

**City of Alexandria  
Meeting Minutes  
Saturday, October 15, 2022 - 9:30 AM  
City Council Public Hearing Meeting**

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Present: Mayor Justin M. Wilson, Vice Mayor Amy B. Jackson, Members of Council Canek Aguirre, Sarah R. Bagley, John Taylor Chapman, and R. Kirk McPike.

Absent: Alyia Gaskins.

Also Present: Mr. Parajon, City Manager; Ms. Anderson, City Attorney; Ms. Horowitz, Principle Planner, Planning and Zoning; Mr. Farner, Deputy Director, Planning and Zoning; Ms. Oleynik, Planner/Engineer, Transportation and Environmental Services; Mr. Smith, Information Technology Services (ITS); Ms. Demeke, ITS; and Police Captain Ballantine; and Mr. Lloyd.

Recorded by: Keia Waters, Deputy City Clerk and Clerk of Council.

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**I. OPENING.**

**1. Calling the Roll.**

Mayor Wilson called the meeting to order and the City Clerk called the roll. Six members of City Council were present, with Councilman Chapman and Vice Mayor Jackson, arriving following roll call. Councilwoman Gaskins was absent.

**2. Public Discussion Period**

The following persons participated in the public discussion period:

1. John (Kit) Wannen, Alexandria, spoke about a nuisance from neighboring business.
2. Janice Grenadier, Alexandria, spoke about issues with the judicial system.
3. Jim Murphy, Alexandria, spoke regarding changes to DASH bus routes in the City.

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman Chapman and carried unanimously, City Council closed the public discussion period. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

**II. REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES  
ACTION CONSENT CALENDAR (3-5)**

**Planning Commission**

**3. Special Use Permit #2022-00058  
3103 Park Center, Unit 1600**

Public Hearing and consideration of a request for a Special Use Permit for a congregate housing facility use; zoned: CRMU-H/Commercial Residential Mixed Use-High.

Applicant: Sheltered Homes of Alexandria, represented by Mary Catherine Gibbs, attorney/agent  
Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 3; 10/15/22, and is incorporated as part of this record by reference.)

4. Special Use Permit #2022-00061  
516 Oronoco Street  
Public Hearing and consideration of a request for a Special Use Permit for the expansion of a health profession office and change in use from a non-complying personal service establishment to a health profession office.  
Applicant: Stella Kim.  
Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 4; 10/15/22, and is incorporated as part of this record by reference.)

5. Special Use Permit #2022-00028  
1940 Duke Street - Carlyle Block C Rooftop Amendment  
Public Hearing and consideration of a request for a Special Use Permit to increase the gross square footage allowable for Carlyle Block C within the allowed maximum for the Carlyle District and to amend the Design Guidelines for Block C which includes an increase in height from the maximum of 82 feet currently allowed (amending SUP#2020-00065); zoned: CDD #1/Coordinated Development District #1.  
Applicant: I&G Direct Real Estate 25 LP, represented by Robert Brant, attorney  
Planning Commission Action: Recommended Approval 6-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 5; 10/15/22, and is incorporated as part of this record by reference.)

## **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman Chapman and carried unanimously, City Council approved the consent calendar.  
The approval was as follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

## **III. ROLL-CALL CONSENT CALENDAR (6-12)**

6. Public Hearing, Second Reading and Final Passage of an Ordinance authorizing the owners of the property located at 300 Hume Avenue to maintain an encroachment for a fence along the public right-of-way on Hume Avenue (Implementation Ordinance for Encroachment No. 2022-00001 associated with 300 Hume Avenue approved by City Council on September 17, 2022).  
[ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 6; 10/15/22, and is incorporated as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 6; 10/15/22, and is incorporated as part of this record by reference.)

7. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 6-805 (STANDARDS FOR OUTDOOR DINING) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-00009 (Implementation Ordinance for Text Amendment No. 2022-00009 associated with aligning the King Street Outdoor Dining Program with the Commercial Parklet Program approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 7; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 7; 10/15/22, and is incorporated as part of this record by reference.)

8. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 6-702 (USES) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-0010 (Implementation Ordinance for Text Amendment No. 2022-00010 associated with minor updates to the KR/King Street Urban Retail zone approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 8; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 8; 10/15/22, and is incorporated as part of this record by reference.)

9. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to the Water Quality Management Supplement chapter replacing the chapter in its entirety with the Chesapeake Bay Preservation Plan chapter of such master plan as Master Plan Amendment No. 2022-00003 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment (Implementation Ordinance for Master Plan Amendment No. 2022-00003 associated with the update to the Water Quality Management Supplement Chapter of the City's Master Plan and a change in name to the Chesapeake Bay Preservation Plan approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 9; 10/15/22, and is incorporated as part of this record by reference.)

10. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Sheet No. 074.02 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL

ZONING MAP AND DISTRICT BOUNDARIES), of the City of Alexandria Zoning Ordinance, by rezoning the properties at 615A and 621 King Street from, CD/Commercial downtown zone to KR/King Street urban retail zone in accordance with the said zoning map amendment heretofore approved by city council as Rezoning No. 2022-00006 (Implementation Ordinance for Rezoning No. 2022-00006 associated with 615, 615A and 621 King Street approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 10; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 10; 10/15/22, and is incorporated as part of this record by reference.)

11. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE)) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 11; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 11; 10/15/22, and is incorporated as part of this record by reference.)

12. Public Hearing, Second Reading and Final Passage of an Ordinance to adopt the use of photo speed monitoring devices in highway work zones and school crossing zones and civil penalties in Section 10-3-878.12 Article B (RECKLESS DRIVING, SPEEDING, ETC.) of Chapter 3 (OPERATION OF VEHICLES) of Title 10 (MOTOR VEHICLES AND TRAFFIC) of the Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 10/15/22, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 12; 10/15/22, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing for this item:

1. Mike Doyle, Alexandria, spoke in support of the ordinance.

#### **END OF ROLL-CALL CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilman McPike, seconded by Councilman Chapman and carried unanimously by roll-call vote, City Council approved the roll-call consent calendar, with the exception of item #12, which was considered under separate motion. The approval was as follows:

6. Public Hearing, Second Reading and Final Passage of an Ordinance authorizing the owners of the property located at 300 Hume Avenue to maintain an encroachment for a fence along the public right-of-way on Hume Avenue (Implementation Ordinance for Encroachment No. 2022-00001 associated with 300 Hume Avenue approved by City Council on September 17, 2022). [ROLL-CALL

VOTE]

The ordinance reads as follows:

ORDINANCE NO. 5455

AN ORDINANCE authorizing the owners of the property located at 300 Hume Avenue to maintain an encroachment for a fence along the public right-of-way on Hume Avenue.

WHEREAS, Jeffrey W. and Jenafer B. Howard are the Owners ("Owners") of the property located at 300 Hume Avenue, in the City of Alexandria, Virginia; and

WHEREAS, Owners desire to maintain a fence which will encroach into the public right-of-way on Hume Avenue; and

WHEREAS, the public right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2022-00001 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on September 6, 2022, which recommendation was approved by the City Council at its public hearing on September 17, 2022; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owners be, and the same hereby are, authorized to establish and maintain an encroachment into the public right-of-way at 300 Hume Avenue as shown in the attached Encroachment Plat, in the City of Alexandria, said encroachment consisting of fencing in the public right-of-way on Hume Avenue, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owners of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owners maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:

\$1,000,000 each occurrence

\$1,000,000 aggregate

Property Damage:

\$1,000,000 each occurrence

\$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or

demand by the city, terminate. In that event, Owners shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

(a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owners' property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Owners shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) In the event the City shall, in the future, have need for the area of the proposed encroachment, the Owners shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. The Owner shall bear all the cost associated with any future removal of the encroachment.

(d) The Owners shall bear all of the cost associated with maintenance of the improvements within the encroachment and associated with any future removal of the improvements within the encroachment.

(e) The fence shall remain 50% open and there shall not be any shrubs, trees, or any other landscape planted or placed within the vision clearance triangle located behind the fence.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owners maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owners the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owners, and shall not be liable to Owners for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

Section 8. The terms "Owners" shall be deemed to include Jeffrey W. and Jenafer B. Howard and their respective successors in interest.

Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

7. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 6-805 (STANDARDS FOR OUTDOOR DINING) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-00009 (Implementation Ordinance for Text Amendment No. 2022-00009 associated with aligning the King Street Outdoor Dining Program with the Commercial Parklet Program approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

The ordinance reads as follows:

#### ORDINANCE NO. 5456

AN ORDINANCE to amend and reordain Section 6-805 (STANDARDS FOR OUTDOOR DINING) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-00009.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2022-00009, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on September 6, 2022 of a text amendment to the Zoning Ordinance to align minor elements of the King Street outdoor dining overlay zone with the commercial parklet program for outdoor dining in on-street parking spaces, which recommendation was approved by the City Council at public hearing on September 17, 2022;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-805 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-805 - Standards for outdoor dining.

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B. The outside dining area shall be located adjacent to the property of an existing and lawfully operating restaurant and shall be under the responsible direction and control of the restaurant. It may be located adjacent to the building or near the curb but shall be contained within the location delineated by the permit. Dining may be set up in front of an adjacent business with approval of that property owner and all tenants of the building.

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D. ~~The total number of seats (both indoor and outdoors) shall not exceed the restaurant's previously approved maximum number of seats by more than 20 seats, and the number of seats permitted is dependent on the amount of space available and on building and fire code requirements. Any increase in number of seats for outdoor dining in the public sidewalk approved under this section shall not be deemed by the director to constitute an intensification of use.~~ The number of indoor and outdoor seats must comply with the statewide building code.

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F. In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed:

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(3) Outdoor dining areas located near the sidewalk curb must leave at least two feet of unobstructed sidewalk depth between the curb and the outer dimension of the outdoor dining area unless the sidewalk dining directly abuts a commercial parklet.

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O. The design of the outdoor dining facilities which are visible from the public street or way, shall comply with the following:

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(3) Permits must be obtained from the department of transportation and environmental services and a board of architectural review certificate of appropriateness in order to penetrate the public sidewalk surface or install an outdoor dining enclosure which penetrates the public sidewalk.

(4) The design of the area shall comply with any board of architectural review approved the city outdoor dining design guidelines. ~~The board's guidelines shall provide reasonably objective guidance as to acceptable colors, materials and related design standards.~~

(5) ~~Storage and removal of outdoor dining furniture and enclosures:~~

~~(a) Between April 1 and the Sunday before Thanksgiving of the same calendar year, a~~  
~~All outdoor dining furniture and enclosures may be stored on set up in on the public right-of-way daily when the restaurant is open or closed to the public.~~

~~(b) Between the Monday before Thanksgiving and March 31 of the following calendar year, all outdoor dining furniture and enclosures must be removed from the public right-of-way daily when the restaurant is closed to the public, in accordance with section 6-805(E).~~

~~(6) Tall tables and tall seating for tables shall not be permitted in the public right-of-way. As used in this section 6-805, a "tall table" is defined as any table with a table-top surface higher than 32 inches above the ground, and "tall seating" is defined as chairs, seats, stools, or benches designed or intended for use with tall tables. Storage of outdoor dining furniture and enclosures may not occur in the public right-of-way.~~

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Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 6-805, as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

8. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 6-702 (USES) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-0010 (Implementation Ordinance for Text Amendment No. 2022-00010 associated with minor updates to the KR/King Street Urban Retail zone approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

The ordinance reads as follows:

#### ORDINANCE NO. 5457

AN ORDINANCE to amend and reordain Section 6-702 (USES) of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2022-0010.



WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2022-0010, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on September 6, 2022 of a text amendment to the Zoning Ordinance to allow administrative special uses on both the ground and upper floors in the KR/King Street Urban Retail zone, which recommendation was approved by the City Council at public hearing on September 17, 2022;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-702 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-702 - Uses.

Uses in the King Street urban retail zone are divided into two categories, depending on their location, in order to protect and enhance opportunities for existing and future retail uses. The two use categories, which are each further divided into permitted and special uses, are defined as followed:

*Ground floor uses:* Retail and other active uses are emphasized in the ground floor uses category. The ground floor uses category applies to uses to be located in the space within the first 50 feet of a building, measured from the front building wall, and in a building that is set back no further than 30 feet from a front property and with a first floor of the building within four feet above the sidewalk grade.

*Upper floor uses:* The second category of uses is all space that is not located within the ground floor of a building, as that is defined above. Upper floor uses may be located on floors above the ground floor, in the space on the ground floor beyond the 50 feet threshold for ground floor uses, and in buildings not considered retail appropriate because they are elevated above grade or set back an excessive distance from the street as expressed above.

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(B) *Upper floor uses.*

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~~(2) Administrative special uses. Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:~~

~~(a) Co-living dwelling, not to exceed two units;~~

~~(b) Outdoor market;~~

~~(c) Restaurant;~~

~~(d) Valet parking;~~

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~~(C) Reserved. Administrative special uses. Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:~~

~~(1) Co-living dwelling, not to exceed two units, on upper floors only;~~

~~(2) Outdoor market;~~

~~(3) Restaurant;~~

(4) Valet parking.

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Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 6-702, as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

9. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to the Water Quality Management Supplement chapter replacing the chapter in its entirety with the Chesapeake Bay Preservation Plan chapter of such master plan as Master Plan Amendment No. 2022-00003 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment (Implementation Ordinance for Master Plan Amendment No. 2022-00003 associated with the update to the Water Quality Management Supplement Chapter of the City's Master Plan and a change in name to the Chesapeake Bay Preservation Plan approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

The ordinance reads as follows:

ORDINANCE NO. 5458

AN ORDINANCE to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to the Water Quality Management Supplement chapter replacing the chapter in its entirety with the Chesapeake Bay Preservation Plan chapter of such master plan as Master Plan Amendment No. 2022-00003 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2022-00003, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on September 6, 2022 of an amendment to the Water Quality Management Supplement chapter replacing the chapter in its entirety with the Chesapeake Bay Preservation Plan Chapter of the Master Plan of the City of Alexandria and includes an information base, policies and policy implementation related to: the location and

extent of Chesapeake Bay Preservation Areas; physical constraints to development, including soil limitations; the character and location of commercial and recreational fisheries and other aquatic resources; shoreline and streambank erosion problems; existing and proposed land uses; catalog of existing and potential water pollution sources; and public and private waterfront access areas, including the general locations of or information about docks, piers, marinas, boat ramps, and similar water access facilities, which recommendation was approved by the City Council at public hearing on September 17, 2022;

2. The said amendment has heretofore been approved by the planning commission

and city council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Water Quality Management Supplement Chapter of the Master Plan of the City of Alexandria, be, and the same hereby is, amended by replacing the chapter in its entirety with the Chesapeake Bay Preservation Plan, attached hereto and incorporated fully herein by reference, as a new chapter of the Master Plan of the City of Alexandria, Virginia.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan amendment as part of the Master Plan of the City of Alexandria, Virginia.

Section 3. That all provisions of the Master Plan of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 4. That the Master Plan of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the Master Plan of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

Section 6. That this ordinance shall become effective upon the date and at the time of its final passage.

10. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Sheet No. 074.02 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES), of the City of Alexandria Zoning Ordinance, by rezoning the properties at 615A and 621 King Street from, CD/Commercial downtown zone to KR/King Street urban retail zone in accordance with the said zoning map amendment heretofore approved by city council as Rezoning No. 2022-00006 (Implementation Ordinance for Rezoning No. 2022-00006 associated with 615, 615A and 621 King Street approved by City Council on September 17, 2022). [ROLL-CALL VOTE]

The ordinance reads as follows:

ORDINANCE NO. 5459

AN ORDINANCE to amend and reordain Sheet No. 074.02 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES), of the City of Alexandria Zoning Ordinance, by rezoning the properties at 615A and 621 King Street from, CD/Commercial downtown zone to KR/King Street urban retail zone in accordance with the said zoning map amendment heretofore approved by city council as Rezoning No. 2022-00006. WHEREAS, the City Council finds and determines that:

1. In Rezoning No. 2022-00006, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on September 6, 2022 of a rezoning of the properties

at 615A and 621 King Street from, CD/Commercial downtown zone to KR/King Street urban retail zone, which recommendation was approved by the City Council at public hearing on September 17, 2022;

2. The said rezoning is in conformity with the 1992 Master Plan of the City of Alexandria, Virginia, as amended;

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Sheet No. 074.02 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 of the City of Alexandria Zoning Ordinance, be, and the same hereby is, amended by changing, in the manner set forth below, the zoning classification of the property hereinafter described:

LAND DESCRIPTION: 615A King Street, Alexandria, Virginia 22314,  
074.02-03-07

From: CD/Commercial downtown zone  
To: KR/King Street urban retail zone

LAND DESCRIPTION: 621 King Street, Alexandria, Virginia 22314,  
074.02-03-06.0

From: CD/Commercial downtown zone  
To: KR/King Street urban retail zone

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing amendment on the said map.

Section 3. That Sheet No. 074.02 of the "Official Zoning Map, Alexandria, Virginia," as so amended, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage.

11. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE)) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

The ordinance reads as follows:

ORDINANCE NO. 5460

AN ORDINANCE to amend and reordain Chapter 7 (COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE) FINANCING PROGRAM) of Title 7 (PLANNING AND DEVELOPMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 7 of Title 7 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

## **CHAPTER 7 – Commercial Property Assessed Clean Energy (C-PACE) Financing Program**

### **Sec. 7-7-1 – Purpose.**

The purpose of this chapter is to create a "City of Alexandria Commercial Property Assessed Clean Energy (C-PACE) Financing Program," to operate in coordination with the statewide C-PACE program, all in accordance with the Commonwealth of Virginia's Clean Energy Financing Law, section 15.2-958.3 of the Code of Virginia of 1950, as amended (hereinafter the "Act"). The local and statewide C-PACE Programs, working together, will facilitate loans made by Capital Providers to Borrowers to finance renewable energy production and distribution facilities, energy efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in section 28.2-104.1. Subject to the limitations set forth in this chapter, the Act, or other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by a voluntary special assessment lien on the property that is the subject of such Loan.

### **Sec. 7-7-2 – Definitions.**

For the purpose of this chapter, the following words shall have the meanings respectively ascribed to them as follows:

(a) "Act" means Virginia's "financing clean energy, resiliency, and stormwater management programs" law, section 15.2-958.3 of the Code of Virginia of 1950, as amended.

(b) "Amendment" means an amendment of the C-PACE Lien as permitted under the Loan Documents and Program Guide.

(c) "Assignment" means an assignment of the Loan Payments and/or C-PACE Lien pursuant to the terms of the assignment document.

(d) "Assessment Payment Schedule" means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which shall be included among the summary of the terms of the C-PACE Loan in Exhibit B to the C-PACE Program Agreement.

~~(de)~~ "Borrower" means:

(1) The owner(s) of Eligible Property who obtain(s) a C-PACE Loan from a Capital Provider in accordance with the Program Guide; or

(2) A successor in title to the Borrower.

(f) "Borrower Certification" means a notarized certificate from Borrower, certifying that (i) Borrower is current on payments on Loans secured by a mortgage or deed of trust lien on the Property and on real estate tax payments, tax payments, (ii) that the Borrower is not insolvent or in bankruptcy proceedings, and (iii) that the title of the Property is not in dispute, as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the Program Administrator and Capital Provider.

~~(eg)~~ "Capital Provider" means:

(1) A private lending institution that has been approved by the Program Administrator in accordance with the Program Guide to originate a C-PACE Loan and its successors and assigns; or

(2) The current holder of a C-PACE Loan.

~~(fh)~~ "City" or "City of Alexandria" means the City of Alexandria, Virginia.

~~(gi)~~ "City Council" or "Council" means the City Council of the City of Alexandria, Virginia.

(i) "Clerk's Office" means the Office of the Clerk of the Circuit Court of the City of Alexandria, Virginia.

~~(hk)~~ "Commonwealth" means the "Commonwealth of Virginia."

~~(il)~~ "C-PACE" means Commercial Property Assessed Clean Energy.

(jm) "C-PACE Lien" or "Lien" means a voluntary special assessment lien duly Recorded against an Eligible Property to secure Loan Payment. Each Lien (i) shall run with the land, and those

portions of Loan Payment secured by such Lien that have not yet become due are not eliminated by foreclosure of a property tax lien, and (ii) shall have the same priority status as a real property tax lien, except that such Lien shall have priority over any previously recorded mortgage or deed of trust lien on the Property only if a written subordination agreement is executed by the holder of each such previously recorded lien. Such subordination agreement shall be Recorded with the Lien, and shall be in a form and substance acceptable to the prior lienholder in its sole and exclusive discretion. Prior to the Recording of any Lien, Borrower must submit to the Capital Provider evidence that: (i) Borrower is current on payments on all loans secured by a mortgage or deed of trust lien on the Eligible Property and on property tax payments to the City, (ii) Borrower is not insolvent or subject to bankruptcy proceedings, and (iii) Borrower's title to the Eligible Property is not in dispute.

~~(kn)~~ "C-PACE Lien Certificate" means the voluntary special assessment lien document duly recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.

~~(lo)~~ "C-PACE Loan" or "Loan" means a loan from a Capital Provider to a Borrower to finance a Project, in accordance with the Program Guide.

~~(mp)~~ "C-PACE Program" or "Program" means the program established by the City through this chapter, in accordance with the Act, that facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be levied and recorded against the Property to secure the C-PACE Loan.

~~(ng)~~ "C-PACE Program Agreement" means the Agreement between the Borrower, City, and Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the C-PACE Program; the Borrower's acknowledgment and consent for the City to impose a voluntary special assessment and record a C-PACE Lien Certificate against the Borrower's Eligible Property; and a summary of the terms of the C-PACE Loan. A copy of the draft C-PACE Program Agreement is included herein as Exhibit A.

~~(or)~~ "Delinquent Payment" means any C-PACE Loan payment that was not paid by a Borrower in accordance with the Loan Documents.

~~(ps)~~ "DMME Guidelines" means the Uniform Statewide Financial Underwriting Guidelines for C-PACE Loans, issued on December 1, 2015, by the PACE Stakeholder Committee organized by the Virginia Department of Mines, Minerals, and Energy (DMME), as amended from time to time.

~~(qt)~~ "Eligible Improvement" means the initial acquisition and installation of ~~clean~~**renewable energy, energy efficiency, water efficiency, environmental remediation, electric vehicle infrastructure,** resiliency, or stormwater **management** improvements for both existing properties and new construction, as further prescribed in this chapter and the Program Guide.

~~(ru)~~ "Eligible Property" or "Property" means real property located within the City other than residential property with fewer than five dwelling units or a condominium as defined in Virginia Code § 55.1-2000.

~~(sv)~~ "Financing Agreement" means the written agreement, as may be amended, modified, or supplemented from time to time, between a Borrower and a Capital Provider, regarding matters related to the extension and repayment of a C-PACE Loan to finance Eligible Improvements.

~~(tw)~~ "Land Records" means the land records of the Clerk of the Circuit Court of the City of Alexandria.

~~(ux)~~ "Loan Amount" means the aggregate amount of a Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, all as provided for in the Loan Documents.

~~(vy)~~ "Loan Documents" means the C-PACE Program Agreement, Financing Agreement, a C-PACE Lien Certificate, and any other document, agreement, or instrument executed in connection with a C-PACE Loan.

~~(wz)~~ "Loan Payment," means the periodic installment payments of the C-PACE Loan by a Borrower, due and payable to the City or Capital Provider as permitted by the Act in such amounts and at such times as described in the Loan Documents.

~~(xaa)~~ "Program Administrator" means the person or entity retained by the City **or the statewide administrator as defined by Virginia Code §15.2-958.3.E.3** to administer the Program in accordance with the requirements of the Act, this chapter, and the Program Guide.

~~(ybb)~~ "Program Fee(s)" means the fee(s) authorized by the Act and charged to participating Borrowers to cover the costs to design and administer the Program, including without limitation, compensation of the Program Administrator and recovery of expenses incurred by the City.

~~(zcc)~~ "Program Guide" means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fee(s), responsibilities, and other requirements applicable to the governance and administration of the Program.

~~(aadd)~~ "Program Manager" means the City Manager or such person designated in writing by the City Manager to supervise the Program and act as liaison with the Program Administrator.

~~(bbe)~~ "Project" means the construction or installation of Eligible Improvements on Eligible Property.

~~(ceff)~~ "Residential Property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes with fewer than five dwelling units.

~~(degg)~~ "Stabilized Occupancy" means the occupancy level that an income producing Property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.

~~(eehh)~~ "Stabilized Value" means the market value of the Property after it reaches stabilized occupancy as evidenced by an appraisal of the Property.

**(ii) "Statewide Program" means the statewide C-PACE financing program sponsored by Virginia Energy, established to provide C-PACE Loans to Borrowers in accordance with the C-PACE Act, this chapter, the Locality Agreement, the C-PACE Documents and the Program Guide.**

~~(ffjj)~~ "Subordination Agreement" means a written agreement executed by the holder of each existing lien, mortgage, or deed of trust on Eligible Property that is the subject of a C-PACE Loan, which allows the C-PACE lien to have senior priority to the existing mortgage or deed of trust.

**(kk) "Treasurer" means the Director of Finance of the City of Alexandria.**

~~(ggll)~~ "Useful Life" means the normal operating life of the Fixed asset as determined by Generally Accepted Accounting Principles (GAAP).

**(mm) "Virginia Energy" means the Virginia Department of Energy, formerly the Virginia Department of Mines, Minerals, and Energy (DMME).**

### **Sec. 7-7-3 – Effective Date.**

This chapter shall become effective immediately following its adoption.

### **Sec. 7-7-4 – C-PACE Program; Eligible Improvements.**

(a) C-PACE Program. The C-PACE Program shall be available throughout the City of Alexandria, provided that the Borrower, the Property, and the proposed Eligible Improvements all qualify for the Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

(1) Renewable energy production and distribution facilities, including but not limited to, solar photovoltaic, solar thermal, geothermal, wind, fuel cells, biomass systems, biogas, or methane recovery systems, **whether attached to a building or sited on the ground, and the storage and/or distribution of the energy produced thereby, whether for use on-site or sale or export to a utility pursuant to a power purchase agreement with a non-utility purchaser;**

(2) Energy usage efficiency systems reasonably expected to reduce the energy usage of the eligible property, including but not limited to, high efficiency lighting and building systems, heating, ventilation and air conditioning upgrades, air duct sealing, high efficiency boilers and furnaces, high efficiency hot water heating systems, combustion and burner upgrades, fuel switching, heat recovery and steam traps, cogeneration systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, weather-stripping, fenestration and door improvements and modifications, insulation (both in walls, roofs, floors and foundations and in heating, ventilation and air conditioning systems' radiant barriers), building energy management systems, process equipment upgrades, and other forms of conservation; provided, that for qualifying improvements that are part of a new building or structure, such qualifying improvements shall **result in the reduction of the consumption of energy over a**



**baseline established in accordance with the Program Guide** ~~exceed the minimum energy efficiency requirements of then applicable law, ordinance, regulation or code;~~

(3) Electric vehicle charging infrastructure **such as charging stations;**

(4) Water usage efficiency improvements such as recovery, purification, recycling, and other forms of water conservation. **Such qualifying improvements shall result in the reduction of the consumption of water over a baseline established in accordance with the Program Guide** ~~For new construction, these improvements qualify for program financing only if they exceed the minimum water usage efficiency requirements of then applicable law, ordinance, regulation, or code;~~

(5) Stormwater **management** improvements that reduce onsite stormwater runoff into the stormwater system such as reduction in the quantity of impervious surfaces, and onsite filtering of stormwater.

(6) ~~Improvements that reduce the impacts of water or wind-related natural or manmade events, such as installation of wet and dry floodproofing, raising mechanical and electrical equipment and reinforcement of building envelope to reduce impacts of wind.~~

**Resiliency improvements which increase the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:**

**A. Flood mitigation or the mitigation of the impacts of flooding;**

**B. Inundation adaptation;**

**C. Natural or nature-based features and living shorelines, as defined in Va. Code §28.2-104.1;**

**D. Enhancement of fire or wind resistance, including but not limited to reinforcement and insulation of a building envelope to reduce the impacts of heat or wind;**

**E. Enhancement of the resilience capacity of a natural system, infrastructure, or structure, including, but not limited to, the raising of mechanical and electrical equipment;**

**F. Microgrids;**

**G. Energy storage;**

**(7) Soil and groundwater remediation;**

~~(78)~~ Construction, renovation, or retrofitting of a Property directly related to the accomplishment of any purpose listed in subsections (1), (2), or (3) above, whether such Eligible Improvement was erected or installed in or on a building or on the ground, it being the express intention of the City to allow Eligible Improvements that constitute, or are a part of, the construction of a new structure or building to be financed with a C-PACE Loan; ~~or~~

**(9) Environmental remediation improvements, including, but not limited to:**

**A. Improvements that promote indoor air and water quality;**

**B. Asbestos remediation;**

**C. Lead paint removal; and**

**D. Mold remediation, or**

~~(810)~~ Any other category of improvement **(i)** approved by the Program Administrator with the consent of the Program Manager as qualifying for financing under the C-PACE Act and the Program **or (ii) added by the General Assembly to the Act after the date of adoption of this chapter.**

(b) Use of C-PACE Loan Proceeds. The proceeds of a C-PACE Loan may be used to pay for the construction, development, and consulting costs directly related to Eligible Improvements, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial, and legal), Program Fees, C-PACE Loan fees, capitalized interest, interest reserves, and C-PACE transaction underwriting and closing costs.

(c) Program Applications; Prioritization. The Program Administrator will develop a Program application process, **or make available the Statewide Program's program application,** that allows for the review and approval of proposed Eligible Improvements and C-PACE Loan Documents. Program applications will be processed on a first come, first serve basis, **or by the Statewide Program;** ~~provided, however,~~



that the applicant meets in accordance with the eligibility requirements as set forth in the Program Guide.

**Sec. 7-7-5 - C-PACE Loan Requirements; Program Fees; Reporting; Program Administrator; Program Guide.**

(a) Source of Loans. C-PACE Loans shall be originated by Capital Providers. The City shall have no obligation to originate or guarantee any C-PACE Loans.

(b) C-PACE Loan Amount Thresholds. The minimum Loan Amount that may be financed for each Project is fifty thousand dollars (\$50,000). ~~The maximum Loan Amount that may be financed for each Project is twenty-five million dollars (\$25,000,000) or thirty percent (30%) of the Stabilized Value of the Property, whichever is greater.~~ **There is no maximum aggregate amount that may be financed with respect to an Eligible Property, except as stipulated in the Program Guide.** The Program Administrator may also accept other forms of valuation including, but not limited to, assessed value or value derived from a minimum assessment agreement. There shall be no limit on the total value of all C-PACE Loans issued under the **C-PACE** Program.

**(c) C-PACE Loan Refinancing or Reimbursement. The Program Administrator may approve a Loan application submitted within two (2) years of the City of Alexandria's issuance of a certificate of occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the City of Alexandria and that such Loan may refinance or reimburse the Borrower for the total costs of such Eligible Improvements.**

~~(e)~~ C-PACE Loan Interest. The interest rate of a C-PACE Loan shall be as set forth in the Loan Documents.

~~(d)~~ C-PACE Loan Term. The term of a C-PACE Loan shall not exceed the (i) Useful Life of the Project Improvement with the longest Useful Life or (ii) thirty (30) years, whichever is less.

~~(e)~~ C-PACE Loan Amortization. The amount of the C-PACE Loan shall be fully amortized in the C-PACE Payments over the term of the C-PACE Loan as agreed by the Borrower and the Capital Provider.

~~(f)~~ Apportionment of Costs. All of the costs incidental to the financing, administration, collection, and enforcement of the C-PACE Loan shall be borne by the Borrower.

~~(g)~~ Financing Agreements. Capital Providers may use their own Financing Agreements for C-PACE Loans, but the Financing Agreement may not conflict with the provisions of this chapter, the Act, or the C-PACE Program Agreement. To the extent of any conflict, this chapter, the Act, and the C-PACE Program Agreement shall prevail.

~~(h)~~ C-PACE Program Agreement. In order to participate in the C-PACE Program, Borrower and Capital Provider shall enter into a C-PACE Program Agreement with the City, which sets forth certain terms and conditions for participation in the City's C-PACE Program. This Agreement shall be binding upon the parties and their respective successors and assigns until the C-PACE Loan is paid in full. Each C-PACE Program Agreement shall be in substantially the form provided herein in Exhibit A. The C-PACE Program Agreement may be modified as necessary to further the Program's purpose and to encourage Program participation, including such additions, deletions, or alterations as may be approved by the Program Manager and City Attorney, so long as such modifications do not conflict with the Program Guide, this chapter, or the Act.

~~(i)~~ Repayment of C-PACE Loan; Collection of Loan Payments. C-PACE Loans will be repaid by the Borrower through Loan Payments. Upon assignment of the Lien to the Capital Provider, as described in §7-7-6(c) hereof, the Borrower shall make all such Loan Payments directly to the Capital Provider pursuant to the Financing Agreement, and the Capital Provider shall be responsible, subject to and in accordance with the terms of the Financing Agreement, for all billing, collection, enforcement and administrative duties in respect of each of the Loan, and the Loan Payment and the Lien, **except that in cases of default the Capital Provider may request the City of Alexandria, through the Program Manager, to collect delinquent amounts pursuant to §7-7-6 of this ordinance. Under no circumstances shall the City's Department of Finance be responsible for servicing C-PACE Loans other than providing delinquent collection services as noted herein. If a Capital Provider fails to service a C-**

**PACE Loan, such** ~~In the alternative,~~ C-PACE Loans may be serviced by the Program Administrator, and the Program Administrator shall remit Loan Payments it receives from Borrowers to the Capital Provider within thirty (30) days of receipt.

~~(j)~~ **(k)** C-PACE Loan Assumed. The Borrower shall assume the obligation to repay all remaining unpaid Loan Payments, whether it obtained ownership of the Property voluntarily or involuntarily, which are due upon acquisition of the Property, if any, and which accrue during Borrower's period of ownership. Only the current Loan Payment and any Delinquent Payments, together with any costs of collection, shall be payable at the settlement of a Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.

~~(k)~~ **(l)** Transfer of C-PACE Loans.

(1) C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to another Capital Provider at any time unless the C-PACE Loan is paid in full provided that Capital Provider shall:

A. Notify the Borrower and Program Administrator prior to the billing date of the next Loan Payment due;

B. Record a C-PACE Loan Assignment among the Land Records; and

C. Deliver a copy of the recorded C-PACE Assignment to the Borrower, City, and Program Administrator as set forth in the C-PACE Program Agreement and Program Guide.

(2) Recordation of the C-PACE Assignment shall constitute an assumption by the new Capital Provider of the rights and obligations of the original Capital Provider contained in the Loan Documents.

~~(m)~~ **(n)** Program Fees. The **C-PACE Program will be self-financed through Program Fee(s) charged to participating Borrowers together with any funds budgeted by the General Assembly, if available, as support through coordination or use of the Statewide program.**

The Program Fee(s) are established to cover the actual and reasonable costs to design and administer the Program, including the compensation of a third-party Program Administrator **or the Statewide Program.** Program Fee(s) will be assessed as a percentage fee of the C-PACE Loan paid at closing. The amount(s) of the Program Fees shall be set forth in the Program Guidelines. Program Fee(s) may be changed by the Program Manager from time to time and shall only apply to C-PACE Loans executed after the date the revised Fees are adopted. The Capital Provider shall collect ~~the~~ **all applicable** Program Fee(s) from Borrower at Loan closing, and shall remit any such Program Fee(s) so collected to the Program Administrator within ten (10) days of the date of such closing, without requiring demand or notice from the Program Administrator.

~~(n)~~ **(o)** Notification of Proposed Loan and Closing. The Program Guide will set forth the C-PACE Loan notification requirements and Loan closing process.

~~(o)~~ **(p)** Reporting. The City may require the Capital Provider and/or the Program Administrator to provide a written report with summary information regarding the C-PACE Loan Program, the portfolio performance of participating Capital Providers, or other Program statistics as required in the Program Guide.

~~(p)~~ **(q)** Program Administrator. The City will enter into a contract with a third-party Program Administrator pursuant to the City's procurement process and in accordance with any requirements of the Virginia Public Procurement Act. The Program Administrator's principle duties shall be those set forth in its contract with the City, which may include, but not be limited to:

(1) Creating the Program Guide and revising and updating the Guide, as necessary;

(2) Certifying that prospective C-PACE service providers and Capital Providers are eligible to participate in the program;

(3) Processing C-PACE applications to determine Project eligibility for a C-PACE Loan and related Eligible Improvements;

(4) Coordinating the billing and collection process by serving as a servicer for C-PACE Loans or subcontracting with a qualified C-PACE Loan servicer;

(5) Ensuring compliance with the requirements of the C-PACE Program; and

(6) Performing marketing, outreach, and promotion for participation in the C-PACE Program. In the alternative, the City may use any public C-PACE administrator established by the Commonwealth **for purposes of administering the Statewide Program or** for the purposes of administering local C-PACE programs. The Program Administrator:

(1) Will endeavor to conduct a competitive, open-market Program, available to all pre-certified Capital Providers, contractors, engineers, and consultants who apply to provide services or funding for the Program, and;

(2) Shall not grant any Capital Provider or service provider an exclusive right to provide services or funding for the Program.

(pg) Program Guide.

(1) The Program Guide shall be developed by the Program Administrator under the direction of, and in consultation with the Program Manager. The Program Guide and any subsequent amendments thereto shall become effective only:

A. To the extent that the Program Guide and such amendments do not contravene this chapter or the Act; and

B. After review by the City Attorney and written approval by Program Manager.

(2) The Program Guide shall include, without limitation:

A. Disclosures about program fees, costs, and program processes;

B. Eligibility requirements for participation in the program by Capital Providers, Contractors, and other stakeholders;

C. Eligibility requirements for Borrowers, Eligible Improvements, and projects. Eligibility of Property Owners shall be contingent upon submission of a Property Owner Certification and any necessary Lender Consents;

D. Technical assessment requirements, which may be based on the size and type of the building and the size and scope of the proposed Eligible Improvements;

E. Template Program forms, including but not limited to, the program application, Property Owner Certification, and C-PACE assignment; and

F. Suggested underwriting criteria including, without limitation, underwriting guidelines established by the Virginia Department of Mines, Minerals, and Energy or the Mid-Atlantic PACE Alliance Regional C-PACE Toolkit published in June 2018, such as financial ratios related to:

1. Total loan (including program loan) to value benchmarks;

2. Program assessment to value benchmarks;

3. Savings to investment ratio; and

4. Debt service coverage ratio.

(3) The Program Guide may incorporate other appropriate underwriting guidelines consistent with this type of Program. The Program Guide will be designed to create an open, competitive, and efficient Program. The Program Administrator may modify the Program Guide from time to time subject to the approval of the Program Manager and in accordance with the intent and purpose of the C-PACE Program as approved by the City Council.

(4) The Program Guide, including any amendments thereto, shall contain the following provisions:

A. "This Program Guide (this "Guide") has been prepared for purpose of providing a more detailed description of the requirements, rules, procedures, and fees applicable to the City of Alexandria Commercial Property Assessed Clean Energy (C-PACE) Financing Program (the "Program"). This Guide and all provisions hereof are subject to the applicable chapter of the Codified Ordinances of the City of Alexandria, Virginia (the "Chapter"), in all respects including, without limitation, the provisions of the Chapter governing the amendment of this Guide. In the case of any conflict between the provisions of this Guide and the provisions of the Chapter, the provisions of the Chapter shall control."

"THIS GUIDE IS ONLY A REFERENCE DOCUMENT, AND CREATES NO LEGAL RIGHTS IN FAVOR OF ANY BORROWER, CAPITAL PROVIDER, SERVICE PROVIDER, CONTRACTOR, OR ANY OTHER PERSON, NOR DOES IT IMPOSE ANY LEGAL DUTY OR OBLIGATION ON THE CITY OF ALEXANDRIA, VIRGINIA."

#### **Section 7-7-6 – Levy of Assessment; Recordation; Priority; Amendment.**

(a) Levy of Voluntary Special Assessment Lien. Beginning on the effective date of this chapter and for each C-PACE Loan made under the Program, the City Council hereby levies a voluntary special assessment (C-PACE Lien) against each Property benefitting from Eligible

Improvements financed with C-PACE Loans, in an amount equal to the C-PACE Loan **including all interest, delinquent interest, late fees, penalties, Program fees and collection costs as specified in loan documents or Program Guide,** upon recordation of the C-PACE Lien Certificate.

(b) Notification of Closing. Upon the financial closing of a Project, the Capital Provider will promptly provide notice thereof to each of Program Manager and Administrator, which notice shall include: (i) a statement of the Loan Amount, (ii) a copy of the Financing Agreement executed by Borrower and Capital Provider, (iii) a written subordination agreement with each holder of a prior mortgage or deed of trust lien on the Eligible Property, and (iv) evidence that (A) Borrower is current on payments on loans secured by a mortgage or deed of trust lien on the Property and on property tax payments to the City, (B) Borrower is not insolvent or subject to bankruptcy proceedings, and (C) Borrower's title to the Eligible Property is not in dispute.

(c) Recordation of C-PACE Lien Certificate; Assignment. ~~Upon receipt of such notice in §7-7-6(a) hereof,~~ The Capital Provider, as authorized by the City for such purposes, shall promptly Record the Certificate of Levy and Lien of Special Assessment on behalf of the City. Promptly thereafter, the Capital Provider, as authorized by the City for such purposes, shall assign the Lien from the City to the Capital Provider, to cause the Capital Provider to be named as the holder of the Lien in the land records of the City, by Recording an Assignment of Special Assessment Lien. Such assignment shall include only the City's right, title and interest in and to the Loan Payment and the Lien, and the City shall retain all of its other rights and remedies, including any special powers of enforcement or collection to which the City, by virtue of its status as a political subdivision of the Commonwealth, is entitled or empowered to exercise under applicable laws of the Commonwealth.

(d) Priority. The C-PACE Lien shall have the same priority as a real property tax lien and priority over any previously recorded lien, mortgage, or deed of trust, as evidenced by Subordination Agreement(s) obtained from each prior lien holder, mortgagee, or trustee(s) of any deed(s) of trust. Only the current Loan Payment and any Delinquent Payments, in addition to real property taxes levied by the City, shall constitute a first lien on the Property.

(e) Amendment of Lien. Upon written request by a Capital Provider in accordance with the Program Guide, the Program Manager may execute an amendment of the C-PACE Lien after the closing of a C-PACE Loan. The Program Administrator will record the Amendment in the Land Records.

**(f) Enforcement and collection costs. In the event of Borrower's default under the terms of the C-PACE Documents, upon notice of the Program Manager to the Department of Finance, the City of Alexandria acting by and through the Director of Finance or their designees, shall, subject to their discretion regarding collection methods, enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and any costs of collection in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, to include the use of third party collection agents as authorized by law. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees and penalties incurred by the City of Alexandria and/or its agents, as applicable and consistent with the C-PACE Act and the Virginia Code, shall (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein shall prevent the Capital Provider to which the C-PACE Lien has been assigned from otherwise enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act or general law.**

**(g) The Department of Finance shall apply any loan payment collected via default procedures herein, first to the City's real estate taxes, penalties, and interest which are due and payable on the date of receipt of the payment, and second, upon having paid all real estate taxes due, to the C-PACE Lien in accordance with the C-PACE Loan documents.**

(a) By executing the Loan Documents including the C-PACE Program Agreement, or by otherwise participating in the Program or the Statewide Program, the Borrower and Capital Provider acknowledge and agree that as a condition of participation in the Program:

(1) The City undertakes no obligations under the Program except as expressly stated herein or in the C-PACE Program Agreement;

(2) In the event of a default by a Borrower, the City has no obligation to use City funds to make Loan Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to a Financing Agreement between the Borrower and Capital Provider;

(3) No C-PACE Loan, Loan Payment, C-PACE Lien, or other obligation arising from any Loan Document, the Act, or the chapter shall be backed by the credit of the City, the Commonwealth, or its political subdivisions, including, without limitation, City taxes or other City funds;

(4) No C-PACE Loan, Loan Payment, C-PACE Lien or other obligation arising from any Loan Document, the Act, or the chapter shall constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction;

(5) The City has not made any representations or warranties, financial or otherwise, concerning a Borrower, Eligible Property, Project, Capital Provider, or C-PACE Loan;

(6) The City makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any Loan Document, or any Assignment or amendment thereof;

(7) The City assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof;

(8) Each Borrower or Capital Provider shall, upon request, provide the City with any information associated with a Project or a C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan satisfies the requirements of the Program Guide; and

(9) Each Borrower, Capital Provider, or other participant under the Program, shall comply with all applicable requirements of the Program Guide.

#### **Sec. 7-7-8 – Additional Provisions.**

(a) Severability. The provisions of this chapter are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the chapter or provision to any person or circumstance is invalid, the remaining provisions of the chapter shall not be affected by that decision and continue in full force and effect.

Section 2. That Chapter 7 as enacted pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

12. Public Hearing, Second Reading and Final Passage of an Ordinance to adopt the use of photo speed monitoring devices in highway work zones and school crossing zones and civil penalties in Section 10-3-878.12 Article B (RECKLESS DRIVING, SPEEDING, ETC.) of Chapter 3 (OPERATION OF VEHICLES) of Title 10 (MOTOR VEHICLES AND TRAFFIC) of the Code of the City of Alexandria, Virginia, 1981, as amended. [ROLL-CALL VOTE]

The ordinance reads as follows:

#### **ORDINANCE NO. 5461**

AN ORDINANCE to adopt the use of photo speed monitoring devices in highway work zones and school crossing zones and civil penalties in Section 10-3-878.12 Article B (RECKLESS DRIVING, SPEEDING, ETC.) of Chapter 3 (OPERATION OF VEHICLES) of Title 10 (MOTOR VEHICLES AND TRAFFIC) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 3, Title 10 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding a new Section 10-3-878.12 to read as follows:

ARTICLE B- Reckless Driving, Speeding, Etc.

\*\*\*

Sec. 10-3-878.12 -Photo speed monitoring devices in highway work zones and school crossing zones; civil penalty

(a) For the purposes of this section, the following terms shall have the meanings set out below:

(1) "Highway work zone" means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs and have attached flashing lights or other traffic control devices indicating that work is in progress.

(2) "School crossing zone" means an area located within the vicinity of a school at or near a highway where the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. A school crossing zone will be marked with appropriate warning signs or other traffic control devices indicating that a school crossing is in progress.

(3) "Device" means a photo speed monitoring device that uses equipment with a radar or LIDAR-based speed detection to produce one or more photographs, microphotographs, videotapes, or other recorded images of vehicles.

(b) The City's law-enforcement agency may place and operate a device in school crossing zones for the purposes of recording violations of section 46.2-873 of the Code of Virginia (1950), as amended, and in highway work zones for the purposes of recording violations of section 46.2-878.1 of the Code of Virginia (1950), as amended.

(c) Proof of violation; presumption.

(1) Proof of a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, shall be evidenced by information obtained from the device. A certificate, or a facsimile thereof, sworn to or affirmed by a law-enforcement officer, based upon inspection of photographs, microphotographs, videotapes, or other recorded images produced by the device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such violation shall be available for inspection in any proceeding to adjudicate the liability for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended.

(2) In the prosecution for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, in which a summons was issued by mail, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, together with proof that the defendant was at the time of such violation, the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation.

(3) The presumption shall be rebutted if the owner, lessee, or renter of the vehicle-

(i) Files an affidavit by regular mail with the clerk of the general district court that the person was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who operated the vehicle at the time of the alleged violation; or

(ii) Testifies in open court under oath that the person was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person who operated the vehicle at the time of the alleged violation.

( 4) The presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, is presented, prior to the return date indicated on the summons issued pursuant to this section to the court adjudicating the alleged violation.

(5) The operator of a vehicle shall be liable for a civil penalty of up to \$100 if the operator is found, as evidenced by information obtained from the device, to have traveled at least 10 miles per hour above the posted speed limit within a school crossing zone or highway work zone speed limit within such school crossing zone or highway work zone. Civil penalties collected under this section resulting from a summons issued by a law-enforcement officer shall be paid to the City.

( 6) Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. However, if a law-enforcement officer uses a device to record a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, and personally issues a summons at the time of the violation, the conviction that results shall be made part of the driver's driving record and used for insurance purposes in the provision of motor vehicle insurance coverage.

(d) Summons for violation; mailing requirements.

(1) A summons for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued by mail pursuant to this section may be executed pursuant to section 19.2-76.2 of the Code of Virginia (1950), as amended. Notwithstanding the provisions of section 19.2-76 of the Code of Virginia (1950), as amended, a summons issued by mail pursuant to this section may be executed by mailing first-class a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, a copy shall be mailed to the address contained in the records of or accessible to the Department of Motor Vehicles of the Commonwealth of Virginia. In the case of vehicle lessee or renter, a copy shall be mailed to the address contained in the records of the lessor or renter.

(2) Every such mailing shall include, in addition to the summons, a notice of:

(i) The summoned person's ability to rebut the presumption that said person was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection ( d)(3)(i); and

(ii) Instructions for filing such an affidavit, including the address to which the affidavit is to be sent.

(3) If the summoned person fails to appear on the date of return set out in the mailed summons mailed pursuant to this section, the summons shall be executed in the manner set out in section 19.2-76.3 of the Code of Virginia (1950), as amended. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons.

( 4) If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth of Virginia and such person fails to appear on the return date set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities.

(5) Any summons executed for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued pursuant to this section shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by the device in connection with the violation. If the lawenforcement agency operating the device does not execute a summons for a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, issued pursuant to this section within 30 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 60 days from the date of the violation.

(e) Collection of information by device.

( 1) Information collected by the device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school crossing and highway work zone speeding violations. Information provided to the operator of the device shall be protected in a database and used only for enforcement against individuals who violate the provisions of this section or sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended. Notwithstanding any other provisions of law, all photographs, microphotographs, videotapes, or other recorded images collected by the device shall be used exclusively for enforcing school crossing zone and highway work zone speed limits, and shall not:

- (i) Be open to the public;
- (ii) Sold or used for sales, solicitation, or marketing purposes;
- (iii) Disclosed to any other entity except as may be necessary for the enforcement of school crossing zone and highway work zone speed limits or to a vehicle owner or operator as part of a challenge to the violation; or
- (iv) Be used in court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended, or such information is requested upon order from a court of competent jurisdiction.

(2) Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties.

(3) The City's law-enforcement agency shall annually certify compliance with this section and make all records pertaining to the device available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles of the Commonwealth of Virginia or his designee.

( 4) Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.

(f) A private vendor may enter into an agreement with the City's law-enforcement agency to be compensated for providing a device and all related support services, including consulting, operating, and administration. However, only a law-enforcement officer may swear to or affirm the certificate required by this subsection. Any such agreement for compensation shall be based upon the value of goods and services, not the number of violations paid or monetary penalties imposed.

(1) Any private vendor contracting with the City's law-enforcement agency may enter into an agreement with the Department of Motor Vehicles of the Commonwealth of Virginia, in accordance with section 46.2-208(B)(31) of the Code of Virginia (1950), as amended, to obtain vehicle owner information regarding the registered owners of vehicles that committed a violation of sections 46.2-873 or 46.2-878.1 of the Code of Virginia (1950), as amended. Any information provided to such private vendor shall be protected in a database.

(g) A conspicuous sign shall be placed within 1,000 feet of any school crossing zone or highway work zone at which the device is used, indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of the speed limit violation.

(h) The City's law-enforcement agency shall report to the Department of State Police of the Commonwealth of Virginia, in a format to be determined by the Department of State Police, by January 15 of each year on the number of traffic violations prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties collected.

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Section 2. That Chapter 3, Title 10 pursuant to Section 1 of this ordinance, be, and the same hereby, is reordained as part of the Code of the City of Alexandria.



Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

#### **IV. REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

- 13.** Public Hearing and Consideration of a Five-Year License Agreement between the City of Alexandria, Virginia and Crown Castle Fiber, LLC., to Install Fiber in the City's Rights-of-Ways for its Wireless Telecommunications Facilities and for Providing Broadband Services for its Commercial Customers in the City.

(A copy of the appeal is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 13; 10/15/22, and incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Aguirre, seconded by Vice Mayor Jackson and carried unanimously, City Council closed the public hearing and authorized the City Manager to execute the Agreement and to take other actions that are necessary to implement the Agreement. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none Councilwoman Gaskins.

#### **V. REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

##### **Planning Commission (continued)**

- 14.** Special Use Permit #2022-00018

1605 and 1611 Mount Vernon Avenue

Public Hearing and consideration of a request for a Special Use Permit to allow for the continued use of a nonconforming vehicle parking and storage lot associated with an automobile sales and service use until December 31, 2045 (amending SUP #2010-00052); zoned: CL/Commercial Low. Applicant: Alexandria Hyundai, LLC, represented by M. Catharine Puskar, attorney/agent.

Planning Commission Action: Recommended Denial 5-2

The following persons participated in the public hearing for this item:

1. Amy Sills Eggers, Alexandria, spoke in support of the item.
2. James Hook, Alexandria, spoke in opposition of the item.
3. Praveen Kathpal, Alexandria, spoke in opposition of the item.
4. Gayle Reuter, Alexandria, spoke in support of the item.
5. Kevin Reilly, applicant, spoke in support of the item.

6. M. Catharine Puskar, agent, spoke in support of the item and responded to question from Council.

**WHEREUPON**, upon motion by Councilman Aguirre, seconded by Vice Mayor Jackson and carried 6-0, City Council closed the public hearing. The vote was as follows: Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman Chapman and carried 4-2, City Council approved the Planning Commission recommendation with amendments to the following conditions: #3. Existing fencing along the southern and eastern property lines shall remain at a height of six feet and shall be maintained; #4. The applicant shall revise the landscaping to add street trees in the planting bed along Mt. Vernon Avenue and ensure a continuous evergreen hedge that will grow to a height of at least three feet. In lieu of this requirement the applicant may install alternative plantings or screening improvements in the existing planting beds to the satisfaction of the Director of Planning & Zoning in consultation with the neighborhood. All landscaping shall be maintained; #5. Condition deleted; #13. The application will be docketed for City Council's review sometime within the year 2040 to determine whether the use is still suitable for this location. If the SUP is allowed to continue at that time, it will expire on December 31, 2045; #20. The applicant shall install four Level 3 publicly accessible and three Level 3 private charging stations in parking spaces along Mt. Vernon Avenue as shown on the revised exhibit titles "comparison Site Plans" prepared by Penny Design Group and dated October 14, 2022, prior to the October 2023 standard one year SUP inspection; and #29. The applicant shall fund the installation of additional street trees on the sidewalk right of way in areas the Directors of Planning & Zoning, Transportation & Environmental Services and Recreation, Parks and Cultural Activities identify as suitable, at a cost of \$2,500 per new tree installed. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Chapman, and Councilman McPike; Opposed, Councilman Aguirre and Councilmember Bagley; Absent, Councilwoman Gaskins.

**\*\*\*City Council approved docket item #15 and docket item #16 together.\*\*\***

- 15.** Special Use Permit #2022-00063  
1707, 1709 and 1711 Mount Vernon Avenue  
Public Hearing and consideration of a request for a Special Use Permit for the expansion of a non-complying automobile sales and service use (amending SUP #2006-0019); zoned: CL/Commercial Low.  
Applicant: Alexandria Hyundai, LLC, represented by M. Catharine Puskar, attorney/agent.  
Planning Commission Action: Recommended Approval 4-3

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 15; 10/15/22, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Aguirre, seconded by Vice Mayor Jackson and carried unanimously, City Council closed the public hearing and authorized the City Manager to execute the Agreement and to take other actions that are necessary to implement the Agreement. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman McPike and carried 6-0, City Council approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

- 16.** Special Use Permit #2022-00064  
1801 Mount Vernon Avenue  
Public Hearing and consideration of a request for a Special Use Permit for the expansion of a non-complying automobile sales and service use (amending SUP #2006-0021); zoned: CL/Commercial Low.  
Applicant: Alexandria Hyundai, LLC, represented by M. Catharine Puskar, attorney/agent  
Planning Commission Action: Recommended Approval 4-3

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 16; 10/15/22, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Aguirre, seconded by Vice Mayor Jackson and carried unanimously, City Council closed the public hearing and authorized the City Manager to execute the Agreement and to take other actions that are necessary to implement the Agreement. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none Councilwoman Gaskins.

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman McPike and carried 6-0, City Council approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

**17. Master Plan Amendment #2022-00004**

Rezoning #2022-00005

Development Special Use Permit #2022-10014

2729 King Street - Woodbine Rehabilitation and Healthcare Facility Addition Public Hearing and consideration of a request for: (A) Master Plan Amendment to change the height of the subject property to a maximum of 45 feet; (B) an amendment to the official zoning map to change the zone from R-8/Single-family to RB/Townhouse and; (C) a Development Special Use Permit and site plan to construct an addition to an existing nursing home, with modifications to both side yard setbacks to allow greater than 50% of the southern side yard for parking and to the zone transition setbacks and a special use permit for a parking reduction to reduce the number of required loading spaces and increase the percentage of compact spaces to 82%; zoned R-8 / Single-Family Zone. Applicant: Woodbine Property 1, LLC. represented by M. Catharine Puskar, attorney  
Planning Commission Action: Recommended Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Item No. 17; 10/15/22, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Aguirre, seconded by Vice Mayor Jackson and carried unanimously, City Council closed the public hearing and authorized the City Manager to execute the Agreement and to take other actions that are necessary to implement the Agreement. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none Councilwoman Gaskins.

**WHEREUPON**, upon motion by Vice Mayor Jackson, seconded by Councilman McPike and carried 6-0, City Council approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Wilson, Vice Mayor Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike; Opposed, none; Absent, Councilwoman Gaskins.

**VI. ORDINANCES AND RESOLUTIONS**

None.

**VII. REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

**DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**Planning Commission (continued)**

None.

**VIII. ADJOURN.**

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman McPike, seconded by Councilman Chapman and carried 6-0, City Council adjourned the October 15, 2022 Public Hearing Meeting at 12:33 p.m. The vote was as follows: In favor, Mayor Wilson, Vice Mayor

Jackson, Councilman Aguirre, Councilmember Bagley, Councilman Chapman, and Councilman McPike;  
Opposed, none; Absent, Councilwoman Gaskins.

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APPROVED BY:

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JUSTIN WILSON, MAYOR

ATTEST:

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Keia Waters, CMC, Deputy City Clerk

Adopted: December 13, 2022