets the criteria set forth in this chapter including the technical criteria in article II of this chapter which shall apply to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.~~
- ~~(c) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.~~
- ~~(d) Failure of the applicant to demonstrate that the project meets the criteria set forth in this chapter shall be reason to deny the applicant's underlying application for approval.~~
- ~~(e) Planning, design, and approach to storm water management in the City of Lynchburg shall be in conformance with this chapter.~~

~~Sec. 16.2-37. Plan submission.~~

- ~~(1) The applicant shall submit, to the plan approving authority, the material required in a stormwater management plan in accordance with section 16.2-38 of this chapter.~~
- ~~(2) Five copies of the stormwater management plan shall be submitted.~~
- ~~(3) The fee specified in section 16.2-56 of this chapter shall accompany the stormwater management plan.~~

~~Sec. 16.2-38. Plan contents.~~

~~The following information, where applicable, shall be required for each proposed project subject to review under this chapter. Stormwater management plans (maps, plans, designs and calculations) shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 (54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations.~~

~~(a) *General:*~~

- ~~(1) General description of the project.~~
- ~~(2) General description of the erosion and sediment controls.~~
- ~~(3) Information on type/location of stormwater discharges, information on features to which stormwater is being discharged, including surface waters or karst features if present, and predevelopment/postdevelopment drainage areas.~~
- ~~(4) General description of temporary and permanent stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete.~~
- ~~(5) Information on proposed stormwater management facilities, including (i) type of facilities; (ii) location, including geographic coordinates; (iii) acres treated; and (iv) surface waters or karst features into which the facility will discharge~~

- ~~(6) Project schedule and narrative, including a sequence of construction.~~
- ~~(7) Names and contact information, including email addresses of the project owner, and the submitting agent.~~
- ~~(8) The acreage of the disturbed area of the project.~~
- ~~(9) An estimate of the amount of security for a bond or other instrument based on current construction costs; however, the city may use an average cost to determine this amount. The city shall not be required to use this estimated amount as its bond requirement.~~

~~(b) *Technical:*~~

- ~~(1) Map or maps of the project area showing:~~
 - ~~a. The watershed in which the project site is located using hydrologic unit maps (as found in the design protocol manual) and the boundary of the drainage area tributary to the project site using United States Geological Survey quadrangle map or City of Lynchburg topography for offsite areas.~~
 - ~~b. Contributing drainage areas.~~
 - ~~c. The location of the project relative to significant features in the general surroundings such as roads, adjacent land uses, property lines, existing manmade structures and public facilities.~~
 - ~~d. Existing contours at two-foot intervals for the on-site area.~~
 - ~~e. Existing streams, lakes, ponds, culverts, ditches, drainage swales, wetlands, other water bodies, floodplains, and other physical features within or adjacent to the project area.~~
 - ~~f. Unique, unusual, or environmentally sensitive features that provide particular opportunities or constraints for development.~~
 - ~~g. Soil types, geologic formations if karst features are present in the area, forest cover and other vegetative areas.~~
 - ~~h. Sufficient information on adjoining parcels to assess impacts of stormwater from the site on these parcels;~~
 - ~~i. Current land use including existing structures, roads, locations of known utilities, sewers water lines and easements.~~
 - ~~j. General alterations in the natural terrain, cover, and grade including lawns and other landscaping.~~
 - ~~k. The location of proposed buildings, roads, parking areas, utilities and other permanent structures.~~

- ~~l. Proposed contours at two-foot intervals.~~
- ~~m. All stormwater management facilities including details, plan, profile, and cross-sections.~~
- ~~n. If any infiltration facilities are proposed, the locations of existing and proposed wells and septic system drain fields must be shown.~~
- ~~o. Limits of construction, clearing and grading and proposed drainage patterns on site.~~
- ~~p. Proposed land use with tabulation of percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements.~~

Sec. 16.2-39. Reports.

- ~~(a) Comprehensive hydrologic, hydraulic and water quality design calculations, including all assumptions and criteria, for the pre-development and post-development conditions for the design storms specified in article II of this chapter.~~
- ~~(b) A soils report/geotechnical analysis and boring logs, for infiltration facilities.~~
- ~~(c) A signed maintenance agreement, in a format designated by the plan approving authority, suitable for recording at the Lynchburg Circuit Court, including a) a drawing indicating the facilities to be maintained, b) the person or entity responsible for maintenance of the stormwater management facilities, c) the prescribed maintenance program for the proposed stormwater management facilities and d) the annual reporting requirements.~~

Sec. 16.2-40. Plan approval.

- ~~(a) The VSMP authority shall determine the completeness of a plan in accordance with 9VAC25-870-55, and shall notify the applicant of any determination, within 15 calendar days of receipt. Where available to the applicant, electronic communication may be considered communication in writing.~~
 - ~~(1) If within those 15 calendar days the plan is deemed to be incomplete, the applicant shall be notified in writing of the reasons the plan is deemed incomplete.~~
 - ~~(2) If a determination of completeness is made and communicated to the applicant within the 15 calendar days, an additional 60 calendar days from the date of the communication will be allowed for the review of the plan.~~
 - ~~(3) If a determination of completeness is not made and communicated to the applicant within the 15 calendar days, the plan shall be deemed complete as of the date of submission and a total of 60 calendar days from the date of submission will be allowed for the review of the plan.~~
 - ~~(4) The VSMP authority shall review, within 45 calendar days of the date of resubmission, any plan that has been previously disapproved.~~

- ~~(b) The applicant or any aggrieved party authorized by law may appeal the plan approving authority's decision of approval or disapproval of a stormwater management plan application within 30 days after the rendering of such a decision, to the City of Lynchburg Circuit Court.~~
- ~~(c) Judicial review shall be on the record previously established and shall otherwise be in accordance with the provisions of the Administrative Process Act (Sec. 9-6.14:1 et seq. of the Code of Virginia).~~

Sec. 16.2-41. Conditions of plan approval.

Each approved stormwater management plan shall be subject to the following conditions:

- ~~(a) A stormwater management plan approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners.~~
- ~~(b) The applicant shall comply with all applicable requirements of the approved plan and the local program and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.~~
- ~~(c) The land development project shall be conducted only within the limits of construction, clearing and grading specified in the approved plan.~~
- ~~(d) The City of Lynchburg or its designee shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project. The owner, occupier or operator shall be given the opportunity to accompany the inspector.~~
- ~~(e) No transfer, assignment or sale of the rights granted by virtue of an approved plan shall be made unless the transferee certifies agreement to comply with all obligations and conditions of the approved plan.~~
- ~~(f) A set of certified as-built plans for the stormwater management facilities and cover letter from the design professional with the appropriate seal stating that the objectives of the design have been achieved by the facility as constructed shall be submitted to the City of Lynchburg upon completion of the project. Said as-builts shall include volume confirmation with supporting computations and include structural elevations and dimensions.~~
- ~~(g) While the project is under bond, the person responsible for implementing the approved plan shall conduct monitoring and submit reports to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.~~

Sec. 16.2-42. Performance bond required.

- ~~(a) All applicants shall submit to the City of Lynchburg a performance bond with surety, cash escrow, letter of credit, or such other legal arrangement acceptable to the city attorney, to ensure that measures could be taken by the city at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate~~

~~actions which may be required of the applicant by the approved stormwater management plan.~~

- ~~(b) If the City of Lynchburg takes such action upon such failure by the applicant, the city may collect from the applicant the costs of such action in excess of the amount of the security held.~~
- ~~(c) Within 60 days of the completion of the requirements of the approved stormwater management plan, including necessary stabilization, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.~~
- ~~(d) These requirements are in addition to all other provisions of law relating to the issuance of such plans and are not intended to otherwise affect the requirements for such plans.~~

Sec. 16.2-43. Changes to an approved plan.

~~No changes may be made to an approved plan without review and written approval by the City of Lynchburg. Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the administrator. The administrator shall have 60 calendar days to respond in writing either approving or disapproving such request. The administrator may also require amendments to an approved stormwater management plan, within a time prescribed by the administrator, to address any deficiencies noted during inspection. Upon the release of the land disturbance bond, any proposed changes to the site layout, increases in impervious area or alterations of stormwater conveyance systems, easements or facilities must be submitted to the plan approving authority of the City of Lynchburg for review and approval.~~

Secs. 16.2-44—16.2-52. Reserved.

ARTICLE IV. STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS

Sec. 16.2-53. Plan contents.

- ~~(a) The stormwater pollution prevention plan (SWPPP) shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL as specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70 of the general permit.~~
- ~~(b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.~~
- ~~(c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.~~

~~Sec. 16.2-54. Pollution prevention plan.~~

- ~~(a) Pollution prevention plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
 - ~~(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;~~
 - ~~(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and~~
 - ~~(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.~~~~
- ~~(b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
 - ~~(1) Wastewater from washout of concrete, unless managed by an appropriate control;~~
 - ~~(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;~~
 - ~~(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and~~
 - ~~(4) Soaps or solvents used in vehicle and equipment washing.~~~~
- ~~(c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.~~

ARTICLE V. ENFORCEMENT AND FEES

~~Sec. 16.2-55. Exceptions.~~

- ~~(a) A request for an exception shall be submitted, in writing, to the administrator. An exception from this chapter may be granted, provided that: (i) exceptions to the criteria are the minimum necessary to afford relief, and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the purpose and intent of this chapter is preserved.~~
- ~~(b) Economic hardship is not sufficient reason to grant an exception from the requirements of this chapter.~~

Sec. 16.2-56. Fees.

(a) — An applicant shall pay the fees provided in Table 1 for initial issuance of general permit coverage and VSMP authority permit coverage. No more than 50 percent of the total fee to be paid by the applicant set out in Table 1 shall be due at the time a stormwater management plan or an initial stormwater management plan is submitted to the City of Lynchburg for review. The balance shall be paid prior to the issuance of coverage under the general permit. When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of the site or sites according to the following table.

Table 1: Fees for permit issuance

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of "total fee to be paid by Applicant" (based on 28% of total fee paid*)
General/Stormwater Management — Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, except for a single family detached residential structure.)	\$290	\$81
General/ Stormwater Management — Small Construction Activity/Land Clearing (Single family detached residential structure, within or outside a common plan of development or sale, with land disturbance acreage less than five acres. Residential subdivisions that require the construction of new streets will be considered General/Stormwater Management — Small Construction Activity/Land Clearing activities as defined below.)	\$209	N/A
General/Stormwater Management — Small Construction Activity/Land Clearing (Sites or areas with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres), including the development of residential subdivision that require the construction of new streets.	\$2,700	\$756
General/Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
General/Stormwater Management — Large Construction Activity/Land Clearing (Sites or areas with land disturbance acreage equal to	\$4,500	\$1,260

or greater than 10 acres and less than 50 acres)		
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

- (b) Fees for the modification or transfer of registration statements from the general permit issued by the state board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City of Lynchburg, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1. Fees required by this section go to the City of Lynchburg.

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$200
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450

General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700
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- (c) ~~The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated. Fees specified by this section will go to the City of Lynchburg.~~

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General/Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General/Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400

~~General permit coverage maintenance fees shall be paid annually to the City of Lynchburg by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a notice of termination is effective.~~

- (d) ~~The fees set forth in subsections (a) through (c) above, shall apply to:~~

- (1) ~~All persons seeking coverage under the general permit.~~
- (2) ~~All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.~~

- ~~(3) Persons whose coverage under the general permit has been revoked shall apply to the department for an individual permit for discharges of stormwater from construction activities.~~
- ~~(4) Permit and permit coverage maintenance fees outlined in this section may apply to each general permit holder.~~
- ~~(e) No general permit application fees will be assessed to:~~
 - ~~(1) Permittees who request minor modifications to general permits as defined in subsection 16.2-8(25) of this chapter. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the administrator shall not be exempt pursuant to this section.~~
 - ~~(2) Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the administrator or errors related to the acreage of the site.~~
- ~~(f) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in Section 58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A ten percent late payment fee shall be charged to any delinquent (over 90 days past due) account. The City of Lynchburg shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.~~

Sec. 16.2-57. Inspections and monitoring.

- ~~(a) The administrator or designee shall inspect the land-disturbing activity during construction for:~~
 - ~~(1) Compliance with the approved erosion and sediment control plan;~~
 - ~~(2) Compliance with the approved stormwater management plan;~~
 - ~~(3) Development, updating, and implementation of a pollution prevention plan; and~~
 - ~~(4) Development and implementation of any additional control measures necessary to address a TMDL.~~
- ~~(b) The applicant shall notify the city 48 hours prior to the commencement of any activity covered by this chapter so that appropriate inspections can be made to ensure compliance with this chapter.~~
- ~~(c) The administrator or any duly authorized agent of the administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this chapter.~~
- ~~(d) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions~~

~~associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.~~

- ~~(e) The administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this chapter, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this chapter.~~
- ~~(f) Post-construction inspections of stormwater management facilities required by the provisions of this chapter shall be conducted by the administrator or any duly authorized agent of the administrator pursuant to the City of Lynchburg's adopted and state board approved inspection program, and shall occur, at minimum, at least once every five years.~~
- ~~(g) Inspection reports shall be maintained as part of the land development project file.~~
- ~~(h) In order to assure compliance with the provisions of this chapter, and all applicable city ordinances, state and federal laws, orders or regulations, the stormwater administrator or his agent shall have the right to inspect any property on which a stormwater maintenance facility is located, public or private, within the city at any reasonable time. In the event the stormwater administrator or his agent shall be denied access to property, the stormwater administrator or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes (i) probable cause that a violation of this chapter has occurred, or (ii) that the stormwater administrator or his agent has been denied access to property as part of a routine inspection program, request that the magistrate or court grant the stormwater administrator or his agent an inspection warrant to enable the stormwater administrator or his agent to enter the property for the purpose of determining whether a violation of this chapter exists. The stormwater administrator or his agent shall make a reasonable effort to obtain consent from the owner or occupant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the stormwater administrator or his agent access to any property after the stormwater administrator or his agent has obtained an inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such property. Nothing herein shall be construed to authorize the stormwater administrator or his agent to enter or inspect the interior portions of any structure situated on such property unless the inspection is reasonably necessary to verify the presence and character of a stormwater maintenance facility or control measure that the owner of the property claims to be installed therein.~~

~~Sec. 16.2-58. Hearings by the city manager, or his designee.~~

- ~~(a) Any permit applicant or permittee, or person subject to the requirements of this chapter, who is aggrieved by a permit of enforcement decision of the city, may request in writing a hearing by the city manager, or his designee, provided a written request of a hearing is filed with the city manager, or his designee, within 15 days of the incident giving rise to the request for a hearing.~~
- ~~(b) Within 30 calendar days after receiving a written request for a hearing, the city manager, or his designee, will meet with the person filing the request for a hearing.~~

- ~~(c) A record of the hearing shall be taken and retained by the city manager, or his designee, pending an appeal to the circuit court as provided in section 16.2-60. The record shall contain documentation of the date the hearing took place, the decision made, and the date the decision was provided to the person requesting the hearing.~~
- ~~(d) Within 15 calendar days after the hearing takes place, the city manager, or his designee, shall issue a written decision in the matter and shall provide a copy of the decision to the person requesting the hearing. The written decision will be retained as part of the record.~~
- ~~(e) All hearings shall be in accordance with the process adopted by the city manager. The hearing before the city manager, or his designee, is not intended to be conducted like a court proceeding, and the rules of evidence do not apply to such hearing. The city manager, or his designee, shall have the discretion to determine the propriety of attendance of persons at the hearing, and the admissibility of evidence, so long as a fair and full opportunity is afforded to all parties for the presentation of their evidence.~~
- ~~(f) The time frames in these procedures, may be extended by the mutual agreement of the city manager, or his designee, and the person requesting the hearing.~~
- ~~(g) The decision of the city manager, or his designee, may be appealed to the circuit court as provided in section 16.2-60.~~

Sec. 16.2-59. Appeals to circuit court.

- ~~(a) Any permit applicant or permittee, or person subject to the requirements of this chapter, who is aggrieved by a permit or enforcement decision of the city manager, or his designee, may file with the clerk of the circuit court a petition for the review of such decision. An appeal must be filed in writing with the clerk of the circuit court within 30 days after a final decision is rendered by the city manager, or his designee, and must specify the grounds on which the appeal is based. The filing of the said petition shall stay the decision of the city manager, or his designee, pending the outcome of the appeal.~~
- ~~(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the city manager, or his designee, and shall prescribe therein the time within which a return thereto must be made to the petition. A copy of the writ of certiorari shall be served upon the city manager. Within 15 calendar days after the writ of certiorari is served upon the city manager, the city manager shall transmit to the clerk of the court: a copy of the city manager's, or his designee's, decision, a copy of the record, and the exhibits. The court, sitting without a jury, shall hear the appeal on the record transmitted by the city manager and such additional evidence as the court determines may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require.~~
- ~~(c) The burden of proof shall be upon the party filing the appeal to designate and demonstrate that the decision of the city manager or his designee, was arbitrary and capricious, or contrary to the law. When the decision on review is to be made on the record, the duty of the court with respect to issues of fact shall be to determine whether there was substantial evidence in the record to support the city manager's, or his designee's, decision. The duty of the court with respect to the issues of law shall be to review the city manager's, or his designee's, decision de novo to determine if there was an error of law. Whether the fact issues are reviewed on the record submitted by the city manager, or a record made during~~

~~a review action, the court shall take due account of the presumption of the validity of the city's ordinances, the experience and specialized competence of city staff, and the purposes of the basic laws, regulations, and ordinances under which the city has acted.~~

- ~~(d) A party shall be deemed to be an aggrieved party for the purpose of filing an appeal if (i) such party has suffered an actual or imminent injury which is an invasion of a legally protected interest and which is concrete and particularized, (ii) such injury is fairly traceable to the decision of the city and not the result of the independent action of some third party not before the court, and (iii) such injury will likely be redressed by a favorable decision by the court.~~

Sec. 16.2-60. Maintenance agreement.

- ~~(a) A maintenance agreement, on a form prescribed by the City of Lynchburg, between the city and the owner of any permanent stormwater control facility shall be submitted and recorded prior to approval of the stormwater management plan required by this chapter.~~
- ~~(b) Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by the city or other governmental agency, shall run with the land and remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each parcel the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance.~~
- ~~(c) In the event that the stormwater management facilities are in need of maintenance or become a danger to public safety or public health, the responsible person shall be notified in writing, and given a reasonable period of time to take necessary action. If the responsible person fails or refuses to perform such maintenance and repair, the city has the authority to perform the work and to recover the costs from the responsible person. Any costs, including interest, which remain unpaid, may be collected in the same manner as unpaid taxes are collected, and shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.~~
- ~~(d) To ensure proper performance of the stormwater management facility, the owner is responsible for inspecting the stormwater management facility on an annual basis and after any storm, which causes the capacity of the facility to be exceeded. More frequent inspections may be required if deemed necessary by the administrator. The owner must file written record of inspections to the department of water resources within five working days of the inspection.~~
- ~~(e) The maintenance agreement submitted to the City of Lynchburg shall allow for the city to enter the property for purposes of inspection by the administrator or designee shall permit the city or designee to enter the property for the purpose of maintenance and repair should the responsible party not fulfill these duties, shall provide for the submission of inspection and maintenance reports as required by the city, and shall be enforceable by all appropriate governmental parties.~~

Sec. 16.2-61. Maintenance of stormwater management facilities.

- (a) Any property owner that has a stormwater management facility on his property, shall maintain such facility in a good operating condition. The maintenance of the stormwater management facility shall be in accordance with all applicable city and state requirements and regulations, and shall include but shall not be limited to the following:
- ~~(1) The filing of an annual inspection of the facility by a qualified inspector and the filing of an annual written inspection report with the city's stormwater administrator, describing the condition of the stormwater management facility. The annual inspection report shall be due by the end of each calendar year, and the inspection shall have been performed within two months prior to the date of the report. The report shall state the property's address, the owner's name, the inspection date, the inspector's name and qualifications, and shall describe any deficiencies and any required maintenance that is needed to bring the stormwater management facility into compliance with city and state requirements and regulations;~~
 - ~~(2) The filing of a supplementary report on the remediation of any deficiencies identified in the annual inspection report; such supplementary report on remediation efforts shall be due within three months of the date of the inspection report;~~
 - ~~(3) The removal and proper disposal of sediment when the flow or storage of the stormwater has been significantly restricted or reduced by sediment;~~
 - ~~(4) The removal and proper disposal of trash, debris, loose brush and other growth from the stormwater management facility, as needed;~~
 - ~~(5) The removal and proper disposal of any oil or grease which has accumulated within the stormwater management facility;~~
 - ~~(6) The replacement and proper disposal of any chemical treatment media and any filter media which have ceased to function at design levels;~~
 - ~~(7) The annual cutting of any brush and other woody growth on and around any embankment fill, and the stabilization of the banks of the stormwater management facility, as needed;~~
 - ~~(8) The inspection, maintenance and repair of any fence installed around the stormwater management facility;~~
 - ~~(9) Any necessary repairs to the dam, emergency spillway and any low spots in any stormwater retention pond; and~~
 - ~~(10) All other repairs and improvements which are reasonably necessary to keep the stormwater management facility operating in an efficient, safe and sanitary manner.~~
- (b) In the event that the stormwater management facilities are in need of maintenance or become a danger to public safety or public health, the property owner shall be notified in writing, and given a reasonable period of time to take necessary action. If the property owner fails or refuses to perform such maintenance and repair, the city has the authority to perform the work and to recover the costs from the property owner. Any costs, including interest,

~~which remain unpaid, may be collected in the same manner as unpaid taxes are collected, and shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.~~

- ~~(c) For purposes of this chapter, "property owner" means the owner or owners of the freehold of the property or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of the property.~~

~~Sec. 16.2-62. Enforcement.~~

- ~~(a) If the administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for implementing the plan by registered or certified mail to the address specified in the application or plan certification, or by delivery at the land development site to the agent or employee supervising such activities.~~
- ~~(b) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed.~~
- ~~(c) Upon failure to comply within the time specified, a stop work order may be issued or the permit or approval may be revoked and the applicant or person responsible for implementing the plan shall be deemed to be in violation of this ordinance.~~
- ~~(d) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment for each violation, or both, as provided for in Section 62.1-44.15.48 of the Code of Virginia.~~
- ~~(e) The administrator may apply to the circuit court to enjoin a violation or a threatened violation of this chapter as provided for in Section 62.1-44.15.48 of the Code of Virginia without the necessity of showing that an adequate remedy at law does not exist.~~
- ~~(f) Without limiting the remedies, which may be obtained in this section, the administrator may bring a civil action against any person for violation of this chapter, or any condition of the permit or approval, or any provision of the local program. The action may seek to impose of a civil penalty of not more than \$32,500.00 for each violation as provided for in Section 62.1-44.15.48 of the Code of Virginia.~~
- ~~(g) In addition to any other remedy provided by this chapter, if the administrator determines there is a failure to comply with the provisions of this chapter, the administrator may initiate such informal and/or formal administrative enforcement procedures in a manner authorized by this chapter and any applicable city-issued policies. Such procedures may include, but are not limited to:~~
- ~~(i) Verbal warning;~~
 - ~~(ii) Notices of corrective actions;~~
 - ~~(iii) Consent special orders and civil charges pursuant to subsection (h) below;~~
 - ~~(iv) Notices to comply;~~
 - ~~(v) Special and emergency special orders;~~

- ~~(h) With the consent of any person who has violated or failed, neglected or refused to obey this chapter or any condition of the permit or approval or any provision of the local program, the administrator may issue an order against or to such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (f) of this section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under subsection (f).~~
- ~~(i) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:~~
- ~~(i) No state permit registration;~~
 - ~~(ii) No SW PPP;~~
 - ~~(iii) Incomplete SW PPP;~~
 - ~~(iv) SWPPP not available for review;~~
 - ~~(v) No approved erosion and sediment control plan;~~
 - ~~(vi) Failure to install stormwater BMPs or erosion and sediment controls;~~
 - ~~(vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;~~
 - ~~(viii) Operational deficiencies;~~
 - ~~(ix) Failure to conduct required inspections;~~
 - ~~(x) Incomplete, improper, or missed inspections; and~~
 - ~~(xi) Discharges not in compliance with the requirements of Section 9VAC25-880-1170 of the general permit.~~

~~(Ord. No. O-01-079, 4-24-01, eff. 5-1-01; Ord. No. O-14-070, § 1, 6-10-14)~~

~~Secs. 16.2-63—16.2-69. Reserved.~~

~~ARTICLE VI. STORMWATER POLLUTION CONTROL~~

~~Sec. 16.2-70. Purpose.~~

- ~~(a) The 1987 amendments to the federal clean water act (CWA) required the United States environmental protection agency to establish national pollutant discharge elimination system (NPDES) requirements for municipal separate storm sewer systems (MS4). NPDES regulations require the city to reduce the flow of pollutants into waters of the United States through ordinance, permit, contract or other available means.~~
- ~~(b) Pollutants discharged from the city's municipal separate storm sewer system (MS4) have an adverse impact upon the quality of receiving waters. Stormwater, and any other materials which enter the city's MS4, travel through the system and are discharged into receiving~~

~~waters with minimal or no treatment. Since pollutants entering this system come from many sources and are to date largely uncontrolled, reduction of pollutant discharges can only be achieved by a broad restriction on a variety of activities occurring throughout the city. This article is intended to prevent pollutants from being discharged by the city's stormwater collection system by requiring all citizens to prevent such pollutants from initially entering the system.~~

~~(c) This article is adopted as an integral part of the city's stormwater management program.~~

~~Sec. 16.2-71. Discharges to the city's storm sewer system.~~

~~(a) It shall be unlawful and a violation of this article to:~~

- ~~(1) Connect, cause, or allow to be connected, any sanitary sewer to the separate storm sewer system;~~
- ~~(2) Discharge the following in any amount to the city's storm sewer system, to any private stormwater conveyance system, or to any stormwater management system whether intended for water quality or water quantity control, unless the system conveys the fluids to an appropriate water treatment facility or the discharge is permitted by a Virginia pollution discharge elimination system [VPDES] permit or by a national pollution discharge elimination system [NPDES] permit:~~
 - ~~(i) Sewage;~~
 - ~~(ii) Greases;~~
 - ~~(iii) Fuels;~~
 - ~~(iv) Oil or oil waste;~~
 - ~~(v) Antifreeze;~~
 - ~~(vi) Other automotive, motor or equipment fluids;~~
 - ~~(vii) Paints and/or organic solvents;~~
 - ~~(viii) PCBs;~~
 - ~~(ix) Pesticides; (x) Herbicides;~~
 - ~~(xi) Toxic materials;~~
 - ~~(xii) Waste disposal site leachate;~~
 - ~~(xiii) Radioactive materials;~~
 - ~~(xiv) Fertilizers~~
 - ~~(xv) Organic matter;~~

- ~~(xvi) — Any fluid at a temperature greater than 65° celsius;~~
- ~~(xvii) — Any fluid having a pH less than 5.0 or greater than 9.0;~~
- ~~(xviii) — Any fluid containing more than 15 milligrams per liter of total suspended solids;~~
- ~~(xix) — Any fluid containing dyes or coloring material which discolor the water no more than 50 American dye manufacturers institute [ADMI] units;~~
- ~~(xx) — Any fluid containing material which causes a visible film, sheen or discoloration on the water surface;~~
- ~~(xxi) — Any substance which may cause or do any injury to, interfere with the proper operation of, obstruct the flow into or through, or pollute a stormwater management facility;~~
- ~~(xxii) — Any commercial, industrial, or manufacturing process water, wash water, or unpermitted discharge;~~
- ~~(xxiii) — Boiler blowdown;~~
- ~~(xxiv) — Any substance of non-stormwater origin unless specifically exempted from this article;~~
- ~~(xxv) — Matter of any type which may:
 - ~~a. Result in a hazard to any person, animal, property, or vegetation; or,~~
 - ~~b. Impair the quality of the water in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse.~~~~
- ~~(b) Subject to the provisions of subsection (c) of this section, the following activities shall be allowed:
 - ~~(1) Potable water line flushing;~~
 - ~~(2) Lawn watering;~~
 - ~~(3) Landscape irrigation;~~
 - ~~(4) Diverting stream flows or uncontaminated groundwater flows;~~
 - ~~(5) Water from public safety activities, including, but not limited to, law enforcement and fire suppression;~~
 - ~~(6) Pumping or drainage of uncontaminated groundwater from potable water sources, foundation drains, basements, springs, or water from crawl spaces, or footing drains;~~
 - ~~(7) Non-commercial car washing;~~
 - ~~(8) Swimming pool discharges with less than one parts per million [PPM] chlorine;~~~~

- ~~(9) Street washing;~~
 - ~~(10) Any activity authorized by a valid national pollutant discharge elimination system (NPDES) permit, waiver, or discharge order; a Virginia pollutant discharge elimination system (VPDES) permit, waiver, or discharge order; or a Virginia pollution abatement (VPA) permit;~~
 - ~~(11) Any activity by a governmental entity or its employees and agents in accordance with federal, state, and local regulations and standards for the maintenance or repair of drinking water reservoirs or water treatment or distribution systems;~~
 - ~~(12) Any activity by a governmental entity or its employees and agents in accordance with federal, state, and local regulations and standards, for the maintenance of any component of its stormwater management system;~~
 - ~~(13) Discharges specified in writing by the program administrator and/or his or her designee as being necessary to protect public health and safety;~~
 - ~~(14) Dye testing, following notification to the program administrator;~~
 - ~~(15) Residential yard maintenance, including seasonal leaf pick-up and brush removal.~~
- ~~(c) If any of the activities listed in subsection (b), above, of this section are found to be sources of pollutants to public waters, the program administrator shall so notify the person performing such activities and shall order that such activities be stopped or performed in such a manner as to avoid discharge of pollutants into such waters. The failure to comply with any such order shall be unlawful and a violation of this article.~~

~~Sec. 16.2-72. Pesticides, herbicides, and fertilizers.~~

- ~~(a) Pesticides, herbicides, and fertilizers are common household products that have beneficial uses in the homes, lawns and gardens of many city residents. When used properly and in accordance with manufacturer's recommendations they provide significant enhancement of our quality of life. When used inappropriately, however, these products can have unintended negative impacts on the quality of public waters. These consequences frequently are not readily apparent to the individual responsible for the improper usage.~~

~~Therefore to reduce the incidences of negative environmental impacts to water quality, the city enacts the following restrictions on the uses of pesticides, herbicides, and fertilizers:~~

- ~~(b) Pesticides and herbicides. It shall be unlawful:~~
- ~~(1) To use any pesticide or herbicide not approved by the U.S. environmental protection agency (EPA).~~
 - ~~(2) To use any pesticide or herbicide in a fashion not in accordance with manufacturer's recommendations or label directions as approved by the Virginia Department of Agriculture and Consumer Services [VDACS] and the U.S. Environmental Protection Agency (EPA).~~
- ~~(c) Fertilizers. To avoid contamination of water bodies and aquifers:~~

- ~~(1) Fertilizers should be applied in a manner which does not exceed manufacturer's recommendations for frequency and rates approved by the Virginia Department of Agriculture and Consumer Services [VDACS] and the U.S. Environmental Protection Agency (EPA).~~
- ~~(2) Fertilizers should not be directly applied to impervious areas subject to runoff.~~

~~Sec. 16.2-73. Construction activities.~~

~~Stormwater management at all construction activities shall be governed by the city's erosion and sediment control and stormwater ordinance.~~

~~Sec. 16.2-74. Good housekeeping requirements.~~

~~The following good housekeeping requirements shall be adhered to by all persons within the City of Lynchburg:~~

- ~~(a) The uncovered outdoor storage of unsealed containers containing hazardous substances or waste material is prohibited.~~
- ~~(b) Unless otherwise approved, objects such as vehicle motor parts containing grease, oil, or other hazardous materials, shall not be stored in such a manner as to cause leaks, spills, or discharges into stormwater management facilities.~~
- ~~(c) Unless otherwise approved, work on any machine that is to be repaired or maintained in an uncovered outdoor area shall be performed in such a manner as to prevent leaks, spills, or discharges into any stormwater management facilities and/or any municipal separate storm sewer system.~~
- ~~(d) Fuel and chemical residue or other types of potentially harmful material, garbage, or batteries, which are located in an area susceptible to runoff, shall be removed immediately and disposed at a hazardous waste collection site.~~

Sec. 16.2-75. Inspections and monitoring.

- ~~(a) The administrator and/or his or her designee(s) shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this article, including the prohibition of illicit discharges to the storm sewer system. The program administrator and/or his or her designee(s) may monitor stormwater outfalls or other components of the municipal storm sewer system as may be appropriate in the administration and enforcement of this article.~~
- ~~(b) The administrator and/or his or her designee(s) shall have the authority to require pollution prevention plans from any person whose discharges cause or may cause a violation of any VPDES permit, including the one held by the city.~~
- ~~(c) The administrator and/or his designee(s) shall have the authority to enter into private property to conduct investigations relative to this article. No inspection shall be conducted without the consent of the tenant, occupant, property owner or the owner's representative or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means.~~

Sec. 16.2-76. Violations and penalties.

- ~~(a) A willful violation of the provisions of this article shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this article is maintained or permitted to remain shall constitute a separate offense.~~
- ~~(b) Any person who commits any act prohibited by this article shall be liable to the city for all costs of detecting, tracing, testing, containment, cleanup, abatement, removal, and disposal of any substance unlawfully discharged into the storm sewer system.~~
- ~~(c) Any person who commits any act prohibited by this article shall be subject to a civil penalty in an amount not to exceed \$1,000.00 for each day that a violation exists. The city may issue a summons for the collection of the civil penalty and the action may be prosecuted in the local courts. Any civil penalties assessed by a court as a result of a summons issued by the city shall be paid into the treasury of the city for the purpose of abating, preventing or mitigating environmental pollution.~~
- ~~(d) The city may bring legal action to enjoin the continuing violation of and to ensure compliance with the provisions of this chapter, including injunction, abatement or other appropriate action or proceeding. The existence of any other remedy, at law or in equity, shall be no defense to any such action.~~
- ~~(e) The administrator and/or his or her designee(s) shall have authority to order that any activity found to be in violation of this article be stopped or conducted in such a manner as to avoid the discharge of any illicit materials into the storm sewer system.~~
- ~~(f) Any discharge caused or permitted to exist in violation of any provisions of this article constitutes a threat to the public health, safety and welfare, and is hereby declared and deemed a public nuisance. Following receipt of written notice of such nuisance from the administrator and/or his or her designee(s), if the responsible person fails to abate or obviate such nuisance, then the city may do so and charge and collect the cost thereof from the~~

~~responsible person, in any manner provided by law (including, without limitation, any manner provided by law for the collection of state or local taxes).~~

- ~~(g) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.~~

Secs. 16.2-10—16.2-76. Reserved.

3. That, in accordance with § 38 – A (1) of the Charter for the City of Lynchburg, Virginia, this Ordinance shall be published by “pamphlet” by the Clerk of Council and become effective December 1, 2024, which is no less than thirty (30) days from the adoption date of this Ordinance.

Adopted: October 22, 2024

Certified: Alicia L. Frings
Clerk of Council

**A PAMPHLET ISSUED PURSUANT TO CHAPTER VI § 38-A
OF THE CHARTER OF THE CITY OF LYNCHBURG, VIRGINIA**

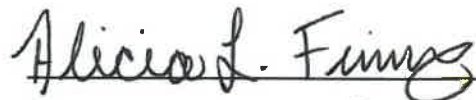
On October 22, 2024, the Lynchburg City Council adopted Ordinance #O-24-079 entitled "Consideration of adopting Ordinance #O-24-079 consolidating the City's Erosion Control and Stormwater Management Requirements and revising the City's Illicit Discharge Requirements" and such Ordinance was effective upon its adoption.

Such Ordinance is described as follows: An ordinance to amend and reenact the code of the City of Lynchburg, 1981, by amending Sections 16.1-1 through 16.1-14 of Chapter 16.1 (including the Chapter's title and section 16.1-11.1); repealing sections 16.1-15 and 16.1-16 of Chapter 16.1; amending sections 16.1-17 and 16.1-18 of Chapter 16.1; creating new sections 16.1-19 and 16.1-20 of Chapter 16.1; amending sections 16.2-1 through 16.2-6 of article i of Chapter 16.2 (including the Chapter's title); repealing section 16.2-7 of article i of Chapter 16.2; amending sections 16.2-8 and 16.2-9 of article i of Chapter 16.2; and repealing sections 16.2-10 through 16.2-76 of articles ii through vi of Chapter 16.2; with all of the same being connected to updating the City's Erosion and Sediment Control and Stormwater Management program and the prohibitions specific to illicit discharges into the City's separate storm sewer system ("MS4") and contains provisions where a penalty may be imposed (see Ordinance #O-24-079 for details).

Additional information concerning the attached Ordinance may be obtained by contacting Tim Mitchell, Director of Water Resources at timothy.mitchell@lynchburgva.gov, during regular business hours, Monday-Friday, 8:30 a.m. to 5:00 p.m.

POSTED ON THE 22nd **DAY OF** October, 2024,

AT City Hall, 900 Church Street, 1st Floor, Citizen's First, and online at <https://www.lynchburgva.gov/842/Council-Meeting-Agendas-Minutes-Video>.


Alicia L. Finney, Clerk of Council

REMOVED ON THE _____ **DAY OF** _____, 20_____,
FROM City Hall, 900 Church Street, 1st Floor, Citizen's First,
<https://www.lynchburgva.gov/842/Council-Meeting-Agendas-Minutes-Video>.



Alicia L. Finney, Clerk of Council



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Gregory Wormser, Fire Chief

AGENDA ITEM # VI.10

Consideration of introducing Resolution #R-24-080 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$4,434.217 to hire (21) twenty-one firefighters with the Lynchburg Fire Department.

RECOMMENDATION

Adopt a resolution to amend the FY 2025 City/Federal/State Aid Fund budget and appropriate \$4,434,217 with resources from the Department of Homeland Security (DHS) and Federal Emergency Management Agency (FEMA) to hire twenty-one (21) firefighters for the Fire Department.

SUMMARY

The Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) awards Staffing for Adequate Emergency Response (SAFER) grant funding to focus on enhancing the local fire departments' abilities to comply with staffing, response and operational standards established by the NFPA. The funds provided by the SAFER grant accomplishes this by providing direct funding to eligible fire departments for the purposes of increasing staffing.

The funds in the amount of \$4,434,217 awarded by FEMA will be used to hire twenty-one (21) firefighters paying for their salaries and benefits for a period of no less than three (3) years, at which point the City of Lynchburg will provide the commensurate amount of funding.

The SAFER grant performance period begins on or about March 1, 2025 and ends on or about March 1, 2028.

The department intends to hire personnel in early Calendar Year 2025 ahead of the completion of Fire Station 9 so that when the station is completed, it will be staffed with incumbent personnel who are well trained to respond to emergencies.

PRIOR ACTION(S)

October 22, 2024: Finance Committee

FISCAL IMPACT

This grant requires no local match though there are expenses related to hiring and training these personnel which are not covered by the grant and will need to be pulled from the department's

operating budget. These costs may include, but are not limited to, Personal Protective Equipment (PPE), uniforms, radios, and technology needs.

CONTACT(S)

Gregory Wormser, Fire Chief
Annette Pettyjohn, Administrative Manager

ATTACHMENT(S)

1. Resolution - SAFER Grant Program \$4,434,217

REVIEWED BY



Gregory Wormser, Fire Chief

Date: October 09, 2024



Mercedes Braun, Assistant to the City Manager

Date: October 11, 2024



Wynter Benda, City Manager

Date: October 15, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

BE IT RESOLVED that the FY 2025 City/Federal/State Aid Fund budget is amended and \$4,434,217 is appropriated with resources from the Department of Homeland Security (DHS) and Federal Emergency Management Agency FEMA to hire (21) Firefighters for the Fire Department.

Introduced:

Adopted:

Certified:

Clerk of Council



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Hollie Jennings, Special Assistant to the City
Manager for Data & Innovation

AGENDA ITEM # VI.11

Consideration of introducing Resolution #R-24-081 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$95,000 to expand substance abuse treatment capacity in the Lynchburg Adult Drug Court.

RECOMMENDATION

Consideration of adopting a resolution to amend the FY 2025 City/Federal/State Aid Fund budget and appropriate \$95,000 with resources from Horizon Behavioral Health, through a federal Substance Abuse and Mental Health Services Administration (SAMHSA) Grant, for support of the Drug/Recovery Court docket by adding a Community Corrections Probation Officer that is dedicated to serve specifically the Recovery Court Docket.

SUMMARY

The Lynchburg Drug/Recovery Court Docket (BHD) is a court docket designed to enhance public safety by providing an integrated system of treatment and judicial supervision that results in a reduction in substance use/dependency and recidivism. The Lynchburg Adult Drug/Recovery Court began in December 2021, as the result of a federal grant from the Bureau of Justice Administration and operates in the Lynchburg Circuit Court.

Horizon Behavioral Health has been awarded funding from a federal SAMHSA grant. The awarded funds will be used to increase the capacity of the Lynchburg Adult Recovery Court (LARC) by adding a probation officer to supervise participants (Community Corrections and Pretrial), funding for recovery housing, and a robust external evaluation. The City of Lynchburg will be a subgrantee, and will be responsible for hiring an additional Community Corrections Probation Officer that will be dedicated to providing supervision to participants of the Lynchburg Adult Recovery Court. No City funding is required.

PRIOR ACTION(S)

Finance Committee - October 22, 2024

FISCAL IMPACT

None.

CONTACT(S)

ATTACHMENT(S)

1. Resolution Horizon SAMHSA LARCD Grant

REVIEWED BY



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

BE IT RESOLVED that the FY 2025 City/Federal/State Aid Fund budget is amended and \$95,000 is appropriated with resources from Horizon Behavioral Health, from a Substance Abuse and Mental Health Services Administration (SAMHSA) Grant to fund a Community Corrections and Pretrial Probation Officer for the Lynchburg Drug/Recovery Court Docket.

Introduced:

Adopted:

Certified:

Clerk of Council



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Taylor Jones, Adult Recovery Court Program
Director

AGENDA ITEM # VI.12

Consideration of introducing Resolution #R-24-082 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$45,266 for support of the Drug/Recovery Court docket by enhancing testing.

RECOMMENDATION

Consideration of adopting a resolution to amend the FY 2025 City/Federal/State Aid Fund budget and appropriate \$45,266 with resources from a Statewide Universal Drug Testing Grant from the Supreme Court of Virginia for support of the Drug/Recovery Court docket by enhancing testing in order to comply with the updated Best Practice Standards from the Specialty Dockets Division of the Supreme Court of Virginia.

SUMMARY

The Lynchburg Drug/Recovery Court is a court docket within the existing Circuit Court that is designed to enhance public safety by providing an integrated system of treatment and judicial supervision that results in a reduction in substance use/dependency and recidivism. The Lynchburg Drug/Recovery Court began in March 2017 as the result of a grant from the Supreme Court of Virginia.

PRIOR ACTION(S)

October 22, 2024: Finance Committee

FISCAL IMPACT

No local match.

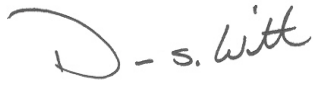
CONTACT(S)

Taylor Jones, Adult Recovery Court Program Director

ATTACHMENT(S)

1. Resolution - Statewide Universal Drug Testing Grant
2. Lynchburg FY25 Award-Accept
3. Lynchburg FY25 Letter

REVIEWED BY



Donna Witt, Chief Financial Officer

Date: October 17, 2024



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

BE IT RESOLVED that the FY 2025 City/Federal/State Aid Fund budget is amended and \$45,266 is appropriated with resources from a Statewide Universal Drug Testing Grant from the Supreme Court of Virginia for support of the Drug/Recovery Court docket by enhancing testing in order to comply with the updated Best Practice Standards from the Specialty Dockets Division of the Supreme Court of Virginia.

Introduced:

Adopted:

Certified:

Clerk of Council

Supreme Court of Virginia
Office of the Executive Secretary

100 North Ninth Street Richmond, VA 23219

Statement of Grant Award/Acceptance

Subrecipient--
Lynchburg Adult Recovery
Court

Date: October 3, 2024

Grant Period--

From: October 1, 2024

Through: September 30, 2025

Project Director	Project Administrator	Finance Officer
Taylor Jones 900 Court Street Lynchburg, VA 24504 Phone No: 434-455-2741 Email: tmjones@vacourts.gov	Wynter Benda 900 Church Street Lynchburg, VA 24504 Phone No: 434-455-3990 Email: wynter.benda@lynchburgva.gov	Donna Witt 900 Church Street Lynchburg, VA 24504 Phone No: 434-455-3968 Email: donna.witt@lynchburgva.gov

GRANT AWARD BUDGET

Budget Categories	Program Funds TOTALS
A. Personnel	\$ -0-
B. Consultants	\$ -0-
C. Travel	\$ -0-
D. Equipment	\$ -0-
E. Indirect Expenses	\$ -0-
F. Supplies & Other Expenses	\$ 45,266.00
TOTALS	\$ 45,266.00

This grant is subject to all rules, regulations, and criteria included in the grant application and the special conditions attached thereto.



Paul F. DeLosh, Director of Judicial Services

The undersigned, having received the Statement of Grant Award/Acceptance and the Conditions attached thereto, does hereby accept this grant and agree to the conditions pertaining thereto, this 3rd day of October 2024.

Signature: _____

Title: _____

EXECUTIVE SECRETARY
KARL R. HADE

ASSISTANT EXECUTIVE SECRETARY &
LEGAL COUNSEL
EDWARD M. MACON

COURT IMPROVEMENT PROGRAM
SANDRA L. KARISON, DIRECTOR

EDUCATIONAL SERVICES
CAROLINE E. KIRKPATRICK, DIRECTOR

FISCAL SERVICES
BARRY M. WENZIG, DIRECTOR

HUMAN RESOURCES
RENÉE FLEMING MILLS, DIRECTOR

SUPREME COURT OF VIRGINIA

JUDICIAL INFORMATION TECHNOLOGY
MICHAEL J. RIGGS, SR., DIRECTOR

JUDICIAL SERVICES
PAUL F. DELOSH, DIRECTOR

LEGAL RESEARCH
STEVEN L. DALLE MURA, DIRECTOR

LEGISLATIVE & PUBLIC RELATIONS
ALISA W. PADDEN, DIRECTOR

MAGISTRATE SERVICES
JONATHAN E. GREEN, DIRECTOR



OFFICE OF THE EXECUTIVE SECRETARY
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219-2334
(804) 786-6455

October 3, 2024

Taylor Jones
Lynchburg Adult Recovery Court
900 Court Street
Lynchburg, VA 24504

**Supreme Court of Virginia Statewide Universal Drug Testing Grant,
Lynchburg Adult Recovery Court**

Dear Ms. Jones:

I am pleased to advise you that your grant for the above-referenced grant program has been approved in the amount of \$45,266.00 in State funds for fiscal year 2025.

Enclosed you will find a Statement of Grant Award and a Statement of Grant Award Special Conditions. To indicate your acceptance of the award and conditions, please sign the award acceptance and return it to Renee Rosales, Specialty Dockets Budget Analyst, at the Office of the Executive Secretary (OES). Please review the conditions carefully as they require action on your part before we will disburse grant funds. Prior to the OES disbursing of funds, the Subrecipient must agree to comply with the following special conditions:

- a. Submit quarterly grant reports by their due date to the Specialty Docket Grants Database, <https://vacourts.smapply.us>.
- b. Maintain accurate & current data in the web-based specialty docket court database.
- c. Submit a copy of your final federal grant report(s) and/or quarterly reports of any Federal grant funds awarded.

When we receive documentation showing that you have complied with the conditions, you will be eligible to request funds awarded under this grant. A **REQUEST FOR FUNDS** form is also included with this letter and should be used for this purpose. You may request funds at the same time you submit the documentation of compliance with the grant conditions or at any time

Lynchburg Adult Recovery Court
October 3, 2024
Page Two

thereafter. However, we cannot process your request until we have received and approved all required information.

We appreciate your interest in this grant program and will be happy to assist you in any way we can to assure your project's success. If you have any questions, please call Renee Rosales at 804-398-9586.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Paul F. DeLosh".

Paul F. DeLosh

PFD/ces

Enclosures

cc: Wynter Benda, City Manager
Donna Witt, Chief Financial Officer
Karl R. Hade, Executive Secretary
Anna Powers, Drug Treatment Court Coordinator



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Donna Nash, Office & Grants Administrator

AGENDA ITEM # VI.13

Consideration of introducing Resolution #R-24-083 amending the FY 2025 City/Federal/State Aid Fund budget and appropriating \$500,000 to enhance the criminal justice response to sexual assault, domestic violence, dating violence, and stalking in the City of Lynchburg.

RECOMMENDATION

Adopt a resolution to amend the FY 2025 City/Federal/State Aid Fund budget and appropriate \$500,000 with resources from the 2024 Department of Justice, Office on Violence Against Women, Improving Criminal Justice Response Grant Program for use to enhance the criminal justice response to sexual assault, domestic violence, dating violence, and stalking in the City of Lynchburg.

SUMMARY

The Commonwealth's Attorney's Office was awarded \$500,000 in 2024 Improving Criminal Justice Responses Grant Program funds for the period of 10/1/2024 to 9/30/2027. The Office of the Commonwealth's Attorney is requesting approval to appropriate \$500,000 towards the following criminal justice responses and services:

- a. support the salary and benefits (40%) of a full-time prosecutor dedicated to prosecuting intimate partner violence and (60%) of a full-time in-house investigator, and an hourly Domestic Abuse Response Team Coordinator,
- b. subcontract with the YWCA of Central Virginia, Domestic Violence Program to hire a full-time Domestic Abuse High Risk Team Case Manager,
- c. provide training for grant-supported staff and community partners, and
- d. develop and implement an intimate-partner high risk assessment team to intervene in cases identified through use of a high-risk instrument, the Danger Assessment for Law Enforcement, which will be implemented in November 2024 within the Lynchburg Police Department and the Lynchburg Office of the Commonwealth's Attorney.

PRIOR ACTION(S)

October 22, 2024: Finance Committee

FISCAL IMPACT

\$500,000 increase in funds to improve the criminal justice response to sexual and domestic violence; there is no local match requirement.

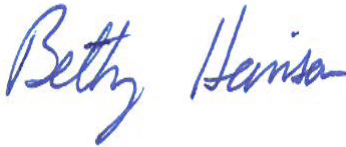
CONTACT(S)

Donna Nash, Office & Grants Administrator

ATTACHMENT(S)

1. Resolution - OCA OVW ICJR 10-22-24
2. 2024-2027 OVW ICJR Award Docs

REVIEWED BY



Bethany Harrison, Commonwealth's Attorney

Date: October 16, 2024



Donna Witt, Chief Financial Officer

Date: October 17, 2024



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

BE IT RESOLVED that the FY 2025 City/Federal/State Aid Fund budget is amended and \$500,000 is appropriated with resources from a U.S Department of Justice, Office on Violence Against Women, Improving Criminal Justice Responses Grant for use to enhance the criminal justice response to sexual assault, domestic violence, dating violence, and stalking in the City of Lynchburg.

Introduced:

Adopted:

Certified:

Clerk of Council



Department of Justice (DOJ)

Office on Violence Against Women (OVW)

Washington, D.C. 20531

Name and Address of Recipient:	CITY OF LYNCHBURG 900 CHURCH ST
City, State and Zip:	LYNCHBURG, VA 24504
Recipient UEI:	TFEAS9D28828
Project Title: OVW 2024 Grants to Improve the Criminal Justice Responses	Award Number: 15JOVW-24-GG-01643-HOMI
Solicitation Title: OVW Fiscal Year 2024 Grants to Improve the Criminal Justice Response (ICJR) Program	
Federal Award Amount: \$500,000.00	Federal Award Date: 9/20/24
Awarding Agency:	Office on Violence Against Women
Funding Instrument Type:	Grant
Assistance Listing: 16.590 - Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program	
Project Period Start Date: 10/1/24	Project Period End Date: 9/30/27
Budget Period Start Date: 10/1/24	Budget Period End Date: 9/30/27
Project Description: The Grants to Improve the Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program is authorized by 34 U.S.C. §§ 10461-10465 and implemented through regulations at 28 C.F.R. Part 90, Subpart D. The program fosters victim safety and offender accountability in cases of domestic violence, dating violence, sexual assault, and stalking by encouraging state, local, and tribal governments and courts to work collaboratively with community partners to identify problems and share ideas that will result in effectively responding to these crimes. An integral component of this program is the development, revitalization, or enhancement of a coordinated community response that brings together criminal justice agencies, victim services providers, and community-based organizations that respond to domestic violence, dating violence, sexual assault, and stalking. Grants to Improve the Criminal Justice Response (ICJR) project by City of Lynchburg, Virginia, in partnership with YWCA of Central Virginia and Lynchburg Police Department, implemented in the City of Lynchburg, Virginia, addresses ICJR purpose area(s): 3 and 22. Additionally, this project addresses OVW Priority Area Priority Area 2: Access to Justice. Specific activities include: 1) the utilization of evidence-based risk assessment instruments by their Domestic Violence High Risk Team (DVHRT) to inform appropriate responses; 2) development of protocols that will quickly connect high-risk victims with services; 3) provision of critical information to prosecutors, judges, and others making pretrial decisions; 4) case monitoring throughout the criminal justice system; and 5) provision of coordinated community response to implement strategies for disrupting the escalation of violence.	

Award Letter

September 20, 2024

Dear Donna Nash,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office on Violence Against Women (OVW) has approved the application submitted by CITY OF LYNCHBURG for an award under the funding opportunity entitled 2024 OVW Fiscal Year 2024 Grants to Improve the Criminal Justice Response (ICJR) Program. The approved award amount is \$500,000.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OVW, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Rosemarie Hidalgo
Director

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) enforces federal civil rights laws and other provisions that prohibit discrimination by recipients of federal financial assistance from OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW).

Several civil rights laws, including Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance (recipients) to give assurances that they will comply with those laws. Taken together, these and other civil rights laws prohibit recipients from discriminating in the provision of services and employment because of race, color, national origin, religion, disability, and sex or from discriminating in the provision of services on the bases of age.

Some recipients of DOJ financial assistance have additional obligations to comply with other applicable nondiscrimination provisions like the Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of religion in addition to race, color, national origin, and sex. Recipients may also have related requirements regarding the development and implementation of equal employment opportunity programs.

OCR provides technical assistance, training, and other resources to help recipients comply with civil rights obligations. Further, OCR administratively enforces civil rights laws and nondiscrimination provisions by investigating DOJ recipients that are the subject of discrimination complaints. In addition, OCR conducts compliance reviews of DOJ recipients based on regulatory criteria. These investigations and compliance reviews permit OCR to evaluate whether DOJ recipients are providing services to the public and engaging in employment practices in a nondiscriminatory manner.

For more information about OCR, your civil rights and nondiscrimination responsibilities, how to notify your employees or beneficiaries of their civil rights protections and responsibilities and how to file a complaint, as well as technical assistance, training, and other resources, please visit www.ojp.gov/program/civil-rights-office/outreach. If you would like OCR to assist you in fulfilling your civil rights or nondiscrimination responsibilities, please contact us at askOCR@ojp.usdoj.gov or www.ojp.gov/program/civil-rights-office/about#ocr-contacts.

Memorandum Regarding NEPA

NEPA Letter Type

OVW – Categorical Exclusion - No Renovations Allowed

NEPA Letter

Renovations and construction are unallowable under this grant, and therefore none of the following activities will be conducted under the OVW federal action (i.e., the OVW-funded grant project) or a related third-party action:??

1. New construction.??
2. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species.?
3. A renovation which will change the basic prior use of a facility or significantly change its size.?
4. Research and technology whose anticipated and future application could be expected to have an effect on the environment.?
5. Implementation of a program involving the use of chemicals.??

In addition, the OVW federal action is neither a phase nor a segment of a project that, when reviewed in its entirety, would not meet the criteria for a categorical exclusion.???

Consequently, the subject federal action meets the Office on Violence Against Women's criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations (adopted by OVW at 28 CFR § 0.122(b)).??Also, no further analysis is required under the National Historic Preservation Act or other related statutes and regulations.

NEPA Coordinator

First Name Debra	Middle Name	Last Name Murphy
Award Information		
This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.		
Recipient Information		
Recipient Name CITY OF LYNCHBURG		
UEI TFEAS9D28828		
Street 1 900 CHURCH ST	Street 2	
City LYNCHBURG	State/U.S. Territory Virginia	
Zip/Postal Code 24504	Country United States	
County/Parish	Province	
Award Details		
Federal Award Date 9/20/24	Award Type Initial	
Award Number 15JOVW-24-GG-01643-HOMI	Supplement Number 00	
Federal Award Amount \$500,000.00	Funding Instrument Type Grant	
Assistance Listing Number	Assistance Listings Program Title	
16.590	Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program	
Statutory Authority		
34 U.S.C. 10461 - 10465		
☐ I have read and understand the information presented in this section of the Federal Award Instrument.		

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title

2024 OVW Fiscal Year 2024 Grants to Improve the Criminal Justice Response (ICJR) Program

Awarding Agency

OVW

Application Number

GRANT14126284

Grant Manager Name

LATONYA EADDY

Phone Number

202-598-6793

E-mail Address

LATONYA.EADDY@USDOJ.GOV

Project Title

OVW 2024 Grants to Improve the Criminal Justice Responses

Performance Period Start**Date**

10/01/2024

Performance Period End Date

09/30/2027

Budget Period Start Date

10/01/2024

Budget Period End Date

09/30/2027

Project Description

The Grants to Improve the Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program is authorized by 34 U.S.C. §§ 10461-10465 and implemented through regulations at 28 C.F.R. Part 90, Subpart D. The program fosters victim safety and offender accountability in cases of domestic violence, dating violence, sexual assault, and stalking by encouraging state, local, and tribal governments and courts to work collaboratively with community partners to identify problems and share ideas that will result in effectively responding to these crimes. An integral component of this program is the development, revitalization, or enhancement of a coordinated community response that brings together criminal justice agencies, victim services providers, and community-based organizations that respond to domestic violence, dating violence, sexual assault, and stalking.

Grants to Improve the Criminal Justice Response (ICJR) project by City of Lynchburg, Virginia, in partnership with YWCA of Central Virginia and Lynchburg Police Department, implemented in the City of Lynchburg, Virginia, addresses ICJR purpose area(s): 3 and 22. Additionally, this project addresses OVW Priority Area Priority Area 2: Access to Justice. Specific activities include: 1) the utilization of evidence-based risk assessment instruments by their Domestic Violence High Risk Team (DVHRT) to inform appropriate responses; 2) development of protocols that will quickly connect high-risk victims with services; 3) provision of critical information to prosecutors, judges, and others making pretrial decisions; 4) case monitoring throughout the criminal justice system; and 5) provision of coordinated community response to implement strategies for disrupting the escalation of violence.

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

The recipient budget is currently under review.

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

Other Award Documents

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

No other award documents have been added.

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

1

Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in the Office on Violence Against Women (OVW) taking appropriate action with respect to the recipient and the award. Among other things, OVW may withhold award funds, disallow costs, or suspend or terminate the award. The U.S. Department of Justice (DOJ), including OVW, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2

Applicability of Part 200 Uniform Requirements and DOJ Grants Financial Guide

The recipient agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements"), and the current edition of the DOJ Grants Financial Guide as posted on the OVW website, including any updated version that may be posted during the period of performance. The recipient also agrees that all financial records pertinent to this award, including the general accounting ledger and all supporting documents, are subject to agency review throughout the life of the award, during the close-out process, and for three years after submission of the final Federal Financial Report (SF-425) or as long as the records are retained, whichever is longer, pursuant to 2 C.F.R. 200.334, 200.337.

3

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify OVW in writing of the potential duplication, and, if so requested by OVW, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

4

Requirements related to System for Award Management and unique entity identifiers

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM.

The recipient also must comply with applicable restrictions on subawards (subgrants) to first-tier subrecipients (subgrantees), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier assigned by SAM.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OVW website at <https://www.justice.gov/ovw/award-conditions> (titled "Award Condition: Requirements related to System for Award Management (SAM) and unique entity identifiers") and are incorporated by reference here.

5

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any subrecipient at any tier) must have written procedures in place to respond in the event of an actual or imminent breach (as defined in OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as defined in 2 C.F.R. 200.1) within the scope of an OVW grant-funded program or activity, or 2) uses or operates a Federal information system (as defined in OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OVW Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

6

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OVW authority to terminate award)

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients (subgrantees), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OVW website at <https://www.justice.gov/ovw/award-conditions> (titled "Award Condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OVW authority to terminate award)") and are incorporated by reference here.

7

Determinations of suitability to interact with participating minors

This condition applies to this award if it is indicated in the application for the award (as approved by DOJ) (or in the application for any subaward at any tier), the DOJ funding announcement (solicitation), or an associated federal statute that a purpose of some or all of the activities to be carried out under the award (whether by the recipient or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status. The details of this requirement are posted on the OVW website at <https://www.justice.gov/ovw/award-conditions> (titled "Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors") and are incorporated by reference here.

8

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears on the OVW website at <https://www.justice.gov/ovw/conference-planning>.

9

OVW Training Guiding Principles

The recipient understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OVW Training Guiding Principles for Grantees and Subgrantees, available at <https://www.justice.gov/sites/default/files/ovw/legacy/2012/06/28/ovw-training-guiding-principles-grantees-subgrantees.pdf>.

10

Effect of failure to address audit issues

The recipient understands and agrees that OVW may withhold award funds, or may impose other related requirements, if (as determined by OVW) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

11

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by OVW during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

12

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

13

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (amended effective April 3, 2024).

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that relate to engaging in or conducting explicitly religious activities and requires that recipients and subrecipients that are social service providers provide written notice to beneficiaries or prospective beneficiaries of certain protections as described in 28 C.F.R. 38.6(b).

14

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

15

Restrictions on "lobbying" and policy development

In general, as a matter of federal law, federal funds may not be used by the recipient, or any subrecipient (subgrantee) at any tier, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, in order to avoid violation of 18 U.S.C. 1913. The recipient, or any subrecipient (subgrantee) may, however, use federal funds to collaborate with and provide information to federal, state, local, tribal and territorial public officials and agencies to develop and implement policies and develop and promote state, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking (as those terms are defined in 34 U.S.C. 12291(a)) when such collaboration and provision of information is consistent with the activities otherwise authorized under this grant program.

Another federal law generally prohibits federal funds awarded by OVW from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OVW for guidance, and may not proceed without the express prior written approval of OVW.

16

Compliance with general appropriations-law restrictions on the use of federal funds for this fiscal year

The recipient, and any subrecipient (subgrantee) at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, for each fiscal year, are set out at <https://www.justice.gov/ovw/award-conditions> (titled "Award Condition: General appropriations-law restrictions on use of federal award funds") and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OVW for guidance, and may not proceed without the express prior written approval of OVW.

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient and any subrecipients (subgrantees) must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award – (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by– (1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/grant-complaint> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; (3) by facsimile directed to the DOJ OIG Fraud Detection Office (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient (subgrantee) under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient–

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards (subgrants), procurement contracts, or both–

a. it represents that–

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward (subgrant), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that

prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

19

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact OVW for guidance.

20

Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients (subgrantees) to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

21

Requirement to disclose whether recipient is designated high risk by a federal grant-making agency outside of DOJ

If the recipient is designated high risk by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OVW by email to OVW.GFMD@usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: (1) the federal awarding agency that currently designates the recipient high risk; (2) the date the recipient was designated high risk; (3) the high-risk point of contact at that federal awarding agency (name, phone number, and email address); and (4) the reasons for the high-risk status, as set out by the federal awarding agency.

22

Availability of general terms and conditions on OVW website

The recipient agrees to follow the applicable set of general terms and conditions that are available at <https://www.justice.gov/ovw/award-conditions>. These do not supersede any specific conditions in this award document.

23

Compliance with statutory and regulatory requirements

The recipient agrees to comply with all relevant statutory and regulatory requirements, which may include, among other relevant authorities, the Violence Against Women Act of 1994, P.L. 103-322, the Violence Against Women Act of 2000, P.L. 106-386, the Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162, the Violence Against Women Reauthorization Act of 2013, P.L. 113-4, the Violence Against Women Act Reauthorization Act of 2022, P.L. 117-103, the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. 10101 et seq., and OVW's implementing regulations at 28 C.F.R. Part 90.

24

Compliance with solicitation requirements

The recipient agrees that it must be in compliance with requirements outlined in the solicitation under which the approved application was submitted, the applicable Solicitation Companion Guide, and any program-specific frequently asked questions (FAQs) on the OVW website (<https://www.justice.gov/ovw/resources-and-faqs-grantees>). The program solicitation, Companion Guide, and any program-specific FAQs are hereby incorporated by reference into this award.

25

VAWA 2013 nondiscrimination condition

The recipient acknowledges that 34 U.S.C. 12291(b)(13) prohibits recipients of OVW awards from excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in any program or activity funded in whole or in part by OVW. Recipients may provide sex-segregated or sex-specific programming if doing so is necessary to the essential operations of the program, so long as the recipient provides comparable services to those who cannot be provided with the sex-segregated or sex-specific programming. The recipient agrees that it will comply with this provision. The recipient also agrees to ensure that any subrecipients (subgrantees) at any tier will comply with this provision.

26

Misuse of award funds

The recipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

27

Limitation on use of funds to approved activities

The recipient agrees that grant funds will be used only for the purposes described in the recipient's application, unless OVW determines that any of these activities are out of scope or unallowable. The recipient must not undertake any work or activities that are not described in the recipient's application, award documents, or approved budget, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval, via Grant Award Modification (GAM), from OVW.

28

Non-supplantation

The recipient agrees that grant funds will be used to supplement, not supplant, non-federal funds that would otherwise be available for the activities under this grant.

29

Confidentiality and information sharing

The recipient agrees to comply with the provisions of 34 U.S.C. 12291(b)(2), nondisclosure of confidential or private information, which includes creating and maintaining documentation of compliance, such as policies and procedures for release of victim information. The recipient also agrees to comply with the regulations implementing this provision at 28 CFR 90.4(b) and "Frequently Asked Questions (FAQs) on the VAWA Confidentiality Provision (34 U.S.C. 12291(b)(2))" on the OVW website at <https://www.justice.gov/ovw/resources-and-faqs-grantees>. The recipient also agrees to ensure that all subrecipients (subgrantees) at any tier meet these requirements.

30

Activities that compromise victim safety and recovery or undermine offender accountability

The recipient agrees that grant funds will not support activities that compromise victim safety and recovery or undermine offender accountability, such as: procedures or policies that exclude victims from receiving safe shelter, advocacy services, counseling, and other assistance based on their actual or perceived sex, age, immigration status, race, religion, sexual orientation, gender identity, mental health condition, physical health condition, criminal record, work in the sex industry, or the age and/or sex of their children; procedures or policies that compromise the confidentiality of information and privacy of persons receiving OVW-funded services; procedures or policies that impose requirements on victims in order to receive services (e.g., seek an order of protection, receive counseling, participate in couples' counseling or mediation, report to law enforcement, seek civil or criminal remedies, etc.); procedures or policies that fail to ensure service providers conduct safety planning with victims; project design and budgets that fail to account for the access needs of participants with disabilities and participants who have limited English proficiency or are Deaf or hard of hearing; or any other activities outlined in the solicitation or companion guide under which the application was submitted.

31

Policy for response to workplace-related incidents of sexual misconduct, domestic violence, and dating violence

The recipient, and any subrecipient at any tier, must have a policy, or issue a policy within 270 days of the award date, to address workplace-related incidents of sexual misconduct, domestic violence, and dating violence involving an employee, volunteer, consultant, or contractor. The details of this requirement are posted on the OVW website at <https://www.justice.gov/ovw/award-conditions> (titled "Award Condition: Policy for response to workplace-related sexual misconduct, domestic violence, and dating violence") and are incorporated by reference here.

32

Termination or suspension

The Director of OVW, upon a finding that there (1) has been substantial failure by the recipient to comply with applicable laws, regulations, and/or the terms and conditions of the award or relevant solicitation, (2) has been failure by the recipient to make satisfactory progress toward the goals, objectives, or strategies set forth in the application, or (3) have been project changes proposed or implemented by the recipient to the extent that, if originally submitted, the application would not have been selected for funding, will terminate or suspend until the Director is satisfied that there is no longer such failure or changes, all or part of the award, in accordance with the provisions of 28 C.F.R. Part 18, as applicable mutatis mutandis. The federal regulation providing uniform rules for termination of grants and cooperative agreements is 2 C.F.R. 200.340.

33

Semiannual and final performance progress report submission

The recipient agrees to submit semiannual performance progress reports that describe activities conducted during the reporting period, including program effectiveness measures. Reports must be submitted throughout the project period, even if no funds were spent and no activities were conducted in a given reporting period. Delinquent reports may affect future discretionary award decisions and may lead to suspension and/or termination of the award.

The information that must be collected and reported to OVW can be found in the reporting form associated with the grant program or initiative under which this award was made. Performance progress reports must be submitted within 30 days after the end of the reporting periods, which are January 1 - June 30 and July 1 - December 31. Recipients are required to submit their reports through the Justice Grants System, unless and until OVW issues updated instructions for report submission. The final report is due 90 days after the end of the project period and should be marked "final" in the Report Type field.

34

Quarterly Federal Financial Reports

The recipient agrees that it will submit quarterly Federal Financial Reports (SF-425) to OVW in the Justice Grants System, not later than 30 days after the end of each calendar quarter. The final report shall be submitted not later than 120 days following the end of the award period. Delinquent reports may affect future discretionary award decisions and may lead to suspension and/or termination of the award.

35

Program income

Program income, as defined by 2 C.F.R. 200.1, means gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance. Without prior approval from OVW, program income must be deducted from total allowable costs to determine the net allowable costs. In order to add program income to the OVW award, the recipient must seek approval from its program manager via a budget modification Grant Award Modification (GAM) prior to generating any program income. Any program income added to the federal award must be used to support activities that were approved in the budget and follow the conditions of the OVW award. Any program income approved via budget modification GAM must be reported in the recipient's quarterly Federal Financial Report SF-425 in accordance with the addition alternative. If the program income amount changes (increases or decreases) during the project period, it must be approved via a budget modification GAM by the end of the project period. If the budget modification is not submitted and approved, it could result in audit findings for the recipient.

36

FFATA reporting subawards and executive compensation

The recipient agrees to comply with applicable requirements to report first-tier subawards (subgrants) of \$30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the Federal Funding Accountability and Transparency Act of 2006 (FFATA) Subaward Reporting System (FSRS). The details of recipient obligations, which derive from FFATA, are posted on the OVW website at <https://www.justice.gov/ovw/award-conditions> (titled "Award Condition: Reporting Subawards and Executive Compensation") and are incorporated by reference here.

37

Changes to MOU and/or IMOA

The recipient agrees to submit for OVW review and approval any anticipated addition of, removal of, or change in collaborating partner agencies or individuals who are signatories of the Memorandum of Understanding and, if applicable, the Internal Memorandum of Agreement.

38

Submission of all materials and publications

The recipient agrees to submit to OVW one copy of all materials and publications (written, web-based, audio-visual, or any other format) that are funded under this award not less than twenty days prior to distribution or public release. If the materials are found to be outside the scope of the program, or in some way to compromise victim safety, the recipient will need to revise the materials to address these concerns or the recipient will not be allowed to use award funds to support the development or distribution of the materials.

39

Publication disclaimer

The recipient agrees that all materials and publications (written, web-based, audio-visual, or any other format) resulting from award activities shall contain the following statement: "This project was supported by Grant No. _____ awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice." The recipient also agrees to ensure that any subrecipient at any tier will comply with this condition.

40

Copyrighted works

Pursuant to 2 C.F.R. 200.315(b), the recipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this award. OVW reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work, in whole or in part (including in the creation of derivative works), for federal purposes, and to authorize others to do so.

OVW also reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, in whole or in part (including in the creation of derivative works), any work developed by a subrecipient (subgrantee) of this award, for federal purposes, and to authorize others to do so.

In addition, the recipient (or subrecipient, contractor, or subcontractor of this award at any tier) must obtain advance written approval from the OVW program manager assigned to this award, and must comply with all conditions specified by the program manager in connection with that approval, before: 1) using award funds to purchase ownership of, or a license to use, a copyrighted work; or 2) incorporating any copyrighted work, or portion thereof, into a new work developed under this award.

It is the responsibility of the recipient (and of each subrecipient, contractor, or subcontractor as applicable) to ensure that this condition is included in any subaward, contract, or subcontract under this award.

41

Grantee orientation - mandatory attendance

First-time recipients, or continuation recipients if requested, must agree to have key staff members, as identified by OVW, attend the OVW grantee orientation seminar, which may be offered in-person, online, or a combination of both. Additionally, if there is a change in the project director/coordinator during the grant period, the recipient agrees, at the earliest opportunity, to send the new project director/coordinator, regardless of prior experience with this or any other federal award, to an in-person OVW grantee orientation seminar or require completion of the orientation online, whichever is available.

42

Prior approval for non-OVW sponsored technical assistance

The recipient agrees that funds allocated for OVW-sponsored technical assistance may not be used for any other purpose without prior approval by OVW. To request approval, the recipient must submit a copy of the event's brochure, a curriculum and/or agenda, a description of the hosts or trainers, and an estimated breakdown of costs. The request must be submitted to OVW at least 20 days prior to registering for the event. Requests to attend non-OVW sponsored events will be considered on a case-by-case basis. This prior approval process also applies to requests for the use of OVW-designated technical assistance funds to pay a consultant or contractor not designated as an OVW technical assistance provider to develop and/or provide training and/or technical assistance.

43

Participation in OVW-sponsored technical assistance

The recipient agrees to attend and participate in OVW-sponsored technical assistance. Technical assistance includes, but is not limited to, national and regional conferences, audio conferences, webinars, peer-to-peer consultations, and workshops conducted by OVW-designated technical assistance providers.

44

Consultant compensation rates

The recipient acknowledges that consultants paid with award funds generally may not be paid at a rate in excess of \$81.25 per hour, not to exceed \$650 per day. To exceed this specified maximum rate, recipients must submit to OVW a detailed justification and have such justification approved by OVW, prior to obligation or expenditure of such funds. Issuance of this award or approval of the award budget alone does not indicate approval of any consultant rate in excess of \$81.25 per hour, not to exceed \$650 per day. Although prior approval is not required for consultant rates below this specified maximum rate, recipients are required to maintain documentation to support all daily or hourly consultant rates.

45

Prohibition on public awareness activities

The recipient agrees that grant funds will not be used to conduct public awareness or community education campaigns or related activities. Grant funds may be used to support, inform, and conduct outreach to victims about available services.

46

Compliance with certifications

The recipient acknowledges that it has a continuing obligation to remain in compliance with the applicable certification requirements of 34 U.S.C. 10461(c).

47

Development and approval of training curricula

The recipient agrees to coordinate with the designated OVW technical assistance provider to develop the training curriculum funded under this project. Further, the recipient agrees to submit the training curriculum not less than twenty (20) days prior to public release for OVW review and approval.

48

Withholding of funds pending completion of prior award under the same program

The recipient acknowledges that it has a prior award under the same OVW grant program from which this new award is being made. Before obligating, expending, or drawing down funds from this award, the recipient must first expend all funds from the prior award. The only exception is that the recipient may obligate, expend, and draw down funds from this award for travel-related expenses up to \$10,000 to attend OVW-sponsored technical assistance events. If the recipient needs to obligate, expend, or draw down additional funds from this award prior to the completion/expiration of the prior award, it must submit a written request to its program manager for review and approval.

49

Indirect costs

The recipient may not obligate, expend, or draw down any award funds for indirect costs, unless and until either (1) the recipient submits to OVW a current, federally-approved indirect cost rate agreement, or (2) the recipient determines that it is eligible under the Part 200 Uniform Requirements to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and advises OVW in writing of both its eligibility and its election.

50

Conditional clearance with release of technical assistance funds

The recipient acknowledges that the budget for this award is pending review and approval. Until OVW approves the budget, any obligations or expenditures incurred by the recipient are made at the recipient's own risk. The recipient may obligate, expend, or draw down up to \$10,000 for participation in or travel-related expenses to attend OVW-sponsored technical assistance events, but these obligations and expenditures remain at the recipient's own risk until the budget is approved. Remaining funds will not be available for drawdown until OVW's Grants Financial Management Division has approved the budget and budget narrative via a Grant Award Modification (GAM). If applicable, the Indirect Cost Rate will be identified in the GAM when the budget is approved. If there is another condition on the award prohibiting any obligation, expenditure, and drawdown of any funds, that other condition will control.

51

Withholding of funds pending determination of compliance with HIV certification

The recipient understands and agrees that five percent of its grant funds have been withheld because the recipient has

not satisfied the requirements of 34 U.S.C. 10461(d) concerning HIV testing of individuals charged with or convicted of sexual assault. The recipient therefore may not obligate, expend, or draw down the withheld five percent of its grant funds until the recipient demonstrates to OVW, and OVW determines, that the recipient has come into compliance with the requirements of 34 U.S.C. 10461(d). It is the responsibility of the recipient to timely submit to OVW all documentation necessary to establish that the recipient has satisfied the requirements of 34 U.S.C. 10461(d), including appropriate certifications as to the recipient's compliance and copies of any applicable laws, policies, and regulations. If the recipient does not demonstrate its compliance with 34 U.S.C. 10461(d) by the end of the state legislative session (in the recipient's home state) following the date on which the recipient submitted an application for the award, then the withheld five percent of the recipient's grant funds will be returned to OVW at the end of the award period.

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official
Director

Name of Approving Official
Rosemarie Hidalgo

Signed Date And Time
9/12/24 6:04 PM

Authorized Representative

Entity Acceptance

Title of Authorized Entity Official
Grants Administrator

Signed Date And Time
—

DOJ Award Acceptance Checklist

Once notified of an award, entity users accept or decline the award in JustGrants through a two-step process:

- Entity Administrator confirms or assigns participants to the award.
- Authorized Representative(s) accepts or declines the award.

For additional guidance, visit the [JustGrants Award Acceptance webpage](#).



Step 1: Confirm or Assign Award Participants

The Entity Administrator (EA) will assign or confirm entity users—specifically an Authorized Representative (two for COPS Office awards), Financial Manager, and Grant Award Administrator—to each award. Only the EA can complete this task, which is found on the EA's worklist.

- ☐ Select the appropriate Case ID.
- ☐ Complete the appropriate task based on your award:
 - ☐ **New Award:** Complete the “Confirm/Assign Participants” task.
 - ☐ **Supplemental Award:** Complete the “Verify Authorized Representative” task to confirm the original Authorized Representative(s) or assign a new user.

Note: Individuals assigned to the Authorized Representative role must have the legal authority to enter into contracts, grants, and cooperative agreements with the federal government on behalf of the entity.

An award cannot be accepted OR declined until this step is completed.

If the EA has departed the entity, follow the [Change Entity Administrator](#) guidance. Once the role of EA has been transferred to someone new, the task will transfer to the new EA's worklist.

Step 2: Accept or Decline Award

After the Entity Administrator completes Step 1, the assigned Authorized Representative(s) will see a task on their worklist to accept or decline the award.

- **New Award:** Appears with a case type of “Funded Award” and a case status of “Pending-Award Acceptance.”
- **Supplemental Award:** Appears with a case type of “Supplement Award Package” and a case status of “Pending-Award Acceptance.”



JUSTgrants
JUSTICE GRANTS SYSTEM

September 2024

Step 2: Accept or Decline Award (continued)

The Authorized Representative(s) must:

- ☐ Select the appropriate Case ID to bring up the **Award Package Acceptance** screen.
- ☐ Expand each section caret (>) and certify that they have read and understood the information in each section.
- ☐ Ensure the entity is prepared to meet all award requirements.
- ☐ Select the **Declaration and Certification** box to accept or decline the award.

Note: For COPS Office awards, Authorized Representative 1 must first accept or decline the award, then Authorized Representative 2 can accept or decline the award.

What do the different award statuses in JustGrants mean?

- **Pending-Award External Assignee:** The Entity Administrator needs to confirm or assign the Financial Manager, Grant Award Administrator, and Authorized Representative(s) roles.
- **Pending-Award Acceptance:** The award is now ready for the assigned Authorized Representative(s) to accept.
- **Pending-ASAP Enrollment:** The entity must complete the enrollment process in the Automated Standard Application for Payments (ASAP), an electronic system that federal agencies use to quickly and securely transfer money. All recipients of DOJ funds must enroll in ASAP. Review the [ASAP Enrollment Checklist](#) for next steps.
- **Pending-Account Creation:** The award has been accepted by the entity and an account is being created in ASAP for the award.
- **Pending-Active:** All award acceptance and ASAP account set up activities have been completed.

Need help getting into your JustGrants account?

- Go to [JustGrants](#), which will redirect you to the DIAMD login screen if your computer is not currently logged into DIAMD.
- You need to know the answer to your “challenge” question (security question) for these next steps.
- If you forgot your DIAMD password, select “Need help signing in?” followed by “Forgot password?” and follow the instructions.
- If your DIAMD account is “locked,” select “Need help signing in?” followed by “Unlock account?” and follow the instructions.

If your email address has changed since setting up your DIAMD login, or if you need further technical assistance with JustGrants, contact the JustGrants Support Desk at JustGrants.Support@usdoj.gov or (833) 872-5175.



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Donna Witt, Chief Financial Officer

AGENDA ITEM # VI.14

Consideration of adopting Ordinance #O-24-084 amending Lynchburg City Code Section § 2-16.1 to align the City Council's salaries to the City's present payments and practices (Option B).

RECOMMENDATION

Consider the adoption of a proposed ordinance amending Lynchburg City Code Section 2-16.1 to align the City Council's salaries to the City's present payments and practices.

SUMMARY

In December 2019, by adopting Lynchburg City Code Section 2-16.1, the City Council set its salaries at \$14,000 per member, per year, and \$16,000 for the Mayor, per year, beginning July 1, 2020. However, because of budget uncertainties associated with the COVID-19 Pandemic, the City Council maintained its salaries at \$10,000 per member, per year, and \$12,000 for the Mayor, per year, beginning July 1, 2020, as part of the FY 2021 Adopted Budget. Technical changes were made to the proposed ordinance.

PRIOR ACTION(S)

October 8, 2024: Option A Tabled Indefinitely; Tie Vote for Option B; Option B Tabled to October 22, 2024,

for further consideration by the City Council.

September 24, 2024: Public Hearing Held, Tie Vote for Option A, Motion to Adopt Failed for Option B

Option A Tabled to October 8, 2024, for further consideration by the City Council.

September 10, 2024: City Council Worksession, Business Item Briefing

FISCAL IMPACT

If adopted, future budgets would reflect the amounts in City Code Section 2-16.1.

CONTACT(S)

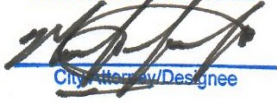
Donna Witt, Chief Financial Officer

ATTACHMENT(S)

1. O-24-084

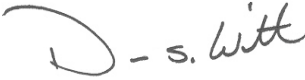
REVIEWED BY

APPROVED AS TO FORM:


City Attorney/Designee

Matthew Freedman, City Attorney

Date: October 09, 2024



Donna Witt, Chief Financial Officer

Date: October 09, 2024



Gregory Patrick, Deputy City Manager

Date: October 17, 2024



Alicia Finney, Clerk of Council

Date: October 17, 2024

Option B

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTION 2-16.1 OF ARTICLE II OF CHAPTER 2 OF SUCH CODE; SUCH AMENDMENT BEING SPECIFIC TO DECREASING THE CODIFIED SALARIES FOR MEMBERS OF THE CITY COUNCIL

ORDINANCE:

#O-24-084

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of City of Lynchburg, 1981, be and the same is hereby amended and reenacted by amending Section 2-16.1 of Article II of Chapter 2 of such code as follows:

Sec. 2-16.1. - Salaries of members of council.

~~Present members of council shall be paid their current salary until the first of July 2020, thereafter~~ The salary of each member of council shall be ~~\$14,000.00~~ \$10,000.00 per annum, except that member who shall be elected mayor, whose salary shall be ~~\$16,000.00~~ \$12,000.00 per annum, payable out of the treasury of the City of Lynchburg in bi-weekly installments.

2. That this Ordinance shall be effective upon its adoption.

Adopted: October 22, 2024

Certified: Alicia L. Fung
Clerk of Council



AGENDA ITEM SUMMARY

MEETING DATE

October 22, 2024

PRESENTED BY

Mercedes Braun, Assistant to the City Manager

AGENDA ITEM # VI.15

Consideration of adopting Resolution #R-24-___ approving the 2025 Legislative Agenda.

RECOMMENDATION

The revised 2025 Legislative Agenda will be brought back for General Business to be approved by Council.

SUMMARY

The 2025 Legislative Agenda Draft outlines Lynchburg's key priorities for the upcoming 2025 General Assembly Session. These include Public Safety, Economic Development and Lifelong Learning as well as other key priorities.

PRIOR ACTION(S)

The 2025 Draft Legislative Agenda was presented to Council during the Business Item Briefings on October 8, 2024. Suggestions for edits and additions were made.

FISCAL IMPACT

CONTACT(S)

Mercedes Braun, Assistant to the City Manager

ATTACHMENT(S)

1. Resolution for 2025 Legislative Agenda
2. 2025 Legislative Agenda - DRAFT - for General Business - 10-11-2024

REVIEWED BY

Wynter Benda, City Manager

Date: October 17, 2024

Alicia L. Finney

Alicia Finney, Clerk of Council

Date: October 17, 2024

RESOLUTION:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the City of Lynchburg's 2025 Legislative Agenda is hereby adopted. The Clerk of Council shall forward a copy to the City of Lynchburg's representatives in the Virginia General Assembly for information and use, as appropriate, during the 2025 session(s) of the Virginia General Assembly.

Adopted:

Certified:

Clerk of Council

The City of Lynchburg's (The "City" or "City") 2025 Legislative Agenda is designed to highlight those areas of importance to The City. The Lynchburg City Council has prioritized Life-Long Learning, Public Safety and Economic Development. The City Council asks that the legislators keep the following principles in mind as they evaluate and vote on future Virginia legislation.

LIFE-LONG LEARNING

Early Childhood Education/Pre-K Initiatives: The City supports legislation that would improve access to and quality of early childhood education. This should be accomplished through incentives or other direct support for the development of early educational opportunities.

Educational Funding: The City supports legislation to modernize the Standards of Quality funding formula to more accurately reflect the staffing levels required to operate an effective school division. This includes providing funding for critical teacher support positions and ensuring that the teacher salaries included in the formula are nationally competitive.

Funding for Infrastructure: The City requests legislation that would provide significant increases in funding and support for capital investment in K-12 facilities, in accordance with Article 8, Section 3 of the Constitution of Virginia. The City further requests funding for rehabilitation and construction of K-12 facilities to ensure a quality education and learning environment for K-12 students.

***Literacy Program:** The City requests support to introduce a pilot literacy program aimed at ensuring all students entering secondary education have achieved a strong primary reading level. Students that do not meet the required reading benchmark will be provided with elective reading courses in secondary education to strengthen their literacy skills.

***School Choice Funding:** The City requests legislation and funding to allow localities to fund public and private K-12 schools.

Support an Elected School Board: The City supports legislation to make it easier for localities to transition from an appointed to an elected school board.

PUBLIC SAFETY

911-Operators: The City requests that 911-Operators (Emergency Communications Officers) be considered as Emergency Services Personnel at the same level with others included within the Line of Duty Act and entitled to the same benefits. Technology and software are emerging that allows 9-11 operators to communicate during an emergency with suspects, victims and police officers via real-time video to their consoles.

***Authorizing the emergency suspension of alcoholic beverage licenses by the VA ABC Authority.** The City requests the Virginia Alcoholic Beverage Control (ABC) Authority be granted the authority to immediately temporarily suspend an establishment's license to serve alcoholic beverages if a guest or patron of such establishment engages in an act of violence involving a firearm inside or immediately adjacent to such establishment unless such act is done in self-defense or the defense of another. For purposes of this section, whether such act was done in self-defense or the defense of another shall be left to the sole discretion of the locality's primary law-enforcement agency and Commonwealth's Attorney. Such suspension could be for a period not to exceed fourteen (14) days. Within such time the Virginia ABC Authority's law-enforcement bureau would investigate the incident and request an emergency hearing within the Virginia ABC Authority to determine whether such temporary suspension should be vacated or extended until a more formal hearing pertaining to the establishment's license to serve alcoholic beverages may be held.

Blighted Properties: The City requests that the General Assembly amend the Code of Virginia (§ 15.2-907.1.3) to remove the civil penalties exemption for derelict commercial or industrial buildings and allow cities to impose a civil penalty of \$500 per month for all derelict buildings, whether designated for a residential, commercial, or industrial use.

Derelict Housing: The City asks that the state provide funding to the existing account "Virginia Removal or Rehabilitation of Derelict Housing Fund" to support the rehabilitation, renovation and demolition costs.

***Driving/Operating a Motor Vehicle, etc. Under the Influence of Marijuana:** The City requests that the General Assembly amend the Virginia Code Sections 18.2-266(v), 18.2-266.1(A), 18.2-269(A)(4) and 46.2-341.24(A)(v) by including an equal to or greater than amount/level of marijuana per liter of blood that would be presumptive that a person is driving or operating a motor vehicle, commercial motor vehicle, engine, or train under the influence of drugs.

Emergency Custody Orders (ECOs) and Temporary Detention Orders (TDOs): The City supports legislation to remove the mandates that law enforcement must stay with ECO patients at the hospital and that law enforcement no longer must transport TDO patients.

Expand 599 Funding to Local Government: The City requests that the General Assembly enact legislation to expand 599 funding for local governments to better support critical public safety services. Increased funding is essential to address growing demands on law enforcement and emergency response.

***HazMat Training/Funding:** The City requests funding for HazMat training to help train first responders, hire additional first responders specializing in HazMat training, strengthen safety protocols and pursue related internal and public safety initiatives.

Law-enforcement officers; protected personal information: The City supports legislation to authorize any law-enforcement officer the right to refuse to disclose their personal residential address, personal telephone numbers, or any other personal information concerning themselves or their family in a criminal investigation or a criminal prosecution. Such right will apply throughout a criminal investigation or a criminal prosecution unless ordered otherwise by a court of competent jurisdiction.

Line of Duty Act: The City requests that any Police Officer, emergency service personnel and any subdivision that are responsible for the prevention and detection of crime and the enforcement of the penal laws and exposed to the same risks of injury or death are covered under the Virginia Line of Duty Act in the same manner as those already covered under the LODA.

***Mandatory Minimum Sentences for Violent Criminal Offenses:** The City opposes legislation which would remove mandatory minimum sentences for violent crimes, particularly those where deadly force is involved. Further, the City supports legislation which would establish mandatory minimum sentences for violent crimes, particularly those where deadly force is involved.

Modernize Fire Programs Funding: The City requests legislation replacing current Fire-Rescue programs funding, including the Four for Life program and the Aid to Localities program, with a modernized formula program similar to the HB 599 funding that Virginia Police Departments receive. The current programs restrict funding for very specific uses which can lead to less effective spending. An updated formula driven program with fewer restrictions would ensure the funding goes to the highest priority uses.

***Pharmacy Changes:** The City is seeking financial support to meet the requirements of new legislation mandating fire and emergency departments to maintain their own pharmaceutical stock for patient care. This mandate necessitates substantial upgrades to technology, software, security, infrastructure and additional personnel.

Primary (Versus Secondary) Offense Enforcement: The City requests that the General Assembly allow law-enforcement officers the ability to stop (as primary offenses versus secondary offenses) vehicles and persons for violations of defective/unsafe equipment, dark window tint, expired registration and/or inspection (upon immediate expiration versus delayed expiration), smoking in a vehicle with a minor, jaywalking, and the other applicable traffic offenses described under HB 5058 of the 2020 Special Session I.

***Street Takeover:** The City requests legislation to be created to make an offense of “street takeover” as a Class 1 misdemeanor (Class 6 felony for second offense within 24 months) that also authorizes seizure of vehicles. “Street takeover” definition would include various stunts such as wheelies, doughnuts and drifting. Participation by coordination or facilitation of street takeover is Class 1 misdemeanor as well.

***Use of unmanned Aircraft Systems by Public Bodies; Search Warrant Required:** The City requests an update to Section C.(v) and section C.(ix) of the Code of Virginia § 19.2-60.1 to replace “by a law enforcement officer” with “by an employee of the Department of State Police of a department of law enforcement as defined in §15.2-836.”

***Willfully Discharging Firearms in Public Places:** The City supports legislation to amend Code of Virginia §18.2-280(A) to make it a felony offense to willfully discharge a firearm in a public place, whether or not someone is injured.

ECONOMIC DEVELOPMENT

***Aviation Parts and Supplies Tax Credit:** The City supports legislation that would continue the Aviation Parts and Supplies Tax Credits beyond June 30 and make it permanent.

Business License Tax: The City opposes legislation that would reduce or eliminate a locality's authority to impose a business license tax. The loss of \$10,900,000 in revenue from the Business License Tax would equate to a 14-cent increase in The City's Real Property Tax rate.

Communications Sales and Use Tax: The City supports legislation to extend the Communications Sales and Use Tax to include audio and video streaming services and prepaid calling services.

Economic Strength: The City requests support from the General Assembly for strengthening enterprise zones, promoting long-term economic strategies and expanding international trade to drive local growth and job creation.

Workforce Development: The City asks that the General Assembly support Workforce Development Programs through programs such as the Virginia Jobs Investment Program, Virginia's Custom Workforce Training Program and the Virginia Talent Accelerator Program.

OTHER PRIORITIES

***Mental Health:** The City supports any and all additional resources provided by the State to aid and support those in need of mental health services.

State Supported Local Employees: The City requests that all locally supported state employees receive competitive pay for their positions. This includes, but is not limited to the offices and its employees: Commissioner of Revenue, Sheriff's Office, Commonwealth's Attorney, Treasurer, Judges and Employees of the Circuit Court, General District Court, Juvenile and Domestic Court, Magistrate(s), Registrar and employees and other state appointed required staff.

Unfunded Mandates: The City request that any new legislation that requires localities to perform certain actions provides the local funding needed to carry out the requirements.

**Indicates new proposals suggested for 2025*