

## REGULAR MEETING

June 14, 2011

At a regular meeting held this evening at 7:00 p.m., there were present: Mayor Richard A. Baugh, Vice-Mayor Ted Byrd, Council Members Kai Degner, Charles Chenault and David Wiens. Also present: City Manager Kurt D. Hodgen, Assistant City Manager Anne C. Lewis, City Attorney Earl Q. Thumma, Jr., City Clerk Erica S. Kann and Police Chief Harper. Absent: None.

Mayor Baugh gave the invocation and also led everyone in the Pledge of Allegiance.

Ricky Porco provided an overview of the community building initiative that he started in the City of Harrisonburg. Mr. Porco stated that the website is called Common Place Harrisonburg and its sole purpose is to promote civic engagement in the community. The website is a utility for residents in Harrisonburg to connect with their neighbors and to stay up to date with information about local events. He invited Council and citizens of the City of Harrisonburg to join the free website.

Council Member Degner offered a motion to approve the following items on the consent agenda:

- a. Approval of minutes of the previous meeting, and dispensing with reading of minutes.
- b. Consider a supplemental appropriation for the Police Department in the amount of \$500.00 Second Reading.
- c. Consider request to close a 759 +/- square foot undeveloped portion of an alley. Second Reading.
- d. Consider referring an alley closing request at 164 W. Bruce Street to Planning Commission.

The motion was seconded by Vice-Mayor Byrd and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Stacy Turner, Director of Planning and Community Development, presented the Council a request from Geraldine Howdyshell and Brandon Howdyshell for a special use permit per Section 10-3-34 (9) to allow fences greater than the height otherwise permitted within the R-1, Single Family Residential District. The 10,512 +/- sq. ft. property is located at 231 Sunrise Avenue and can be found on tax maps 23-B-47 & 48. Mrs. Turner

stated no one spoke against this request at the Planning Commission public hearing and there are several letters showing support to this request. Mrs. Turner stated that the Comprehensive Plan designates this area as Low Density Residential. Mrs. Turner stated the property has a single family home and the owners are requesting to construct a fence that reaches twelve-feet in height along the rear of their property, before tapering to a height of five-feet. Mrs. Turner stated the property is located behind Oriental Food Market and their associated parking lots, which any person visiting the market are able to stand in the parking lot and look directly over the fence. Mrs. Turner stated the homeowners would like to be able to enjoy and entertain within the rear of their home without items thrown into their yard or their pets teased and provoked by persons on the commercial lot. Mrs. Turner stated staff does not foresee any negative impact in approving this special use permit and Planning Commission recommended approval.

At 7:11 p.m., Mayor Baugh closed the regular session and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record May 30 and June 6, 2011:

#### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday, June 14, 2011 at 7:00 p.m., or as soon as the agenda permits, in the City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider the following:**

***Special Use Permit – Fence Height 231 Sunrise Avenue 10-3-34 (9)***

**Public hearing to consider a request from Geraldine Howdyshell and Brandon Howdyshell for a special use permit per Section 10-3-34 (9) to allow fences greater than the height otherwise permitted within the R-1, Single Family Residential District. The 10,512 +/- sq. ft. property is located at 231 Sunrise Avenue and can be found on tax maps 23-B-47 & 48.**

***Special Use Permit – 862 North Liberty Street 10-3-97 (10) Rec. Activity***

**Public hearing to consider a request from the Waterman Group, LLC, with representative Steve Hill for a special use permit per Section 10-3-97 (10) to allow recreational and leisure time activities within the M-1, General Industrial District. The 2.87 +/- acre property is located at 862 North Liberty Street and can be found on tax map 40-N-40.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

## **CITY OF HARRISONBURG**

**Kurt D. Hodgen**

**City Manager**

Mayor Baugh called on anyone to desiring to speak for or against the special use request. There being no one desiring to be heard, the public hearing was declared closed at 7:11 p.m., and the regular session reconvened.

Vice-Mayor Byrd offered a motion to approve the special permit request as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Mayor Baugh stated the other public hearing that was advertised, 862 North Liberty Street, was withdrawn after the notice was placed in the newspaper, but before the agenda was completed. Therefore, a public hearing would not be held.

Stacy Turner presented to Council a request from Gary Bodkin to preliminarily subdivide one .77 acre parcel into nine townhouse lots, with a variance request, on a parcel zoned R-3, Medium Density Residential, and addressed as 2541 Reservoir Street and can be found on tax map 81-A-12. Mrs. Turner stated the Comprehensive Plan designates the area as Medium-Density Mixed Residential. The designation is intended for small-lot single family detached and single-family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. The gross density of development in these areas should be in the range of 4-12 dwelling units per acre. Mrs. Turner stated the property known as Lady Slipper Court, has history since 2005 when 10 townhouse lots with five feet of right-of-way were approved. Since then a revised plan was submitted in 2007 and expired in January of 2008. Mrs. Turner stated this request is a resubmission of the expired preliminary plat and is exactly the same, except for one item. If Council approves, the current request, the 20 feet of right-of-way would be dedicated to the City as part of the final plat approval for Lady Slipper Court. Mrs. Turner stated staff had concerns about parking, and therefore suggested the applicant provide a restriction within the restriction covenants for Lady Slipper Court that prevents the conversion of garages into living space. Mrs. Turner stated another concern staff made the applicant aware of is that in the future, an easement may be necessary to relocate a hydrant once the Reservoir Street Improvement plans are finalized and approved. Mrs. Turner stated that staff supports the preliminary plat with the variance request and Planning Commission recommended

approval. Council Member Degner offered a motion to approve the request to preliminarily subdivide one .77 acre parcel as presented. The motion was seconded by Vice-Mayor Byrd and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

D.D. Dawson, Director of Finance and Technology, presented to Council for consideration a request for a School Fund transfer in the amount of \$575,000.00. Mrs. Dawson stated there has been an increase of services provided within the transportation function and a purchase of two special education vans. Mrs. Dawson stated in the function of operation and maintenance, the HVACs system will be retrofitted at Stonespring Elementary School. Mrs. Dawson stated for the technology function, some items were purchased that would be typically coded as instruction. Mrs. Dawson stated that no additional City funds are required for the school division to receive this transfer. Council Member Chenault offered a motion to approve the request for the first reading, and that:

\$575,000.00 chge. to: 1111-111114-40610 Instruction

\$262,133.00 approp. to: 1111-111114-40630 Transportation

71,860.00 approp. to: 1111-111114-40640 Operation and Maintenance

241,007.00 approp. to: 1111-111114-40680 Technology

The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Lacy Whitmore, Executive Director of the Harrisonburg-Rockingham Community Services Board (HRCBSB), provided an overview of the new state requirements for children's mental health services that will be affecting the Community Services Board (CSB). Mr. Whitmore stated that the program is a funded mandate and is required for all 40 CSB's around the state. Mr. Whitmore stated that the General Assembly directed the State's Medicaid Agency to develop a new system to be in effect July 1, 2011. The CSB will be required to assess the ability and treatment needs of each child that is identified to

potentially receive Medicaid services in our community. Mr. Whitmore pointed out that in 2010, 325 local children and adolescents received Medicaid services for which each provider performed the assessments. Mr. Whitmore stated they are planning for that number from 2010 to now come through the CSB services. Mr. Whitmore also mentioned that each provider relied on their internal assessment of eligibility. Mr. Whitmore stated the change will be using a managed care tool, which consists of an independent assessment provided by the Public Provider of Mental Health Services performed at the McNulty Center. Mr. Whitmore stated the CSB's plan is to collaborate with local providers that traditionally provided assessments, provide a professional independent assessment, and have the goal of placing the child and family into the correct level of services they require.

Mr. Whitmore highlighted a current advocacy report on children's health that was produced by the Richmond, VA advocacy non-profit group Voice's for Virginia's Children. The report identified a range of mental health system deficiencies in the State including the inconsistencies in capacity in the public health system by locality. Mr. Whitmore stated that in the report, each of the 40 CSB's in the State are ranked, which our Board is ranked next to last. Mr. Whitmore stated that the report only included the service categories that are provided by the CSB and it excluded all of the private providers that the Harrisonburg area utilizes. Mr. Whitmore stated that in another survey of public services for outpatient services for children, Harrisonburg ranked highest in the State in terms of caregivers satisfaction with outcomes that were achieved with the children.

Dave Miller, Owner of Dave's Downtown Taverna, presented to Council his vision and proposal of a Downtown Amphitheater/Park to be located in the parking lot adjacent to the Turner Pavilion. Mr. Miller touched on a few benefits to downtown Harrisonburg that the amphitheater/park would bring and they were as follows: storage and bathrooms for Farmer's Market, better facilities and better venue for festivals, eco-friendly facilities, and more green space. Mr. Miller presented a before and after photo of what the amphitheater could look like. Mr. Miller presented a three step process to get the amphitheater a reality: Downtown Dining Alliance Inc. (DDA) along with Harrisonburg Downtown Renaissance Inc. (HDR) seeks Council's permission to develop a preliminary plan to move the project forward; if acceptable, Council grants DDA and HDR permission to implement the plan as approved by stakeholders, including Harrisonburg Electric Commission; if accepted, grant DDA and HDR revocable license to commence park operation. Mr. Miller stated that by step two of the process, no one in Harrisonburg should be unhappy with the plan. Mr. Miller stated that HDR has proven over the last 7 to 8 years that they can raise money and hold large events downtown without feasible facilities. Mr. Miller stated the Rocktown Beer and Music Festival is a perfect example of DDA and HDR working together and shows the demand from local citizens and people from other locations coming in for the event. Mr. Miller presented Council with a timeline which included four parts: Present Amphitheater Concept to Council, Request City to Accept Part B of DDA License Agreement-Implement Preliminary Plan, City to Give Final Approval and Accept Part C of DDA license Agreement-Construction, and City to Accept Part D of DDA License Agreement-

Operations. Mr. Miller would like to be at Part D of the plan by March 2012. Mr. Miller stated that he is unaware of the final amount of the project, but he would like to start raising funds and hold public meetings to get the needs and wants from citizens now. Mr. Miller stated that the money and five year commitment by Council did wonders for HDR and Downtown Harrisonburg. Mr. Miller stated that he is looking to Council for confidence, a small commitment, permission to use the City's property, and DDA and HDR will do the rest. Mr. Miller shared two letters of support from Harrisonburg Farmer's Market and HDR. Mr. Miller stated he had met with Harrisonburg Electric Commission and was hoping for a letter of support, but they have to check with the Commission about having a stage at their back door. Mr. Miller stated he is a dreamer and a firm believer in "if you build it they will come."

Council Member Degner stated that he would like to see exploration of the plan and a feasibility study done without the City having to provide \$90,000.00. Mr. Miller stated he would like to have some kind of financial commitment from the City. Council Member Wiens wanted to be clear about the commitment and it is a financial commitment up to \$90,000.00 and commitment to the use of City land. Mr. Miller stated that that in five years, the City will be paid back what it spends towards the venue with citizens and others coming into the City and spending money. Mr. Miller stated even if the City doesn't net as much as he thinks the City will, there will be a nice facility the community can utilize. Mr. Miller stated the DDA will run the facility and after all the bills are paid the rest of the money will help fund local charities such as HDR. Vice-Mayor Byrd asked Mr. Miller that if the amphitheater/park is a success, the City wouldn't have to fund HDR in the future. Mr. Miller stated that he believes that will be the case, but he couldn't guarantee it. Vice-Mayor Byrd asked Mr. Miller how many jobs he feels the amphitheater would bring to the City. Mr. Miller stated that if a weekend such as the Rocktown Festival happened every weekend he would have to hire 20 new staff members just for his restaurant. Council Member Chenault asked if the City owned the facility, would bids have to be placed for a company to run the events. City Attorney Thumma stated that bids would not have to be placed. Council Member Chenault stated he believes in the plan for what it could do for the City, but he doesn't believe in the expedited time line. Council Member Chenault asked the amount of the grant that was applied for. Mr. Miller stated \$2,500.00 from the HDR to the Virginia Main Street for feasibility study and project recommendations with a match of \$2,500.00 from private funds. After further discussion, Council would like the opportunity to digest the items presented, would like to have economic projections, and would like to revisit the project at the next council meeting after getting feelings from staff members of the City before taking action on the matter presented. Mayor Baugh stated two suggestions were made (1) let the private sector continue with this project and get more information to bring back to Council and (2) take a formal public private process better known as the Public-Private Educational Facilities Act (PPEA) that could be engaged.

Ande Banks, Special Project and Grant Coordinator, stated that tonight's meeting was the final consideration of the 2011-2012 CDBG Action Plan. Mr. Banks stated since the March 22, 2011 council meeting, he received the final allocation in the amount of \$488,106.00 with \$8,000.00 rolled over from the previous year which totals \$496,106 for 2011-2012 CDBG program. Mr. Banks mentioned the awarded projects from the following categories of: Housing & Property Improvements, Community & Public Facilities, Administration, and Public Services that will receive CDBG funds. Mr. Banks reminded Council that the groups and projects that were awarded are voted and prioritized by both the selection committee and departments. Mr. Banks stated, with council approval, these documents will go to Richmond for HUD's final approval. Council Member Chenault offered a motion to approve the 2011-2012 CDBG Action Plan as presented. The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Drew Williams, Assistant Director of Public Works, reviewed planned improvements around JMU Campus during summer of 2011. Mr. Williams presented three sections to Council of where improvements will be made which include: South Main Street Corridor, Cantrell Avenue Corridor, and the University Boulevard Corridor. Mr. Williams stated that the items on South Main Street are the following: campus gating system, intersection improvements at South Main Street/West Fairview Drive, intersection reconfiguration at Harrison Street/Warsaw Avenue, traffic signal modification at Grace Street/South Main Street, and enhanced crosswalk repairs. Mr. Williams stated that the items on Cantrell Avenue include traffic signal modification at Cantrell Avenue/Mason Street and Cantrell Avenue Widening. Mr. Williams stated that the items on University Boulevard are: install traffic light Carrier Drive/University Boulevard, install crosswalk Carrier Drive/Driver Drive, repave parts of University Boulevard, and improve parts of shoulder on Driver Drive. Vice-Mayor Byrd stated that he would like to see an installation of an 81 south sign on the light coming west bound notifying drivers to be in the left lane.

Dan Rublee, City Engineer, stated that one of his roles also includes the Erosion and Sedimentation Control Administrator. He presented changes that he would like Council to consider to the ordinance for amending and re-enacting Chapter 4 of Title 10 (Erosion and Sedimentation Control) of the Harrisonburg City Code. Mr. Rublee pointed out the changes that are being made to bring the City Code to reflect the Virginia State Code. Mr. Rublee presented the following ordinance to Council for consideration:

**ORDINANCE AMENDING AND RE-ENACTING CHAPTER 4 OF TITLE 10  
OF THE**

## HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Chapter 4 of Title 10 be amended and re-enacted as follows:

### CHAPTER 4. EROSION AND SEDIMENTATION CONTROL\*

§ 10-4-1. Title, purpose and authority.

§ 10-4-2. Definitions.

§ 10-4-3. Administration of chapter in conjunction with subdivision and zoning ordinances.

§ 10-4-4. Local erosion and sediment control program.

§ 10-4-5. Submission and approval of plans; contents of plans.

§ 10-4-6. Permits; fees; security for performance.

§ 10-4-7. Monitoring, reports and inspections.

§ 10-4-8. Penalties, injunctions, and other legal actions.

§ 10-4-9. Civil violations, summons, generally.

§ 10-4-10. Appeals and judicial review.

#### Sec. 10-4-1. Title, purpose and authority.

This chapter shall be known as the "Erosion and Sediment Control Ordinance of the City of Harrisonburg, Virginia." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the city by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

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

(Ord. of 9-11-07)

#### Sec. 10-4-2. Definitions.

As used in the chapter, unless the context requires a different meaning:

*Agreement in lieu of a plan* means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

*Applicant* means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

*Board* means the Virginia Soil and Water Conservation Board.

*Certified inspector* means an employee or agent of a program authority who  
(i) holds a certificate of competence from the board in the area of project inspection



or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

*Certified plan reviewer* means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.

*Certified program administrator* means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one (1) year after enrollment.

*City* means the City of Harrisonburg, Virginia.

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

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

*Department* means the department of conservation and recreation.

*Development* means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units.

*Director* means the director of the community development department or their assignee.

*District or soil and water conservation district* refers to the Shenandoah Valley Soil and Water Conservation District.

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

*Erosion impact area* means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes.

*Excavating* means any digging, scooping or other methods of removing earth materials.

*Filling* means any depositing or stockpiling of earth materials.

*Grading* means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

*Land-disturbing activity* means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto

lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (section 10.1-604 et seq.) of chapter 6, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of chapter 11 (section 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of section 10.1-1163;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than ten thousand (10,000) square feet in size;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles; and
- (11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

*Land disturbing permit* means a permit issued by the city for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

*Local erosion and sediment control program or local control program* means an outline of the various methods employed by the city to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

*Natural channel design concepts* means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open

conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

*Owner* means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

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

*Permittee* means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

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

*Plan approving authority* means the department of community development which is responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

*Program authority* means the city which has adopted a soil erosion and sediment control program approved by the board.

*Responsible land disturber* means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan when applicable, who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

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

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one (1) family.

*State erosion and sediment control program or state program* means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.

*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdictions.

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

*Water quality volume* means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.  
(Ord. of 9-11-07)

**Sec. 10-4-3. Administration of chapter in conjunction with subdivision and zoning ordinances.**

This chapter shall be administered, where applicable, in conjunction with the city's subdivision and zoning ordinances wherein such apply to the development and subdivision of land within the city or where such apply to development on previously subdivided land within the city.  
(Ord. of 9-11-07)

**Sec. 10-4-4. Local erosion and sediment control program.**

(a) Pursuant to section 10.1-562 of the Code of Virginia, the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the board and the city's Design and Construction Standards Manual for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended.

(b) Before adopting or revising regulations, the city shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the city is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the city proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with section 10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

In accordance with section 10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

(c) Pursuant to section 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted under the direction of a certified inspector. The erosion control program of the City of Harrisonburg, Virginia shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(d) The city hereby designates the director of the department of community development or their designee as the program authority and plan-approving authority.

(e) The program and regulations provided for in this article shall be made available for public inspection at the office of the department of community development.

(Ord. of 9-11-07)

**Sec. 10-4-5. Submission and approval of plans; contents of plans.**

(a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the department of community development for the city an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(b) The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control Handbook and the city's Design and Construction Standards Manual are to be used by the applicant when making a submitted under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.

(c) The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of the board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by section 10.1-561, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-

disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by section 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

(d) The plan shall be acted upon within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval. When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(e) An approved plan may be changed by the plan-approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

(f) Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions by granting a variance. A variance may be granted under these conditions:

(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.

(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(g) In order to prevent further erosion, the city may require approval of a plan for any land identified as an erosion impact area.

(h) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

**(i) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to: construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and; construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company. Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when board approved specifications are followed, however, projects included in subdivisions 1 and 2 must comply with board approved specifications. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the city's erosion and sediment control program.**

**(j) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, § 10.1-564.**

**(Ord. of 9-11-07)**

**Sec. 10-4-6. Permits; fees; security for performance.**

**(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.**

**(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this article, and has paid the fees and posted the required bond.**

**(c) An administrative fee shall be paid to the city at the time of each submission of the erosion and sediment control plan which fees shall be set by the city's annual appropriation ordinance.**

**(d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.**

**(e) All applicants for permits shall provide to the city a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the director of community development, or their assignee, to ensure that measures could be taken by the city at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on the city's list of standard unit prices. Should it be necessary for the city to take such conservation action, the city may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of adequate stabilization, as determined by the director of community development or their assignee, in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.**

**(f) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.**

**(Ord. of 9-11-07)**

**Sec. 10-4-7. Monitoring, reports and inspections.**

**(a) The city may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.**

**(b) The director of community development or their assignee shall periodically inspect the land-disturbing activity in accordance with section 4VAC50-30-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the director of community development or their assignee determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and shall be subject to the penalties provided by this chapter.**

**(c) Upon determination of a violation of this chapter, the director of community development or their assignee may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. If land-disturbing activities have commenced without an approved plan, the director of community development or their assignee may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Rockingham County, Virginia. If the**



alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the director of community development or their assignee may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of city. The owner may appeal the issuance of an order to the Circuit Court of Rockingham County, Virginia. Any person violating or failing, neglecting or refusing to obey an order issued by director of community development or their assignee may be compelled in a proceeding instituted in the Circuit Court of Rockingham County, Virginia to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the director of community development or their designee from taking any other action authorized by this chapter.  
(Ord. of 9-11-07)

**Sec. 10-4-8. Penalties, injunctions, and other legal actions.**

(a) Any person who violates any provision of this ordinance shall, upon a finding of the District Court of Rockingham County, Virginia, be assessed a civil penalty. The civil penalty for any one violation shall not be less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be one thousand dollars (\$1,000.00). Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00) Civil penalties shall be as set forth in the schedule below:

	Minimum Standard Violations	Land-Disturbance
w/o Permit		
1 <sup>st</sup> Inspection	Warning issued	Warning
Issued		
2 <sup>nd</sup> Inspection	\$100/day/violation	\$1000/day
3 <sup>rd</sup> Inspection	\$300/day/violation	\$1000/day
4 <sup>th</sup> Inspection	\$1000/day/violation	\$1000/day
5 <sup>th</sup> Inspection	Referral for bond collection	Referral for bond collection

(b) The director of community development, or their designee, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Rockingham County, Virginia to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property,

and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(c) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city. Any civil penalties assessed by a court shall be paid into the treasury of the city, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(d) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the city may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (c) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (c).

(e) The city's attorney shall, upon request of the city or the permit issuing authority, take legal action to enforce the provisions of this chapter.

(f) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(Ord. of 9-11-07)

#### **Sec. 10-4-9. Civil violations, summons, generally.**

(a) The director of community development, or their assignee, shall prepare an appropriate erosion and sediment control civil violation summons for use in enforcing the provisions of this chapter.

(b) Any inspector of the city charged with enforcing this chapter shall serve upon any owner or permittee in violation of this chapter, a summons notifying the owner or permittee of said violation. If unable to serve the owner or permittee in person, the inspector may notify by summons an owner or permittee committing or suffering the existence of a violation by certified, return receipt, requested mail, of the infraction. The Sheriff of Rockingham County, Virginia may also deliver the summons. The summons shall contain the following information: (i) The name and address of the person charged; (ii) The nature of the violation and chapter provision(s) being violated; (iii) The location, date, and time that the violation occurred, or was observed; (iv) The amount of the civil penalty assessed for the violation; (v) The manner, location, and time that the civil penalty may be paid to the city treasurer; and (vi) The right of the recipient of the summons to elect to stand trial for the infraction and the date of such trial.

(c) The summons shall provide that any person summoned for a violation may, within five (5) days of actual receipt of the summons or, within ten (10) days from the date of mailing of the summons, elect to pay the civil penalty by making an

appearance in person, or in writing by mail to the city treasurer's office and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged and provide that a signature to an admission of liability shall have the same force and effect as a judgment in court; however, an admission shall not be deemed a criminal conviction for any purpose.

(d) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the city shall cause the Sheriff of Rockingham County, Virginia, to serve the summons on the person charged in the manner prescribed by law. The violation shall be tried in general district court in the same manner and with the same right of appeal as provided in Title 8.01 of the Code of Virginia. In any trial for a scheduled violation authorized by this section, it shall be the burden of the city to show the liability of the violation by the preponderance of the evidence. Any admission of liability, or finding of liability shall not be a criminal conviction for any purpose.

(e) The remedies provided for in this chapter are cumulative, and are not exclusive and, except as provided above, shall be in addition to any other remedies by law.

(f) The owner or permittee may pay the civil penalty to the city treasurer prior to the trial date, provided he also pay necessary court costs in addition to the civil penalty.

(g) Within the time period prescribed in subsection (c) above, the owner or permittee, may contest the violation by presenting it to the director of community development, who shall certify the contest in writing, on an appropriate form, to the general district court.

(h) Failure to pay the civil penalty, or to contest the violation, within the time period prescribed in subsection (c) above, shall result in the immediate issuance of a stop work order and the revocation of the permit, if any.

(Ord. of 9-11-07)

#### **Sec. 10-4-10. Appeals and judicial review.**

(a) Any applicant under the provision of this ordinance who is aggrieved by any action of the city or its agent in disapproving plans submitted pursuant to this chapter shall have the right to apply for and receive a review of such action by the city council provided an appeal is filed within thirty (30) days from the date of the action. Any applicant who seeks an appeal hearing before the city council shall be heard at the next regularly scheduled city council public hearing provided that the city council and other involved parties have at least thirty (30) days prior notice. In reviewing the agent's actions, the city council shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the city council may affirm, reverse or modify the action. The city council's decision shall be final, subject only to review by the Circuit Court of Rockingham County, Virginia.

(b) Final decisions of the city under this chapter shall be subject to review by the Circuit Court of Rockingham County, Virginia, provided an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

**This ordinance shall be effective from the date of its passage.**

**ADOPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

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**MAYOR**

**ATTESTE:**

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**CLERK OF THE COUNCIL**

Council Member Degner offered a motion to approve amending and re-enacting Chapter 4 of Title 10 (Erosion and Sedimentation Control) of the Harrisonburg City Code. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Mike Collins, Director of Public Utilities, presented Council to consider amending and re-enacting Section 7-4-1 "Schedule of rates and charges generally" of the Harrisonburg City Code. Mr. Collins stated that the changes that are being made are to support the adopted FY 2011-2012 budget. Mr. Collins directed citizens to visit the Public Utilities website and read the 2012 Financial Perspective to receive more information. Mr. Collins presented the following ordinance for Council's consideration:

**Section 7-4-1. Schedule of rates and charges generally.**

**The rates for water and sewer services, to be applied to one hundred (100) percent of the water meter readings, shall be as follows:**

**(1) *Water rates, per month:***

**a. City water rates, per month:**

- 1. First zero (0) gallons to two thousand five hundred (2,500) gallons at two dollars and twenty-eight cents (\$2.28) per one thousand (1,000) gallons;**
- 2. Next two thousand five hundred (2,500) gallons to twenty-five thousand (25,000) gallons at two dollars and sixty-five cents (\$2.65) per one thousand (1,000) gallons;**
- 3. Next twenty-five thousand gallons (25,000) to two hundred fifty thousand (250,000) gallons at two dollars and thirty-six cents (\$2.36) per one thousand (1,000) gallons;**

4. All over two hundred fifty thousand (250,000) gallons at one dollar and ninety-four cents (\$1.94) per one thousand (1,000) gallons.
- b. Rural water rates, per month:
1. First zero (0) gallons to two thousand five hundred (2,500) gallons at four dollars and twenty-one cents (\$4.21) per one thousand (1,000) gallons;
  2. Next two thousand five hundred (2,500) gallons to twenty-five thousand (25,000) gallons at four dollars and twenty-six cents (\$4.26) per one thousand (1,000) gallons;
  3. Next twenty-five thousand gallons (25,000) gallons to two hundred fifty thousand (250,000) gallons at four dollars and twenty-six cents (\$4.26) per one thousand (1,000) gallons;
  4. All over two hundred fifty thousand (250,000) gallons at three dollars and fifty-three cents (\$3.53) per one thousand (1,000) gallons.
- c. In addition to the city and rural water rates as set forth above, there shall be \_\_\_\_\_ added to all water bills generated in the months of July, August, September, October and November of each year a seasonal water rate charge of twenty-four cents(\$0.24) per one thousand (1,000) gallons.
- d. Minimum water charges per month by meter :( three thousand (3,000) gallons \_\_\_\_\_ for 5/8, 3/4 meter; AWWA equivalent multiplier for larger sizes):

**TABLE INSET:**

Meter Size (inches)	City Minimum (per month)	Rural Minimum (per month)
5/8, 3/4	\$ 7.03	\$ 12.66
1	\$ 12.33	\$ 21.18
1 1/2	\$ 25.58	\$ 42.48
2	\$ 100.53	\$ 193.52
3	\$ 151.62	\$ 291.61
4	\$ 303.80	\$ 583.80
6	\$ 404.89	\$ 777.87
8	\$ 608.95	\$ 1,187.34
10	\$ 816.35	\$ 1,563.34

e. Rockingham County Water Agreement of 1995 (north and east areas): Rates shall conform to the contract or any amendments to the same.

- (2) *Sewer plus authority rates, per month:*
- a. City sewer plus authority rates, per month (includes two dollars (\$2.00) per one thousand (1,000) gallons for each of the following rate groups for sewer charge):
    - 1. First zero (0) gallons to two thousand five hundred (2,500) gallons at four dollars and forty-seven cents (\$4.47) per one thousand (1,000) gallons;
    - 2. Next two thousand five hundred (2,500) gallons to twenty-five thousand (25,000) gallons at five dollars and thirty-nine cents (\$ 5.39) per one thousand (1,000) gallons;
    - 3. Next twenty-five thousand (25,000) gallons to two hundred fifty thousand (250,000) gallons at five dollars and eighteen cents (\$5.18) per one thousand (1,000) gallons;
    - 4. All over two hundred fifty thousand (250,000) gallons at four dollars and seventy-five cents (\$4.75) per one thousand (1,000) gallons.
  - b. Rural sewer rates, per month (includes two dollars (\$2.00) per one thousand (1,000) gallons for each of the following rate groups for the sewer charge):
    - 1. First zero (0) gallons to two thousand five hundred (2,500) gallons at six dollars and eighty-five cents (\$6.85) per one thousand (1,000) gallons;
    - 2. Next two thousand five hundred (2,500) gallons to twenty-five thousand (25,000) gallons at eight dollars and fifty-five cents (\$8.55) per one thousand (1,000) gallons;
    - 3. Next twenty-five thousand (25,000) gallons to two hundred fifty thousand (250,000) gallons at eight dollars and twenty-seven cents (\$8.27) per one thousand (1,000) gallons;
    - 4. All over two hundred fifty thousand (250,000) gallons at seven dollars and forty-one cents (\$7.41) per one thousand (1,000) gallons.
  - c. Minimum sewer charges, per month by meter: (three thousand (3,000) gallons for 5/8, 3/4 meter; AWWA equivalent multiplier for larger sizes):

**TABLE INSET:**

Meter (inches)	Size	City (per month)	Minimum	Rural (per month)	Minimum
5/8, 3/4		\$13.87		\$ 21.40	
1		\$ 24.65		\$ 38.50	

1 1/2	\$ 51.60	\$ 81.25
2	\$ 116.44	\$ 216.70
3	\$ 173.14	\$ 322.08
4	\$ 343.37	\$ 638.21
6	\$ 520.95	\$ 844.32
8	\$ 831.75	\$ 1387.55
10	\$ 1168.45	\$ 1863.50

All minimum charges for both city and rural include authority O & M and debt charge. There shall be a separate minimum charge for each meter.

d. Rockingham County Water Agreement of 1995 (north and east areas): Rates shall conform to the contract or any amendments to the same.

(3) *Utility tax:* A ten (10) percent utility tax is added to the total water bills of city users, maximum one dollar (\$1.00) residential, fifteen dollars (\$15.00) commercial. Two and one-half (2 1/2) percent tax on all rural users.

(4) *Regulations:* All unpaid accounts are subject to discontinuance of service one (1) month and five (5) days after past due. There shall be an administrative charge of thirty-five dollars (\$35.00) added to the utility bill of any account that requires adjustment due to a returned check by the bank on which it is drawn, for any reason. Accounts sixty (60) days or more past due shall be forwarded to a collection agency. Administrative charges incurred from the collection of past due accounts shall be charged to the account holder.

(5) *Other charges:*

Table Inset:

Field Call during working hours	\$15.00
Field Call after working hours	\$15.00 + Cost
Re-Connections during working hours	\$25.00
Re-Connections after working hours	\$25.00 + Cost
Tapping Orders >72 hours notice	\$25.00 per meter
Tapping Orders <72 hours notice	\$50.00 per meter
Tapping Orders <72 hours notice after working hours	\$50.00 per meter + Cost
Meter Test < 2" in size	\$25.00

Meter Test 2” or greater in size	\$150.00
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- (6)
  - a. **Field Call Charge** for turning on the water service or transferring account ownership, which charges shall be included on the first monthly statement submitted after service is cut on;
  - b. There is no charge for turning service off;
  - c. Cost shall be as defined in section 7-4-23 of this Code;
  - d. **Re-Connection charge** applies to any person, firm, or corporation whose utility service has been discontinued for non-payment of account, or who fail to comply with delinquent payment cutoff time, and shall, before the service is re-established, pay all delinquent and current bills.
  - e. When a date and time to establish a connection has been agreed to between the customer and the city public utilities department and the customer fails to be present at such date and time then the customer shall be charged a site visit fee of fifteen dollars (\$15.00).
  - f. Installation of meters will be assessed a twenty-five dollar (\$25.00) fee per meter when scheduled seventy-two (72) hours in advance; if less than seventy-two (72) hours a fifty dollar (\$50.00) fee will be assessed per meter. There will be no additional connection fee subject to 7-4-1.

(7) The Director is authorized on application, to exempt the payment of all charges imposed by this section, those citizens, or spouse of those, who qualify for active military service deployment on foreign soils.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTESTE:

\_\_\_\_\_  
CLERK OF THE COUNCIL

Vice-Mayor Byrd asked about the affect of the move of Rockingham Memorial Hospital and the water consumption. Mr. Collins stated adjustments were made to accommodate. Vice-Mayor Byrd offered a motion amending and re-enacting Section 7-4-1 "Schedule of rates and charges generally" of the City Code. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

- Yes – Mayor Baugh
- Vice-Mayor Byrd
- Council Member Degner



Council Member Chenault  
Council Member Wiens

No – None

Mr. Collins presented to Council to consider the request to write off delinquent utility accounts that the City incurred as accounts receivable between January 1, 2009 and December 31, 2009. This is .38% of the total billed (\$44,331.74) during the same time period. Mr. Collins stated the City will continue to pursue the collections, but this action is for accounting purposes only. Council Member Degner offered a motion write off the delinquent utility accounts as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

City Attorney Thumma presented to Council to consider multiple changes to Chapter 13, Section 1, "Traffic and Parking Regulations", of the City Code. City Attorney Thumma stated that the recommendations come from the Police Department. City Attorney Thumma stated there are changes being made to state law, there are no longer public parking meters in the City, residential parking permit zones for James Madison University will include Friday and Saturday during commencement activities, and items pertaining to removal and immobilization of vehicles. City Attorney Thumma presented the following ordinances for approval:

**ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-17  
OF THE  
HARRISONBURG CITY CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:**

**That Section 13-1-17 be amended and re-enacted as follows:**

**Section 13-1-17. Powers and duties of chief of police or their designee relative to traffic and parking generally.**

**(a) The chief of police or their designee, except as otherwise directed by this chapter and except as otherwise directed from time to time by council, shall have the power and he is hereby authorized to regulate the operation and parking of**

vehicles within the corporate limits of the city by the erection or placing of proper signs or markers indicating prohibited or limited parking; restricted speed areas; through or arterial streets; stop streets; U-turns; school zones; hospital zones; loading and unloading zones; quiet zones and other signs or markers indicating the place and manner of operating or parking vehicles with the corporate limits of the city.

(b) The chief of police or their designee shall also have the power and he is hereby authorized to regulate the movement of pedestrians upon the streets and sidewalks of the city by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.

(c) The chief of police or their designee shall also have the power and he is hereby authorized to designate taxicab stands and to erect signs prohibiting the parking of vehicles other than public vehicles, taxicabs or for-hire cars as defined in Section 14-1-1 at such stands.

(d) The chief of police or their designee shall also have the power and he is hereby authorized to designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.

(e) The chief of police or their designee shall also have the power to regulate the parking of vehicles of various sizes and weights.

(f) The chief of police or their designee shall further have the power and he is hereby authorized to secure all such necessary signs or markers to be erected or placed on any street or part of a street.

(g) The chief of police or their designee is further empowered and authorized to mark off traffic lanes on streets and parts of streets indicating and directing the flow of traffic.

(h) The existence of such signs or markers at any place within the corporate limits of the city shall be prima facie evidence that such signs or markers were erected or placed by and at the direction of the chief of police or their designee in accordance with the provisions of this section.

(i) Any person failing or refusing to comply with the directions indicated on any such sign or marker erected or placed in accordance with the provisions of this section, when such sign or marker so placed or erected is visible and legible, shall be guilty of a misdemeanor. Parking violations shall be punished as provided in section 13-1-72.

(j) Any signs erected under any previous ordinance shall have the same effect as if erected by the chief or police or their designee under this section.

**This ordinance shall be effective from the date of its passage.**

**ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.**

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**MAYOR**

ATTESTE:

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CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-18  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Section 13-1-18 be amended and re-enacted as follows:

Section 13-1-18. Power of chief of police or their designee as to speed limits.

Notwithstanding the speed limits fixed by this chapter, the chief of police or their designee is expressly authorized to increase or decrease the speed in business and residential districts on all streets maintained by the city; provided, that such areas or points are clearly indicated by markers or signs, and such speed shall be based on an engineering or traffic investigation, pursuant to Article 8 of Chapter 8 of Title 46.2 of the Code of Virginia, 1950, as amended, and to fix the speed on streets of the city for congested areas or curves, right angle turns, or other dangerous points on the highways when such areas or points are clearly indicated by markers or signs. Such speed limits shall be based on such engineering or traffic investigation.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:

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CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-51  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Section 13-1-51 be amended and re-enacted as follows:

**Section 13-1-51. Method generally.**

(a) No vehicle shall be parked or stopped on any street or alley in such manner as to impede or interfere with or render dangerous the use of such street or alley by another.

(b) Except upon one-way streets, no vehicle shall be stopped or parked except close to the right-hand curb and except upon one-way streets, no vehicle shall be stopped or parked with its left side to the curb.

(c) Except in an emergency or to allow another vehicle or a pedestrian to cross, no vehicle shall be stopped or parked in any street, except close to and parallel with the curb. In no case shall any vehicles be parked less than four (4) feet apart nor with the curbside wheels further than six (6) inches from the curb, except where parking regulations provide for parking at an angle to the curb.

(d) No vehicle shall be stopped or parked within fifteen (15) feet of the ends of any obstruction opposite such vehicle.

(e) Vehicles shall not be parked two (2) or more abreast parallel with the curb.

(f) No vehicle shall be parked within twenty (20) feet of a street corner. The distance shall be measured from the point where the tangent line to radius of the curb is parallel with the roadway.

(g) No person shall park a vehicle in a parking space reserved for a public official or city/county employee. The affixed official signage for said parking space shall serve as notice for whom the space is reserved and any violation will result with the violating vehicle being towed. The violating vehicle shall be towed on complaint from the public official or city/county employee for which the space is reserved.

(h) No vehicle shall be parked in a manner which violates items described in Section 13-1-72.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTESTE:

\_\_\_\_\_  
CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-52  
OF THE

**HARRISONBURG CITY CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:**

That Section 13-1-52 be amended and re-enacted as follows:

**Section 13-1-52. Parking where lines indicate parking spaces.**

On all streets marked with lines on the pavement indicating spaces for the parking of vehicles, the spaces between each two (2) lines shall constitute parking room for only one (1) four wheeled vehicle or two (2) motorcycles or moped/electric powered vehicles. No vehicle parked in such space shall be parked with wheels across the line indicating the boundaries of the space. No vehicle shall be backed into any parking stall on any city owned parking lot or parking deck marked with signs.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTESTE:

\_\_\_\_\_  
CLERK OF THE COUNCIL

**ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-53  
OF THE  
HARRISONBURG CITY CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:**

That Section 13-1-53 be amended and re-enacted as follows:

**Section 13-1-53. Parking on sidewalk, pedestrian crossing or driveway.**

(a) It shall be unlawful for any person to park a vehicle on or near a sidewalk or pedestrian crossing in such a way as to block or obstruct the free passage of pedestrians or with any portion of the vehicle on or overhanging any portion of the sidewalk.

(b) It shall be unlawful for any person to park a vehicle in such a manner as to block in whole or in part any driveway or entryway.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:

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CLERK OF THE COUNCIL

**ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-59  
OF THE  
HARRISONBURG CITY CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:**

That Section 13-1-59 be amended and re-enacted as follows:

**Section 13-1-59. Removal and disposition of unattended or immobile vehicles.**

Any motor vehicle, trailer, semitrailer or part thereof may be removed for safekeeping to a storage area if:

- (1) It is left unattended on a public highway, street, alley or other public property and constitutes a traffic hazard;
- (2) It is illegally parked;
- (3) It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee, or occupant;
- (4) It is immobilized on a public roadway by weather conditions or other emergency situation.

The removal shall be carried out by or under the direction of a law enforcement officer. Any motor vehicle, trailer, semitrailer or part thereof shall only be removed from private property upon the written request of the owner, lessee or occupant of the premises. The owner, lessee or occupant of the private property requesting the removal of such motor vehicle, trailer, semitrailer or part thereof in writing shall indemnify the city against any loss or expense incurred by reason of the removal, storage or sale of the motor vehicle, trailer, semitrailer or part thereof.

It shall be presumed that such motor vehicle, trailer, semitrailer or part thereof is abandoned if it (i) lacks either a current license plate; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four (4) days without being moved. Upon removal the chief of police or their

designee, along with the owner of the motor vehicle, trailer or semitrailer shall be promptly notified. Before obtaining possession of the motor vehicle, trailer, semitrailer or part thereof, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the costs or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at this last known address and to the holder of any lien of record with the office of the Department of Motor Vehicles against such motor vehicle, trailer, semitrailer or part thereof, then the vehicle shall be treated as an abandoned vehicle under the provisions of Article 1 of Chapter 12 of Title 46.2 of the Code of Virginia, 1950, as amended.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:

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CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-60.01(e)(3)  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Section 13-1-60.01(e)(3) be amended and re-enacted as follows:

Section 13-1-60.01. Residential permit parking zones.

(e) *Exempted days.* The following days shall be excluded and exempt from the provisions of subsections (a), (b) and (c) of this section each and every year:

(3) Friday and Saturday of James Madison University's graduation; and

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:

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CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-68  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Section 13-1-68 be amended and re-enacted as follows:

Section 13-1-68. Placement of residential parking stickers and guest cards.

(a) *Motor vehicle decal.* Residential permit parking decals shall be displayed in the lower left corner of the rear window of the vehicle to which the decal is issued. The decal shall be adhered to the window and may not be taped on to the window or displayed in any manner which may allow the transfer of the decal to another vehicle. If the vehicle does not have a rear window or is legally obscured (i.e., louvers or tinted window), the decal may be displayed on the driver's side of the lower right corner of the window furthest to the rear of the vehicle. Any alteration to the decal shall deem the permit invalid.

(b) *Motorcycle decal.* The residential permit parking decal for motorcycles shall be displayed beside the state inspection sticker on the motorcycle front fork or to a permanently affixed plate. Any alteration to the decal shall deem the permit invalid.

(c) *Guest cards.* The residential permit parking guest card shall be displayed on the vehicle dashboard so that the pass and all of the information displayed on the pass is entirely visible through the vehicle windshield. Any alteration to the card shall deem the permit invalid. Any obscuring of the information displayed on the card (i.e., folding under the address issued to) shall also deem the card invalid.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:



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CLERK OF THE COUNCIL

ORDINANCE AMENDING AND RE-ENACTING SECTION 13-1-72  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Section 13-1-72 be amended and re-enacted as follows:

Section 13-1-72. Additional parking violations and fines.

Any person, firm or corporation violating any of the provisions of this division shall be required to pay the following fines:

Parked within thirty (30) feet of a stop sign .....	\$20.00
Violation of official sign .....	20.00
Parked in a loading zone .....	15.00
Parked left side to curb .....	15.00
Parked more than 72 continuous hours/abandoned vehicle ...	15.00
Parked beyond designated time .....	20.00
Parked within 20 feet of corner .....	20.00
Parked in excess of 6 inches from curb .....	20.00
Parked along city painted yellow curb .....	20.00
Parked on/obstruct sidewalk or crosswalk .....	20.00
Parked to obstruct driveway/entrance-way .....	20.00
Parked in violation of fire code .....	25.00
Parked in permit zone (blue/red/green) .....	75.00
Parked in handicapped space .....	100.00
Improper display of license plate .....	20.00
Other .....	20.00

Failure to pay a parking citation within fourteen (14) days will result in the issuance of a summons to the registered owner of the motor vehicle to appear in court and answer to the violation.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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MAYOR

ATTESTE:

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CLERK OF THE COUNCIL

ORDINANCE ENACTING SECTIONS 13-1-77, 13-1-78 AND 13-1-79  
OF THE  
HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:

That Sections 13-1-77, 13-1-78 and 13-1-79 be enacted as follows:

Section 13-1-77. Removal or immobilization of motor vehicles against which there are outstanding parking violations.

(a) Whenever there is found any motor vehicle parked upon the public streets, public parking lots, parking decks or public grounds within the city against which there are three (3) or more outstanding unpaid or otherwise unsettled parking violations notices, such vehicle may, by towing or otherwise be removed or conveyed to a place within the city designated by the chief of police for the temporary storage of such vehicles or such vehicles may be immobilized in such a manner to prevent its removal or operation except, by, or under the direction of an authorized officer of the police department of the city. Any removal, conveyance or immobilization of the vehicle pursuant to this section shall be by, or under the direction of an officer of the police department of the city.

(b) It shall be the duty of the police officer removing or immobilizing such motor vehicle, or under whose direction such vehicle is removed or immobilized, to inform as soon as practicable the owner of the removed or immobilized vehicle of the fact of the towing or immobilization with a reference which explains the nature and circumstances of the prior unsettled parking violations. In any case involving immobilization of a vehicle pursuant to this section, there shall be placed on such vehicle, in a conspicuous manner, a notice warning that any attempt to move such vehicle might result in damage thereto.

(c) The owner of an immobilized vehicle, or other duly authorized person, shall be allowed not less, than twenty-four (24) hours from the time of immobilization to repossess or secure the release of the vehicle. If the owner fails to repossess or secure the release of the vehicle within this time period, the vehicle may be removed to a storage area for safekeeping under the direction of a police officer of the city.

(d) The owner or other duly authorized person shall be permitted to repossess or to secure the release of the vehicle by payment of all outstanding parking violation notices for which the vehicle was removed or immobilized and by payment of all reasonable costs incidental to the immobilization, removal and storage of the vehicle and efforts to locate the owner of the vehicle.

Should such owner fail or refuse to pay such fines and costs or should the identity or whereabouts of such owner be unknown and unascertainable, such vehicle may be sold in accordance with the procedures set forth in Section 46.2-1216 of the Code of Virginia, 1950, as amended.

**Section 13-1-78. Designation of areas in which parking is prohibited or limited.**

Notwithstanding any provisions of this chapter, the director of public works or their designee, is hereby authorized, when in their judgment it is in the public interest to do so, to designate no parking areas on any city street, city parking lot, city parking deck or public grounds, provided that notice is given, a minimum of twenty-four (24) hours in advance, by posting signs or markings along the areas designated as no parking zones in order to apprise an ordinarily observant person of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs or markings. Violating vehicles shall be removed at the expense of the owner of the violating vehicle.

**Section 13-1-79. Contest of parking citations.**

Any person who shall desire to contest a parking citation shall present the citation at the police department, which shall then be certified on an appropriate form to the city parking officer.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTESTE:

\_\_\_\_\_  
CLERK OF THE COUNCIL

**ORDINANCE REPEALING SECTION 13-1-86  
OF THE  
HARRISONBURG CITY CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA:**

That Section 13-1-86 of the Harrisonburg City Code is hereby repealed.

This ordinance shall be effective from the date of its passage.

ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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**MAYOR**

**ATTESTE:**

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**CLERK OF THE COUNCIL**

Council Member Degner offered a motion amending and re-enacting sections 13-1-17, 13-1-18, 13-1-51, 13-1-52, 13-1-53, 13-1-59, 13-1-60.01(e)(3), 13-1-68, 13-1-72, 13-1-77, 13-1-78, 13-1-79, and 13-1-86 of the Harrisonburg City Code. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

Reggie Smith, Director of Public Transportation, presented a request for a supplemental appropriation for the Transportation Department in the amount of \$70,000.00. Mr. Smith stated that these funds are to cover payroll. City Manager Hodgen stated there are 27 pay periods for the current year instead of the normal 26. Vice-Mayor Byrd offered a motion to approve this request for the first reading, and that:

\$70,000.00 chge. to: 2111-31695 Sale of services to Departments

\$70,000.00 approp. to: 2111-612141-41010 Salaries & Wages – Reg.

The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

City Manager Hodgen presented two requests for supplemental appropriations in the amount of \$48,917.03 and \$23,400.00 for the Fire Department. City Manager Hodgen stated the funds in the amount of \$48,917.03 are to recover funds from various donations to the department as well as recovered costs throughout the year. The City Manager also

mentioned more funding was received than anticipated from the “Four for Life” program. City Manager Hodgen stated the funds in the amount of \$23,400.00 are to recover cost from Rockingham County for the installation of the traffic light intervention system along the Maryland Avenue/Port Republic Road corridor. Vice-Mayor Byrd offered a motion to approve this request for the first reading, and that:

\$6,008.75 chge to: 1000-32514 Four for Life Funds  
864.48 chge to: 1000-32549 Carbon Monoxide Detector Grant  
30,960.46 chge to: 1000-31914 Recovered Costs  
11,083.34 chge to: 1000-31809 Donations

\$6,008.75 approp. to: 1000-350532-46155 Four for Life Funds  
42,908.28 approp. to: 1000-320232-46140 Other Operating Supplies

The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

City Manager Hodgen presented a transfer of funds in the General Capital Projects Fund in the amount of \$2,199.62. City Manager Hodgen stated that the Emergency Communications Center (ECC) Radio Cache Phase II project line item exceeded the budgeted amount by \$2,199.62. City Manager Hodgen stated that the project allowed coordination of the groups that didn’t have ability to connect and function with the system that the ECC is currently using. City Manager Hodgen stated funds are available in the ECC’s PSCI Interoperative Project line to cover the amount. Council Member Wiens offered a motion to approve this request, and that:

\$2,199.62 chge. to: 1310-910141-48717 ECC PSIC Interop project

\$2,199.62 approp. to: 1000-910141-48716 ECC Radio CACHE Phase II

The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

City Manager Hodgen noted that the Circuit Court Clerk applied and received \$15,000.00 for an Item Conservation Grant to properly preserve documents that were dated from the year 1776 to 1876.

City Manager Hodgen stated that Council members should be receiving a letter from the Transportation Safety and Advisory Chairman requesting the City consider doing a feasibility study for a roundabout at Carlton Street/Reservoir Street intersection. City Manager Hodgen stated that they are looking to see if Council approves the study.

City Manager Hodgen stated that he received a letter from the Department of Corrections stating they lease 30A West Water Street for parole and probation offices and their lease is coming up on renewal and state code requires them to notify the locality. City Manager Hodgen stated that if Council desires to hold a public hearing on this matter, the State allows. Mayor Baugh stated that if anyone would like this matter be heard through a public hearing to let anyone of the Council members know by the next Council meeting.

City Manager Hodgen stated the Federal Government is reconsidering a need for a Metropolitan Planning Organization (MPO) if a locality has a population less than 200,000. City Manager Hodgen stated the MPO board has been asked to look at four alternatives which are: not respond at all, for the Federal Government to reconsider, to request the Harrisonburg-Rockingham MPO be grandfathered in, or concur with the Federal Government's recommendation. City Manager Hodgen stated with due respect to the work of the staff of the Planning District Commission, the City feels that they would like to see the money used towards actual construction and less towards planning. City Manager Hodgen stated that the City is at the point that projects that have been listed on the plan far exceed the funds that are available for construction. City Manager Hodgen stated that the City has in-house expertise to do the level of transportation planning that the City needs to do. City Manager Hodgen stated that his recommendation is to not protest the recommendation of the Federal Government.

Vice-Mayor Byrd stated he was approached and asked about yard debris pick up during five-week months if citizens have to keep their yard debris for an extra week. City Manager Hodgen stated that the current ordinance states two times a month, so yes the citizens have to keep yard debris for an extra week when a five week month occurs.

Vice-Mayor Byrd asked about the progress of the overgrowth of alley's and trash pickup within certain areas of town and property owners. City Manager Hodgen stated that the City isn't dealing with the property owners yet because he just received all the information the previous Friday. City Manager Hodgen stated that the primary locations are on the east side of the City and he plans to approach the property owners.

Council Member Degner congratulated all involved with the ceremony for the designation of the City as an Appalachian Trail Community.

Council Member Degner brought a map from the MPO for Council to consider inserting into the Comprehensive Plan.

At 9:36 p.m., Council Member Chenault offered a motion that Council enter into a closed session for discussion and consideration of consultation with legal counsel requiring the provision of legal advice of such legal counsel, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) of the Code of Virginia. The motion was seconded by Council Member Degner and approved with a recorded roll call vote taken as follows:

Yes – Mayor Baugh  
Vice-Mayor Byrd  
Council Member Degner  
Council Member Chenault  
Council Member Wiens

No – None

At 9:45 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirement pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed, or considered in the closed session by the City Council.

At 9:46 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CITY CLERK

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MAYOR