

2020

**LEGISLATIVE
PROGRAM**

Chesapeake
VIRGINIA

CITY OF CHESAPEAKE 2020 LEGISLATIVE PROGRAM

The City of Chesapeake places a great deal of emphasis on maintaining an excellent relationship and communication with its General Assembly delegation. Through this Legislative Program, the City strives to participate actively in the policy decisions that affect Chesapeake's citizens.

This Legislative Program is presented in three parts. The first section contains Chesapeake's priority legislative requests and City initiatives. The second section contains Chesapeake's legislative priorities. The third section contains Chesapeake's policy positions for consideration by the General Assembly. These are general positions and goals agreed upon by the Chesapeake City Council. The City Council requests that the General Assembly consider these positions throughout its decision-making process.

CHESAPEAKE CITY COUNCIL

Dr. Richard W. "Rick" West, Mayor

Vice Mayor Dr. John de Triquet

R. Stephen Best, Sr.

Matthew R. "Matt" Hamel

Robert C. Ike, Jr.

Dwight M. Parker

S.Z. "Debbie" Ritter

Susan R. Vitale

Dr. Ella Ward

CITY STAFF

Christopher M. Price, City Manager
(757) 382-6988

Dr. Wanda Barnard-Bailey, Deputy City Manager
(757) 382-6605

Robert N. Geis, Deputy City Manager
(757) 382-6979

Laura Fitzpatrick, Deputy City Manager
(757) 382-8747

Jacob Stroman, City Attorney
Catherine Lindley, Deputy City Attorney
Kelly Lackey, Deputy City Attorney
Daniel Wisniewski, Assistant City Attorney III
(757) 382-6586

Nicole Benson, Administrative Assistant III
Allison Harper, Administrative Assistant II
(757) 382-6166

Table of Contents

PRIORITY LEGISLATIVE REQUESTS/CITY INITIATIVES

Pro Rata Reimbursement	1
Amend Land Bank Entities Act	2
Motorized Scooters Operator Age Requirement	2
Summit Pointe Development Incentives	2
Amend Authority to Insurance Benefits	3

OTHER LEGISLATIVE PRIORITIES

Virginia Retirement System; Retired Law Enforcement Officers	3
Education Funding	3
Amend Virginia Code’s definition of “Gambling Device”	5
Naval Auxiliary Landing Field Fentress	5
Support for Hampton Roads Regional Jail	5
Jail Expansion – State Reimbursement	6
Funding to Community Service Boards	6
Tidewater Community College-Chesapeake Campus	7
Solar Energy Facilities	7

GENERAL POLICY POSITIONS

General Government	7
Telecommunications Infrastructure	7
Impact Fees/Conditional Zoning/Recordation Fee	7
Land Use	8
Revitalization/Redevelopment	8
Virginia Housing Trust Fund	8
Funding for Open Space Conservation	9
Motor Vehicle Title Loans, Payday Loans, Open-End Credit Plans	9
Elections; Date of June Primary Elections.....	9
Constitutional Rights	9
Education and Human Development	10
System Transformation, Excellence and Performance in Virginia (STEP-VA).....	10
Children Service’s Act (CSA)	11
Liability of Teacher Retirement Plan.....	12
Pretrial Services	12

Human Services	12
Finance	13
Unfunded Mandates	13
Local Representation on Legislative Studies Impacting Local Governments	13
CHKD Funding	13
Local Taxing Authority.....	14
Eliminate Diversion of Local Communications Sales and Use Tax.....	14
State Aid to Localities.....	14
Economic Development Investment Programs.....	14
Virginia Enterprise Zone Program.....	14
Funding for Constitutional Offices	15
Transportation	15
Traffic Incident Management	15
Regional Dedicated Funding Model	16
Employer Tax Credits for Public Transportation.....	17
Highway Funding.....	18
Public Safety	19
Impersonation of a Law Enforcement Officer	19
Threats of Bodily Injury, Threats to Commit Harm at School	19
Emergency Shelters	20
Distracted Driving.....	20
Solicitation	20
Urban Areas Security Initiative (UASI)	20
Seat Belt Requirement	20
Environmental Quality	21
Watershed Implementation Plan Phase III.....	21
Offshore Drilling.....	22
Coal Combustion By-Products	22
Groundwater Management and Groundwater Injection Projects.....	22
Uranium Mining.....	23
Solid Waste or Other Surcharges	23
Stormwater Local Assistance Fund (SLAF).....	23
Nutrient Allocations-Existing Municipal Wastewater Treatment Plants.....	23
Appendix A	25
Appendix B	27
Appendix C	28

Please Note:

- **Yellow highlighted items are unique solely to Chesapeake;**
- **Items in a blue font address very specific City concerns, but have broader statewide application**
- Non-highlighted items are more general policy statements that impact the City and are shared by localities across the Commonwealth.

SECTION 1: PRIORITY LEGISLATIVE REQUESTS/CITY INITIATIVES

1. Pro Rata reimbursement to developers for water and sewer facilities. Seek amendments to Va. Code § 15.2-2243 to allow developers to recover a pro rata portion of costs from subsequent developers or subdivisions, for water and sewer infrastructure investments made by the initial developer

Virginia Code Section 15.2-2243 allows a locality to adopt an ordinance requiring a developer to pay a pro rata share of the cost of providing reasonable and necessary sewerage, water and drainage facilities located outside the property limits of the land controlled by the developer and which are necessitated or required, at least in part, by construction of the new development. The City of Chesapeake has codified this provision in its Chesapeake City Code and has operated a successful pro rata program for water and sanitary sewer extension since the mid-1980s. This program ensures the orderly extension of utility systems, which benefits the residents, the City, and developers. Chesapeake has studied its program over the last two years in an effort to identify areas of possible improvement.

To this end, Chesapeake requests a legislative amendment to the Virginia Code. Currently, the statute addresses water, sewer and stormwater (drainage); but its provisions are stormwater-focused and therefore do not function as well for water and sewer extensions. For example, the statute does not reference water or sewer connection fees, which are not associated with stormwater projects. The proposed amendment updates the current statutory language to more accurately address water and sewer improvements by allowing a reimbursement method tied to connection fees that are generated by the development and required by municipal ordinance. In addition, the statute currently provides for traditional pro rata payments, but does not provide an option for developers to receive reimbursement for their improvements in the form of connection fees generated by the subdivision or development. Thus, developers must wait until subsequent development occurs to be reimbursed. Chesapeake suggests that the statute be amended to permit installing developers to have the option to receive connection fees in lieu of waiting for traditional pro rata reimbursement. This change will benefit developers as they will receive reimbursement sooner and will benefit the City as it will result in the efficient extension of water and sewer utilities. It will also enable the City to reimburse developers in a timelier manner, which will reduce administrative tasks. In addition, the proposed

amendments enable localities to adopt ordinances and policies regarding the implementation of the proposed authority.

Chesapeake’s proposed amendments to the statute are included as Appendix A.

2. Amend Land Bank Entities Act to be consistent with State and Local Government Conflicts of Interests Act

The Virginia Land Bank Entities Act, Va. Code § 15.2-7500 et seq., empowers the City to establish a land bank entity to address vacant, abandoned, and tax delinquent properties. The City adopted an ordinance establishing a land bank authority in 2018. As the City has worked through forming the land bank authority, Section 15.2-7505(B) has been problematic. This section states that “no member of the board or employees of a land bank entity shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished to or used by” the land bank. This standard has been interpreted as more stringent than the one imposed by the State and Local Government Conflict of Interests Act. To this end, Chesapeake requests that Section 15.2-7505(B) be amended to remove the unduly burdensome conflict standard and instead state that members of the board or employees of the land bank are subject to the provisions of the State and Local Government Conflict of Interests Act.

3. Motorized scooters operator age requirement. Seek an amendment to Va. Code § 46.2-908.1 to increase the age requirement from 14 to 16 for operating motorized scooters

Optional authority to increase minimum age for scooter operators is desired based on increased prevalence and speed capabilities of motorized scooters, enforcement concerns regarding minimum age requirements (web based applications used to deploy for-hire devices is likely reliant on self-certification of operator as to age and as to whether there is direct adult supervision), and accidents and injuries arising from scooters. Although franchise agreements or licensure for for-hire devices could specify enhanced requirements as to operators to the extent allowed by law, enforceability as well as general health, safety, and welfare of minors is a concern in light of fatalities in the similar context of minors operating off-road vehicles.

4. Summit Pointe Development Incentives

- a. Seek amendments to Va. Code § 58.1-608.3 to add Chesapeake to the current list of localities authorized to apply sales and use tax revenues collected in certain types of public facilities towards debt incurred to construct the facility; and
- b. Seek amendments to this Code section to add “outdoor amphitheaters” to the list of defined public facilities; and
- c. Seek an amendment to extend the deadline to issue debt under this statute from July 1, 2020 to July 1, 2024.

Chesapeake requests these amendments to support and bolster the realization of a development goal for the Summit Pointe Development. Summit Pointe is a large-scale, mixed-use community housing Dollar Tree’s corporate headquarters, offices, retail and residential uses. The development represents a projected investment of over \$300 million. Chesapeake is interested in partnering with Dollar Tree to construct an outdoor amphitheater in the community. The outdoor amphitheater is visualized as a space capable of accommodating speakers, theater and professional development opportunities. For these new projects to become a reality, the City requests that the bond issuance deadline in the statute be extended to July 1, 2024.

5. Amend Authority for Insurance Benefits to Expressly Extend Option of Benefits for Retired Employees of Boards, Commissions, Agencies, and Authorities.

Seek amendment of Va. Code § 15.2-1517 to extend option of a locality to extend group life, accident, and health insurance programs to retired employees of boards, commissions, agencies, or authorities that are separate political subdivisions, but work closely with the locality. Currently, the statute provides express authority to extend benefits only to retirees that were directly employed by the locality and constitutional officers and their employees.

SECTION 2: OTHER LEGISLATIVE PRIORITIES

1. Retired Law Enforcement Officers Serving as School Security Officers – VRS Benefits

The City Supports legislation similar to [SB 1023 \(2019\)](#) that would allow a retired law-enforcement officer to continue to receive his Virginia Retirement System service retirement allowance during a subsequent period of employment by a local school division as a school security officer.

2. Education Funding

a. The City supports the State to gradually restore the cost methodology, over two biennia, for support position funding used before 2009. This would remove the “cap” on support positions.

Prior to the 2009 recession, the Commonwealth provided funding for support staff positions according to a formula that used actual staffing and costs (calculated with the actual number of support positions and the salary for each position in all school divisions). As a moneysaving measure during the recession, a cap was placed on the number of positions that the state would fund. This action allowed the state to cut its funding for public education by approximately \$750 million annually. Most school divisions could not practically and safely reduce positions included in support staff funding to the arbitrary ratios used to balance the state budget. These positions include school psychologists, nurses and social workers as well as instructional support, attendance, security, transportation, technology, and facility operations and maintenance staff. These positions are essential to

the effective operation of schools and provide vital support needed to meet a myriad of educational needs. The recession ended almost a decade ago.

As a result, the City asks for the General Assembly to return to funding school support staff based upon actual school division practices.

b. The City supports an increase in State general fund revenues in support of K-12 funding in order to restore the use of lottery funds for the state construction grant program and per-pupil lottery funds with the capital requirements in place prior to 2009.

When the Virginia Lottery began in the late 1980s, the popular belief was that its proceeds would be used for public education. However, this was not required either by statute or the State constitution and the proceeds were spent by the General Assembly for a variety of purposes. This changed in 2001 with passage of a State constitutional amendment earmarking lottery funds solely for educational purposes. But even this did not result in a sudden infusion of new money for public education; as the General Assembly chose to use a substantial portion of the lottery proceeds to replace general funds that were being spent on K-12.

With the 2001 legislative changes related to lottery funds, the state provided direct per pupil payments to divisions and required a minimum of 50% of those funds be used for non-recurring costs - this was the first support of state funds for capital needs in divisions. Up until this point, all capital costs, including modernizations or facility expansion was solely the responsibility of the local government. With this change, these capital costs became a “shared” cost based on the Local Composite Index (LCI). The City’s LCI for the Budget Fiscal Year 2020-2022 is 0.3486. When the recession hit in 2008, the lottery per pupil amounts were eliminated, as was the state construction grant program. These funds were redirected to support K-12 expenses previously funded by general tax revenues in the state budget.

Using a small portion of the lottery proceeds, the General Assembly began to restore the direct payment to divisions in 2016. This was accomplished by providing additional general funds for categorical aid programs that had previously been funded substantially with lottery proceeds. This action freed up those lottery proceeds to be returned directly to school divisions on an unrestricted basis. In addition, much of the annual growth in lottery proceeds has also been dispensed into direct payments. The General Assembly has incrementally increased these amounts each year since and in 2019, the General Assembly set the Lottery Per Pupil Allocation (PPA) at 45% of the total available lottery revenue while removing the requirement that half of each division’s amount be spent on non-recurring expenses.

For the 2020 session, the Council supports a further increase in the percentage of lottery funds returned directly to school divisions. This will require the General Assembly to provide additional general funds for those direct and categorical aid programs that continue to be funded with lottery proceeds. Ultimately sufficient general funds should be provided so that no direct or categorical aid program must rely on lottery funds and all lottery proceeds can be returned directly to local school divisions on an unrestricted basis. The City proposes that the General Assembly should increase the allocation to 60% in FY 2021 and 75% in FY 2022 with the goal of returning 100% of lottery funds in this manner by 2024.

3. Amend the Virginia Code’s definition of “gambling device” to clarify that a device falls under the definition regardless of whether or not it is “predominantly” skill or chance based, as long as there is any element of chance involved in any operation of the device.

The City Supports legislation similar to [SB 1721 \(2019, Cosgrove\)](#) and [SB 1738 \(2019, Reeves\)](#) to either prohibit or regulate and tax “gray” electronic gambling machines.

4. Naval Auxiliary Landing Field Fentress – Encroachment Protection Funding

The City requests continuation of the state funding level of \$2.5 million per year to be matched dollar for dollar by the City. The City of Chesapeake remains very appreciative of the Commonwealth’s funding partnership for the purchase of real property to remove or prevent incompatible use in proximity to Naval Auxiliary Landing Field (NALF) Fentress.

In 2014, the City established the Fentress Encroachment Protection Acquisition Program (FEPAP). Leveraging over \$4.5 million of state funds with a dollar for dollar local match, the City has acquired 429 acres of developable land for a cost of approximately \$7.7 million. The program continues to be successful, especially considering the strong development pressure in this area of the City that is attributable to the desirable school district and overall high-quality of life afforded to area residents. A nimble and well-funded FEPAP program is critical to acquiring property interests in a timely manner and providing property owners a viable alternative to developing their land. This would not be possible with assistance from the Commonwealth. Over the last few years, the City has developed an excellent working relationship with the Military Relations Liaison for the Secretary of Veterans and Defense Affairs who administers this program. The City continues to pursue other properties in the vicinity of NALF Fentress to prevent incompatible development and ensure mission readiness of NALF Fentress and is currently soliciting additional interested landowners. The continued support of the Commonwealth is critical to ensure program success.

5. Increase State Support for Hampton Roads Regional Jail

The City requests increased state support for medical and mental health care at Regional Jails throughout the Commonwealth. In addition, the City requests additional jail officers be added

to the Hampton Roads Regional Jail (HRRJ) complement through the Compensation Board each year, for the next four years. Both of these requests would address concerns raised by an investigation of the HRRJ by the US Department of Justice.

6. State Reimbursement for City Jail Expansion

The City Jail expansion, which began in 2016, is fully complete and inmates were transferred to the new facility. Due to a construction dispute arising from liquidated damages which were applied as a result of the contractor's delayed completion of the project, the City's submittal of a payment release by the contractor is delaying its reimbursement request to the Board of Corrections and State Treasurer in order to receive the 25% reimbursement of eligible project costs from the Commonwealth. The total project cost was approximately \$25 million while the approved Commonwealth share currently included Treasury Item 279 of the biennial state budget is \$6,860,886. The project included a 192 bed minimum security dormitory building housing minimum custody, work release and external work force detainee inmates who must be segregated from the main jail population, as they are working out in the community. It increased the jail's rated capacity from 555 to 747.

The City appreciates the support of the legislature and the past two governors, and would like to ensure that the state reimbursement funding remains in the state budget and doesn't get removed for any reason this legislative session.

7. Restore Funding to Community Service Boards

The City is appreciative of the partial restoration money allocated to the CSBs for FY 2020. However, In FY 2019, Chesapeake Behavioral Integrated Healthcare, the City's CSB, suffered \$446,264 in state reductions and only \$108,547 in partial restoration, resulting in a state funding shortfall of \$337,717. The City still urges the state to fully restore ongoing CSB funding:

- a. In FY 2020 CSBs face roughly double the reduction in general fund dollars that they incurred in FY 2019.
- b. While CSBs are able to bill for services provided to some of the individuals they had been serving without reimbursement, there are still individuals that CSBs serve that do not qualify for Medicaid expansion and there will always be individuals who do qualify, but for various reasons refuse to sign up. The CSBs continue to serve these individuals with no payer source from a now-reduced state general fund allocation.
- c. The Medicaid rate for most services does not cover the cost to actually deliver the service. State general fund dollars help to reduce the negative impact of this and allow CSBs to continue to serve priority populations.
- d. Lastly it is difficult to provide services in a managed care environment. CSBs are experiencing reductions in authorizations for some services as well as an increase in the amount of time between when a service is delivered and when it is paid for by a Managed

Care Organization (MCO). The City requests that the state restore the funding to CSBs for FY2020, and re-evaluate assumptions leading to additional cuts in FY 2020-FY 2021 and beyond to the extent that Medicaid expansion does not fully offset the reductions.

8. Tidewater Community College – CHESAPEAKE CAMPUS

Tidewater Community College, with 45,000 students, serves South Hampton Roads, where the shortage of skilled workers to fill STEM jobs is above average compared to other MSAs in the U.S. According to the Brookings Institution, the region was ranked No. 1 in the share of jobs requiring education on Science, Technology, Engineering and Mathematics, and Health Care (STEM/H) skills and sub-bachelor’s level of education.

- TCC’s top legislative priority is full funding for construction of a Science and Engineering Building on the Chesapeake Campus. These funds will be used for the construction of a 76,000 square foot Science and Engineering Building with classrooms and labs for Chemistry, Biology, Natural Sciences, Geology, and Physics. In addition, the new facility will provide much-needed space for the campus’ Engineering and Engineering Technologies programs. This facility directly addresses the need for STEM credentials. These programs are currently housed in antiquated labs in the 35-year old Pass Building and in temporary modular buildings.

9. Solar Energy Facilities

The City supports legislation that increases the authority of localities to regulate the siting or development of solar energy facilities. In addition, the City supports the enhancement of local tax authority over solar energy facilities. The City supports uniform taxation standards that reduce the tax exemptions afforded to solar photovoltaic projects in Virginia Code Section 58.1-3660.

SECTION 3: GENERAL POLICY POSITIONS

General Government

TELECOMMUNICATIONS INFRASTRUCTURE

The City opposes legislation to further reduce local zoning authority and public input in the siting of new wireless support structures. The City opposes limiting applicable permit fees to an arbitrary rate in statute that doesn’t reflect the actual costs and planning staff time; and it opposes legislation that limits local control over its own public rights of way and public property to benefit one industry.

IMPACT FEES/CONDITIONAL ZONING/RECORDATION FEE

The City recommends that the General Assembly enact laws to broaden and simplify impact fee

authority to allow the assessment of the fees for all public infrastructure, including school construction costs, caused by growth. Impact fees should be based on public facilities construction costs and fees should be locality-specific.

A bifurcated system could be considered where cash proffers are used for rezoning applications and impact fees for by-right development. Any change must not shift the burden of paying for new infrastructure to existing citizens through increased real estate taxes.

The City supports simplification of the statutory construct regarding proffers, to this end, the City supports the repeal of the 2016 proffer legislation or short of that, supports significant amendments to return flexibility to the City's ability to work with developers to help mitigate the costs of new residential development. The City further supports amending the 2016/2019 proffer legislation language to clarify the meaning of terms used in the statute which have not been referenced in proffer law in the past. While the 2019 legislation began to address the deficiencies in the statute, it also introduced new implementation problems. Thus, the City supports amending the statute to impose one rule of law on all rezoning applications instead of varied rules of law that apply based on when the application was filed and/or if the applicant elects to be considered under "2019 law." As passed, the proffer law is difficult for applicants to understand and hard for localities to implement. The different rules of law imposed based on the timing of application are illustrated in **Appendix B** entitled, "**Residential Proffer Process Flow Chart.**"

The City also supports a comprehensive study of public infrastructure funding, as it relates to proffers, the potential for broad impact fees, state funding sources, and other potential tools to help localities keep up with necessary demands on public infrastructure.

LAND USE

The City opposes any reduction of local authority to manage such functions as land use, zoning, conditional use permits, etc. Local governments must retain current authority to use conditional zoning rules in the State Code to balance the financial impact created by residential development and to facilitate well-planned communities that are compatible with nearby developments.

REVITALIZATION/REDEVELOPMENT

The City supports legislation that would aid local revitalization/redevelopment efforts such as, but not limited to, additional funding for demolition of abandoned structures, statutory presumption of abandonment, authority to enter and abate derelict buildings, and expanded authority concerning spot blight abatement.

VIRGINIA HOUSING TRUST FUND

The City supports continued state funding for the Virginia Housing Trust Fund. The City also supports providing for a portion of the Fund to be used to provide matching funds to localities that

have established local housing funds, and grants to be made from the Fund to support innovative housing projects and low and moderate income housing projects that are located in areas experiencing extreme shortages of such housing.

FUNDING FOR OPEN SPACE CONSERVATION

The City desires to protect its open space, agricultural lands and industries, natural resources, including its drinking water supply watershed, natural habitats, and historic sites. Conserving these resources is critical to Virginia's economy and establishing a balance between the conservation of open space/natural resource lands and residential and/or commercial development is essential to quality of life and fiscal health. The City supports the efforts to establish a dedicated funding source for open space conservation, to include agricultural lands.

MOTOR VEHICLE TITLE LOANS, PAYDAY LOANS, AND OPEN-END CREDIT PLANS

The City urges the passage of legislation to enact a market based interest rate cap for consumer loans made in the Commonwealth of Virginia in order to protect citizens from the high interest rates that are presently allowed. The City also supports a reversal of the legislation that was adopted in 2011. The 2011 amendment allowed title loan issuers to advance loans secured by out of state vehicles.

ELECTIONS; DATE OF JUNE PRIMARY ELECTIONS

Primaries for the nomination of candidates for the offices listed in the Constitution of Virginia to be voted on at the general election in November 2001 and each tenth year thereafter shall be held on the second Tuesday in June next preceding such election notwithstanding any special primary schedule enacted for any other office. During the 2019 General Assembly Session, [HB1615](#) was introduced to change the date of the primary election from the second Tuesday in June to the third Tuesday in June. The City's General Registrar supports this date change due to the additional congestion from special activities during the second week of June, which is the last week of school.

CONSTITUTIONAL RIGHTS

The City opposes legislative efforts to restrict the fundamental freedoms and liberties guaranteed by the U.S. and Virginia Constitutions, including, but not limited to, the right to keep and bear arms. The City supports the rights of law-abiding citizens to keep and bear arms within the limits of the U.S. and Virginia Constitutions and the laws thereof. The City urges the legislature and Governor to take not action which would burden law-abiding citizens who currently lawfully possess certain firearms and capacity magazines. On December 10, 2019, City Council passed a resolution supporting the Second Amendment which is included in **Appendix C**.

Education and Human Development

SYSTEM TRANSFORMATION, EXCELLENCE AND PERFORMANCE IN VIRGINIA

STEP – VA was developed to address: Accountability, Access, Quality, and Consistency across all CSBs to work toward excellence in behavioral healthcare and ultimately a healthy Virginia. STEP-VA services are intended to foster wellness among individuals and prevent crises before they arise. The result would be fewer admissions to state and private hospitals, decreased emergency room visits, and reduced involvement of individuals with behavioral health needs in the criminal justice system.

The core services and supports in STEP-VA are now mandated in the Code of Virginia but have not been fully funded. In order to meet the code mandated timeline for implementation of all the services and supports, the General Assembly needs to provide full funding in the 2018 – 2020 biennial budgets.

The City desires funding in this biennium for these 10 services (Screening, Assessment and Diagnosis (including Risk Assessment), Crisis Services (including 24 hour mobile), Crisis Intervention and Stabilization, Targeted Case Management, Outpatient Mental Health and Substance Abuse, Psycho-social Rehabilitation, Peer and Family Support, Care for Members of the Armed Forces and veterans, Primary Care Screening and Monitoring, and Patient Centered Treatment Planning) in the STEP – VA model. The 2017 General Assembly mandated that Same Day Access (SDA) and Primary Care Screening (PCS) come on board by 2019 and the remaining eight services are mandated to come on board by 2021.

The City urges, at a minimum, funding for the CSBs to implement the next phase of the STEP – VA model which is to expand outpatient services. This will cost an estimated \$15 million dollars for the Commonwealth.

A. Increase the reimbursement rate for Medicaid Early Intervention Case Management to its data-determined adequacy:

Early Intervention Services result in special education cost savings and provide an increased quality of life for the child and his/her family.

The City desires an increase the Medicaid Early Intervention case management reimbursement rate. This increase is necessary because the current monthly rate does not cover the expenses of providing this critical service, which ensures eligible children and families receive service coordination that is appropriate to the needs of infants, toddlers and their families. We currently receive \$132.00 per case per month, while intellectual disability case management is paid at \$326.50 per month.

B. Reduce the I/DD Waiver Waiting List:

Currently, over 11,000 people with developmental disabilities (DD) are on a waiting list for community-based services. Virginia's DD Waivers have been redesigned to provide increased access to community supports. Using the Family and Individual Support Waiver, Virginia can serve 50% of the individuals on the DD Waiver waiting list for a quarter of the cost of existing DD waiver programs. Receiving a Waiver slot will enable an individual who needs developmental services and supports to live a life that is fully integrated in the community.

The City desires a reduction in the waiting list for DD Waivers by funding 800 additional Family and Individual Supports (FIS) Waivers and 250 Community Living (CL) Waivers. Chesapeake currently has 373 individuals (on all three (3) levels) on the Developmental Disability Waiting list.

CHILDREN'S SERVICES ACT (CSA)

Department of Medical Assistance Services (DMAS) recently announced regulatory changes to the process by which children are placed in Residential Treatment Facilities. Under the new process, which will begin December 1 of this year, admission for all Medicaid-funded placements for residential treatment will be coordinated by an Independent Assessment, Certification and Coordination Team (IACCT).

This proposal represents a significant change and local Children's Services Act (CSA) coordinators across the State have raised many questions about how this process would work, including concerns about the required deadlines for the IACCT to complete an assessment and the role of the physician member of the IACCT.

At this time, the City can neither support nor oppose the concept of transferring the state pool funding for students with disability in private day educational programs to the Virginia Department of Education because there needs to be more study and analysis on the following areas:

- What factors are driving costs and placements in private special education day schools?
- What is the current capacity of Chesapeake Public Schools to handle this responsibility (knowledge, personnel, programmatic/physical infrastructure = cost/time analysis)?
- What are the positives of the current system (outcome data / cost analysis of private day schools compared to public schools providing these services)?
- If funding is moved out of CSA and reallocated under a new formula through VDOE, it is likely that only a fixed amount will be transferred, rather than the current sum-sufficient allocation under CSA. If costs to serve children increased, would the state's contribution be limited? Would the locality be obligated to make-up the difference? (This could be a potential be a large financial risk).
- If funding remains in CSA, what tools are put in place to help control these costs?

LIABILITY OF TEACHER RETIREMENT PLAN

The unfunded liability associated with the teacher retirement plan should be a shared responsibility of the state and local government. The local public school systems, in accordance with government accounting standards (GASB), are a “component unit” of the locality for purposes of financial reporting. The Virginia Municipal League supports legislation that would provide for the Virginia Department of Education to pay its share of retirement costs directly to the Virginia Retirement System in order to facilitate the sharing of these liabilities.

PRETRIAL SERVICES

The City opposes any amendments to limit the scope of Pretrial Services, as well as supports the continued funding of Pretrial Services in the Commonwealth.

HUMAN SERVICES

For years the state has consistently underfunded its share of administrative costs (including personnel and technology) for programs administered on its behalf by local departments of social services. The state agency has now decided to make local agencies solely liable for federal financial penalties resulting from federal audits of the system. Federal law does not require passing this cost onto localities; it is the state’s choice to do so. If the state is concerned with improved performance and accountability, it must fully acknowledge and fulfill its responsibility in this partnership by properly funding, staffing, equipping, and supporting the local offices that render services on its behalf.

The City urges the state to provide additional funding for transit services and client advocacy training. We support the state’s efforts to open an interactive “portal” for clients to review their resources, apply for and change appointments and access services from their home. The Chesapeake Social Services Division has concerns with the barriers to human service providers sharing redundant customer information, which the customer has authorized to be shared. We request that the state remove electronic barriers to the sharing of this information. Along these lines, it is requested that the state continue to find ways to reduce the paperwork requirements, simplify program requirements and integrate requirements between state systems.

The City also supports the Department of Juvenile Justice increasing the Block Grant Funding to 50% of the Chesapeake Juvenile Services (Detention Home) operating budget. Consideration for continued funding of the Community Corrections Program (CCP) as an essential component of re-entry for Juvenile Detention.

Finance

UNFUNDED MANDATES

Any legislation or *regulatory action* having a fiscal impact on local governments should also be accompanied with state appropriations adequate to cover the full cost of such mandates. A recent example includes mandatory real property tax breaks for spouses of killed or disabled military veterans. Another potential unfunded mandate could result from the State Board of Corrections, which is beginning the process to develop new behavioral health and medical care standards for local correctional facilities. These new standards will likely impose a significant fiscal impact to localities and as such the City urges the state to not impose such mandates without state funding to support them.

The City opposes any new legislation that would result in another unfunded mandate for the school division or the individual employees. School divisions should have local authority to make decisions about schools, so we oppose any new legislation that would result in a state mandate without full appropriated funding. The City encourages the Virginia Department of Education to review past and current legislation and request that the Commonwealth fully fund the existing mandates or remove those policies. Further, the City calls on the state legislature, the Governor, and the state's administrative agencies not to impose further requirements without appropriating funds that would remove the financial burden from school divisions.

LOCAL REPRESENTATION ON LEGISLATIVE STUDIES IMPACTING LOCAL GOVERNMENTS

Local government representatives should be included on any "blue ribbon" commission or other body established by the state that has as its purpose changes to local revenue authority or governance.

SUPPORT FOR CHILDREN'S HOSPITAL OF THE KING'S DAUGHTERS (CHKD) FUNDING

The City supports CHKD's request of \$33.4 million in the 2020-2022 biennium to support its new mental health hospital for children. This new hospital will offer a comprehensive mental health inpatient and outpatient programming plus a complement of outpatient services at a total capital cost of \$224 million. It will unquestionably assist the state in addressing access and capacity issues plaguing Virginia's mental health system, and particularly the sole state-operated children's and adolescent psychiatric facility, The Commonwealth Center for Children and Adolescents. The state's investment of \$33.4 million represents a fraction of the cost it would otherwise incur to add 60 psychiatric beds to the state system. Moreover, the financial support for CHKD directly benefits children covered by Medicaid as evidenced by CHKD's historic nearly 60 percent Medicaid utilization rate.

LOCAL TAXING AUTHORITY

The General Assembly should not cap, remove or restrict any revenue sources, taxing authority or user fees available to localities. The erosion of local revenue sources reduces local flexibility, increases local government's reliance on the real property tax and jeopardizes local bond ratings. If the state does eliminate or restrict local revenue sources, it should replace those revenues lost to the localities. The loss to localities includes not only current revenues being derived from the revenue source, but also potential increases in revenues due to growth or rate increases.

ELIMINATE DIVERSION OF LOCAL COMMUNICATIONS SALES AND USE TAX

The FY19-FY20 biennium budget included language that swept \$2,000,000 each year of the biennium to the General Fund from revenues received from the Communications Sales and Use Tax. The City opposes diversion of this tax beyond the uses already specified in statute and believes this sets a bad precedent for future diversion of a tax that by Code should be distributed to localities. The City requests removal of this language from the budget diverting these funds. City collections in 2018-2019 were \$10,088,071, which has been declining from a high collection point of \$12,204,073 in 2012-2013.

STATE AID TO LOCALITIES

State aid to localities assists in providing services at the local level, many of which are mandated. The state and localities that are in partnership in providing these services to their citizens and localities should not be expected to take on a greater and greater share of the funding responsibility. The City opposes cuts in state assistance programs such as, but not limited to, full funding of State Aid to Local Public Libraries, HB 599 funding for localities with police departments, extension services, local offices on youth, Virginia Juvenile Community Crime Control Act (VJCCCA) funds and services for senior citizens. The City also opposes any further reduction to the car tax reimbursement to local governments.

ECONOMIC DEVELOPMENT INVESTMENT PROGRAMS

The City supports State funding for such programs as the Virginia Jobs Investment Program and the Governor's Opportunity Fund. The City also supports changes to the State's economic development incentives program to provide increased flexibility to provide assistance to a wider range of companies, especially smaller and mid-sized projects. Further, the City supports the creation and implementation of new economic development incentives programs that are based on "best practices" of Virginia's competitor states.

VIRGINIA ENTERPRISE ZONE PROGRAM

The City's Enterprise Zone program was recognized as one of the most successful in the Commonwealth. It was a vital component to the City's ability to bring business and job growth to the City's South Norfolk community. The program designation expired in 2005, and the reapplication process was placed on hold by the Virginia Department of Housing and Community

Development while changes to the statewide program were being considered by the 2005 Virginia General Assembly. These program changes were highly significant, and removed the City's eligibility to participate in the Enterprise Zone program.

The City supports a revision of the state's Enterprise Zone program to provide additional funding and to revert back to the original eligibility criteria, whereby Enterprise Zone designations were granted based on the demographics and economics of specific neighborhoods, and not the City as a whole.

FUNDING FOR CONSTITUTIONAL OFFICES

The City of Chesapeake urges the state to fund the additional positions for the Offices of Clerk of the Circuit Court, Sheriff, Commonwealth's Attorney, City Treasurer and Commissioner of the Revenue, that its own staffing standards indicate are needed, and which more accurately reflect the actual workloads and requirements of these offices.

Transportation

TRAFFIC INCIDENT MANAGEMENT

The City supports legislation in the 2020 General Assembly Session that would allow VDOT Traffic Incident Management ("TIM") vehicles along Statewide Safety Service Patrol Routes to be equipped with flashing lights and sirens. During the 2019 General Assembly Session, [such legislation passed the House 99-0](#) and failed narrowly in Senate Transportation Committee. These programs, which would facilitate the prompt arrival of TIM professionals, have been shown in other states to significantly alleviate traffic congestion and improve safety by mitigating secondary crashes.

Background:

VDOT safety service patrol vehicles, also known as traffic incident management (TIM) vehicles, operate on the I-64 corridor, the I-95 corridor, the I-495 corridor, the I-295 corridor, most of the I-81 corridor, and part of the I-77 corridor. TIM vehicles are dispatched by VDOT Transportation Operation Centers or Virginia State Police dispatchers to support first responders by clearing major accidents. VDOT currently uses amber lights for TIM vehicles, and are frequently delayed in responding due to traffic which does not yield the right of way to amber lighted vehicles. Proposed legislation would authorize TIM vehicles to be (i) equipped with flashing red or red and white warning lights, (ii) exempt from certain traffic regulations in particular situations, and (iii) equipped with a siren, exhaust whistle, or air horn. The proposed legislation also would add TIM vehicles to the list of stopped vehicles for which the operator of a motor vehicle must move over or proceed with caution.

TIM vehicles have been shown to reduce response times by 50 percent. The Maryland Department

of Transportation, who has emergency lighting and sirens on their vehicles, has identified an average response time of 7.5 minutes per incident, while VDOT currently averages 14 minutes. Prompt arrival of TIM professionals, facilitated by emergency vehicle responses, alleviates traffic congestion. For each minute an incident negatively impacts a travel lane, approximately 4 additional minutes are statistically required to return travel volumes to pre-crash values. Delays have increased safety challenges, cost significant commuter hours, and greatly increased costs. Finally, this bill mitigates secondary crashes. Prompt arrival of TIM vehicles will positively impact traffic congestion and life safety.

REGIONAL DEDICATED FUNDING MODEL

A. The City supports the collaborative development of a new regional funding model to support priority regional public transit projects.

The Transportation District Commission of Hampton Roads (TDCHR) (of which the City is a member) has initiated efforts to transform transit across the region.

The region's bus network has not been significantly improved in decades. The route structure and frequency of Hampton Roads Transit (HRT) service within a given locality is determined by that locality rather than the TDCHR. While HRT attempts to link routes between cities where possible under this system, the frequency of service and hours of operation are set and funded by the local jurisdiction (out of their general fund revenues) often leading to non-existent or inefficient and ineffective inter-city connections.

This historic funding and planning method has resulted in HRT operating a collection of locally determined transit routes rather than a fully integrated and inter-connected regional transit system. Of 10 peer sized transit agencies, Hampton Roads Transit's operating cost are 20% below its peer's average while offering 25% higher bus service per rider.

Hampton Roads is also the only region in the United States with a multi-modal transit system (bus, light rail and passenger ferry) that also does not have any dedicated funding source to support its overall transit operation or capital investments.

Recognizing this, the 2018 Virginia General Assembly mandated the development of a regional transit planning process. The legislation specified that the planning process must include the identification and prioritization of projects, the establishment of performance benchmarks that incorporate state and federal requirements, the development and implementation of a regional subsidy allocation model, and the distribution of funds solely designated for transit and rail and that are administered by a regional body authorized by the Code to enter into agreements for the operation and maintenance of transit and rail facilities.

The TDCHR's Transit Transformation Project is integral to this effort to establish consistent, high frequency cross-connection bus transit between cities in the region to and between major employment, education, health care, shopping and residential centers. It is expected to result in new data-driven regional service standards.

This will support consistency of service across the region, including a core system of connective regional routes that are supported by a network of localized bus routes and transit modes ranging from on-demand bus service and micro transit and to bicycles and scooters, all connected seamlessly through a user-friendly technology platform.

Implementing an improved regional transit structure will require the development of new funding options, as well as a new method for allocating the costs between the localities served by Hampton Roads Transit. While the current method of allocating costs between the local jurisdictions is left to the discretion of the TDCHR and its local government members, the funding structure for the new regional network and its sources should be addressed in the Code of Virginia and include options for a new regionally derived, revenue source to supplement local funding.

B. The City supports state funding, to replace state bond funding that has exhausted during the past biennium, for transit state-of-good repair (SOGR) and transit expansion projects.

The Commonwealth needs steady and reliable revenues dedicated to the statewide transit capital program. In 2007, the Commonwealth Transportation Board authorized about \$3 billion in bonds for transportation projects, with a minimum 20 percent dedicated to transit capital. The Virginia Department of Rail and Public Transportation (DRPT) elected to receive funding from these Capital Project Revenue (CPR) bonds over a ten-year period (\$60 million annually). These bond revenues have expired, resulting in significant permanent decline in available funds. In response, the 2016 General Assembly established the Transit Capital Project Revenue Advisory Board to examine state transit capital funding needs and identify potential solutions to meet these needs.

The City believes the Governor and General Assembly need to address this issue now. The inclusion of transit projects in the Smart Scale process has somewhat alleviated the loss of this bond funding, however we are gradually moving to a crisis situation.

EMPLOYER TAX CREDITS FOR PUBLIC TRANSPORTATION

The City supports the creation of a state tax credit for employers who subsidize the cost of public transit commuting for their employees.

Employees value commuter benefits provided by their employer. National research has found a

growing interest and use of these benefits in recent years. The federal government is perhaps the largest provider of employee public transit commuter benefits through its “Federal Government Mass Transit Benefits Program” which reimburses qualified employees for certain commuting costs (up to a specified limit). There are many restrictions, such as benefits received may not exceed the actual cost incurred by the employee; over payment must flow back to the employer; and the employee must use the service for which the employer is paying at least 75% of the time.

For the private employer, providing such benefits used to be like money in the bank. Employers saved on federal payroll taxes while employees saved on federal income taxes. This changed somewhat with the Tax Cuts and Jobs Act signed into law on December 22, 2017 which made changes to the Qualified Transportation Fringe Benefits section of the federal tax code. Employers may still provide these tax-free benefits to employees for parking, transit and commuter highway vehicles; however, an employer can no longer deduct the expenses for providing these tax-free employee commuter benefits.

The Commonwealth does not provide any incentive for either public or private employers to provide these benefits. The public benefit of such policies is reduced traffic, parking needs, wear and tear on highways and increased farebox revenue for the transit agencies. For the employer, it helps attract and retain qualified employees. The Commonwealth should provide a state tax credit for employers who subsidize the cost of public transit commuting for their employees.

HIGHWAY FUNDING

The City appreciates the General Assembly’s efforts to meet the demand for construction and maintenance of highways, bridges, railroad overpasses and other critical components of transportation safety and commerce. The City supports continued funding for the State of Good Repair program, bridge construction, and bridge maintenance and operations, especially for moveable bridges. The City further requests the State to retain the Revenue Sharing Program.

With passenger rail service now running through Chesapeake and freight-rail activities on the rise, the need for grade separated highway-rail crossings is critical to ensure emergency access to the ever increasing industrial areas along the Elizabeth River, as well as highly populated residential areas. The City and the Norfolk-Portsmouth Beltline Railroad jointly funded the design of the Freeman Avenue overpass and are seeking construction funding through various state and federal programs. Further, the City is undertaking the replacement of the 22nd Street Bridge which serves as a crossing of the Norfolk-Southern Railroad. Additional funding is needed to design and construct overpasses at major crossings such as Freeman Avenue and Portlock Road.

The City strongly opposes any proposal to reduce annual road maintenance payments to the 83 Virginia local governments that own and maintain their own streets.

Public Safety

IMPERSONATION OF LAW ENFORCEMENT OFFICER

The City supports amending Va. Code §18.2-174 by changing the penalty from a Class 1 misdemeanor to a Class 6 felony if impersonation occurs during the commission of another crime.

Background:

Increasing the penalty from a misdemeanor to a felony under certain circumstances will reflect the seriousness of the offense of impersonating a police officer. Most law abiding citizens will obey without question the directions or requests of a person they believe to be a law enforcement officer. An article in the Virginian Pilot newspaper highlighted an individual who had posed as a law enforcement officer to stop females and then handcuffed and fondled them. In July of this year we had a home invasion and shooting in the South Norfolk section of the city where suspects broke into a home and claimed to be the Chesapeake Police as they broke into the home. Also, given the current terrorism environment, individuals who impersonate a police officer pose a threat to many security systems as some security personnel may be more likely to allow someone they believe to be a police officer to enter a secured area.

THREATS OF DEATH OR BODILY INJURY TO A PERSON AT ANY PLACE OF ASSEMBLY, BUILDING, STRUCTURE, OR MEANS OF MASS TRANSPORTATION; PENALTY

The City supports amending the Virginia Code by adding a new section 18.2-83.1 similar to the language proposed below. This language is necessary to encompass threats made to groups of persons, such as school students, that fall outside of current Code provisions.

Va. Code Section 18.2-83.1. Making Terroristic Threats; false information as to such threats; punishment; venue.

- A. Any person who, with the intent to (i) intimidate a civilian population at large, (ii) influence the conduct or activities of the government of the United States, a state or locality through intimidation, (iii) compel the emergency evacuation of any place of assembly, building or other structure or any means of mass transportation through intimidation, or (iv) place any person in reasonable apprehension of bodily harm through intimidation, either (a) communicates to another by any means any threat to bomb, burn, destroy, shoot, stab or in any manner injure persons at any place of assembly, building or other structure or any means of mass transportation, or (b) communicates to another by any means information, knowing the same to be false, of any plan to bomb, burn, destroy, shoot, stab or in any manner injure persons at any such place of assembly, building or other structure, or any means of mass transportation shall be guilty of a Class 5 felony; provided, however, that if such person be under fifteen years of age, he shall be guilty of a Class 1 misdemeanor.

B. A violation of this section may be prosecuted either in the jurisdiction from which the communication was made or in the jurisdiction where the communication was received.

Background:

The Chesapeake Police Department and numerous other jurisdictions across the Commonwealth have experienced a dramatic increase in threats correlating with nationwide mass shooting events. Officers have had difficulties prosecuting such threats mainly due to the specific nature of the Code. Many of the threats simply say, for example, “I’m going to shoot up the school.” Shooting up a building, such as a school, doesn’t necessarily mean “people” because it could just mean shooting at the building when it is unoccupied. We are looking for ways to prosecute these individuals. Another frequent trend is people posting online such indirect threats as “don’t go to school tomorrow, there’s going to be a shooting” or “don’t go to school” accompanied by a picture of a gun. With the addition this Code section those individuals may be charged with communicating a knowingly false threat.

EMERGENCY SHELTERS

The City supports legislation to require that a sex offender who enters an emergency shelter designated by the Commonwealth or any political subdivision thereof and operated in response to a declared state or local emergency shall, as soon as practicable after entry, to notify a member of the shelter's staff who is responsible for providing security of such person's status as a registered sex offender.

DISTRACTED DRIVING

The City supports the introduction of legislation that addresses the issue of distracted driving.

SOLICITATION

The City supports legislative initiatives that would lawfully restrict solicitors and other persons from standing on public right-of-way, including medians, where doing so is likely to create a public safety hazard. The City recognizes the need to balance public safety with First Amendment rights of free speech and believes that an acceptable narrowly drawn compromise is possible given the compelling governmental interest in ensuring the safety of motorists and pedestrians alike.

URBAN AREAS SECURITY INITIATIVE (UASI)

The UASI designation for the Hampton Roads region was restored in 2017. The City supports the Hampton Roads Planning District Commission’s request for assistance from our state and federal partners to increase the level of UASI funding provided to the Hampton Roads region.

SAFETY BELT REQUIREMENT

An amendment to Virginia Code § 46.2-1094 is necessary to protect the lives and wellbeing of citizens of the Commonwealth and others traveling on the roadways within Virginia. Currently,

Virginia Code § 46.2-1094 requires persons who are at least 16 years of age and riding in the front seat of a motor vehicle to wear a safety belt; however, law-enforcement officers are prohibited from enforcing this section, unless they have cause to stop or arrest the driver of the vehicle for some other violation. Wearing seatbelts has proven to save lives. To make this code section more effective in saving lives, law-enforcement officers need to be authorized to enforce Virginia Code § 46.2-1094, without first being required to find that another law has been violated.

Environmental Quality

WATERSHED IMPLEMENTATION PLAN PHASE III

The Commonwealth must continue to fully fund the Water Quality Improvement Fund and provide financial assistance for local government water quality improvement projects in Virginia at appropriate levels designed to clean up the Bay and its tributaries. The Commonwealth would defeat the spirit of community partnership if it adopted stringent new wastewater mandates during the third and final phase of the Watershed Implementation Plan or required local governments to undertake unfunded mandates for water quality improvement projects.

- Local governments through wastewater treatment plant upgrades throughout the Chesapeake Bay watershed have led Virginia's progress toward a restored Bay. Localities willingly invested over an estimated \$2 billion in recent years to install nutrient removal technology at dozens of major wastewater treatment plants. Unfortunately, the Chesapeake Bay TMDL Phase III Watershed Implementation Plan (WIP) adopted on August 23, 2019 breaks from this long tradition of collaboration.
- Today, as the Phase III WIP admits, local government wastewater operations are proudly outperforming the municipal wastewater sector's Chesapeake Bay TMDL requirements in Virginia. However, the Phase III WIP wrongly assumes without explanation that in 2025 the already-reduced discharges from these local wastewater facilities will reverse course and spike up to much higher levels. This assumption is completely contrary to a decade-long demonstrated track record of declining discharges, which is also acknowledged in the Phase III WIP.
- In response to its mistaken assumption, the Phase III WIP imposes extremely stringent and costly new regulatory restrictions on local governments, with significant adverse financial implications for utility funds and ratepayers. This will also increase the State Budget appropriations needs for normal Water Quality Improvement Fund operations and thereby increase competition for limited State funds and cause delays in other sectors like agriculture and stormwater that have much improvements yet to complete.
- Numerous alternative recommendations for more cost-effective additional wastewater sector initiatives to continue the already Virginia-leading Bay restoration efforts by local wastewater utilities were provided to the Office of the Secretary of Natural Resources but were rejected. Instead, the Phase III WIP requires costly new regulatory restrictions on local wastewater

utilities that are unnecessary to meet the Chesapeake Bay’s clean water goals, which local governments have long supported and continue to support

Further, the City opposes sections of the WIP III providing that if Virginia doesn’t have nutrient management plans implemented on 85% of farms with 50 or more acres by December 31, 2020, then the plans will become mandatory for all farms that size. The City also opposes the condition that contract applicators cannot apply commercial fertilizer on farm operations in excess of the nutrient management plan guidelines.

OFFSHORE DRILLING

The City opposes oil and gas exploration, including seismic testing and drilling, off the coast of Hampton Roads.

COAL COMBUSTION BY-PRODUCTS

The City supports the excavation of coal combustion residuals (CCR) to a permitted, lined landfill meeting Federal criteria for this class of waste, or its beneficial reuse in accordance with Virginia Code Section 10.1-1402.03 in a manner that is compliant with Chapter 62 of the Chesapeake City Code and its Zoning Ordinance, as well as applicable State and Federal criteria, and the EPA’s Final Rule for the Disposal of Coal Combustion Residuals from Electric Utilities (“CCR Final Rule”). The closure and post-closure of any CCR unit should be in compliance with a conditional use permit issued by the City.

GROUNDWATER MANAGEMENT & GROUNDWATER INJECTION PROJECTS

The City supports the conclusions of the Eastern Virginia Groundwater Management Area provided to the General Assembly for consideration. Specifically, it supports the following:

- Support of Hampton Roads Sanitation District’s SWIFT and similar projects, including aquifer storage, recovery, and recharge.
- Promotion of alternative water sources and solutions included in the report.
- Lengthening the maximum groundwater permit term to fifteen years by changing the statutory language in Virginia Code Section 62.1-266(C).
- Establishment of incentives for local governments and well owners to connect to public surface water systems when reasonably available, with credits to localities to help lower connection fees or to provide low cost financing.
- The continued activity of the groundwater trading group established by House Bill 1036 to study and identify the components of a groundwater trading program.
- Support funding to the Department of Environmental Quality through General Fund appropriation that ensures a robust groundwater management program in the Eastern Virginia Groundwater Management

- Support legislation or regulations that require yard irrigation systems to withdraw water from either the surficial or shallowest confined aquifer.

URANIUM MINING

Uranium mining, milling, and disposal of generated wastes pose health and environmental concerns for Virginians. If uranium mining activities are permitted in Virginia, the City is concerned that radiation and other pollutants from mill tailings may occur and water supplies may be contaminated. Therefore, the City opposes uranium mining in Virginia, and opposes the elimination of the existing legislative moratorium on the mining and milling of uranium in Virginia. Further, the Commonwealth is requested to vigorously oppose federal court actions to overturn the moratorium on uranium mining.

SOLID WASTE OR OTHER SURCHARGES

The City opposes the imposition of a state fee or surcharge on water, sewer, or any other local government service.

STORMWATER LOCAL ASSISTANCE FUND (SLAF)

The City is requesting that the Governor and General Assembly allocate \$50 million in the fiscal year 2020 budget to the SLAF, which will allow localities throughout the Commonwealth to implement urban stormwater management practices as described in Virginia's Watershed Implementation Plan. These funds will also assist localities to meet costly state and federal stormwater permit requirements. The City is grateful to the General Assembly for creating the SLAF and appropriating \$20 million in FY2017 for the fund. The purpose of the fund is to provide matching grants to local governments implementing best management practices that cost effectively reduce pollutants in stormwater runoff. The City was fortunate to be awarded \$1.25 million in FY2014 for the Washington Manor Outfall project in the Deep Creek area of the City; \$412,000 in FY2015 for a wetlands bench project on Yadkin Road (\$74,500) and the 22nd Street wet pond (\$337,500); and \$1.7 million in FY2017 for the New Mill Regional BMP (\$1,022,975) and the Meads Court Regional BMP (\$684,228). The City applied for FY 2019 SLAF funds, but was not granted any awards. A request for funding for FY 2020 will be submitted for continued support of the SLAF.

NUTRIENT ALLOCATIONS CURRENTLY ASSIGNED TO EXISTING MUNICIPAL WASTEWATER TREATMENT PLANTS

The City opposes legislation which would restrict or limit nutrient and sediment trading between sectors as currently allowed, including between MS4 (Stormwater), Wastewater, and Agriculture. In order to meet the goals set out in the Chesapeake Bay Total Maximum Daily Load, localities need all available cost-effective options to reduce nutrient and sediment loads, as well as regulatory certainty for planning and funding.

The implications are that this concept is a serious threat to localities, especially in the Chesapeake Bay watershed. Adverse consequences could include:

- Disruption of major recent local wastewater treatment investments made to comply with the Chesapeake Bay TMDL over the past 5-10 years;
- Stranding of existing constructed treatment capacity and associated loss of capacity of local growth and economic development;
- New, extremely stringent, and costly treatment over and above EPA Chesapeake Bay TMDL levels;
- Disruption of existing or planning nutrient trades between or among wastewater facilities and or municipal separate storm sewer systems;
- A precedent for potentially taking away water supply (withdrawal capacity) from existing water suppliers to transfer to new facilities where the source is already fully allocated.

Appendix A

Va. Code § 15.2-2243. Payment by subdivider of the pro rata share of the cost of certain facilities

A. A locality may provide in its subdivision ordinance for payment by a subdivider or developer of land of the pro rata share of the cost of providing reasonable and necessary sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development; however, no such payment shall be required until such time as the governing body or a designated department or agency thereof has established a general sewer, water, and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located or the governing body has committed itself by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the amount necessary to protect water quality based upon the pollutant loading caused by the subdivision or development or to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of storm water runoff to be actually caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the pollutant loading caused by the subdivision or development or the volume and velocity of storm water runoff, the governing body shall take into account the effect of all on-site storm water facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefor.

B. A locality may also require a subdivider or developer to install reasonable and necessary sewerage and water facilities located on or outside the property limits of the land owned or controlled by the developer or subdivider that is necessitated or required, at least in part, by the utility needs of the development or subdivision, including reasonably anticipated capacity, extensions or maintenance considerations of a utility service plan for the service area. Such developer or subdivider, hereinafter the installing developer, shall be entitled to reimbursement of its costs by any subsequent developer or subdivider that utilizes the installed sewerage or water facility, except for those costs associated with the installing developer's pro rata share. An installing developer's pro rata share shall be determined by calculating the cost to install the sewerage and water facilities as reasonable and necessary to serve the volume and rate of flow of sewerage and water in its development or subdivision. A subsequent developer or subdivider that utilizes the installed facility shall be required to reimburse the installing developer based upon the subsequent developer's pro rata share, which shall be determined by the impact the subsequent developer's subdivision or development has upon the volume and rate of flow of sewerage and water through the installed facility. An installing

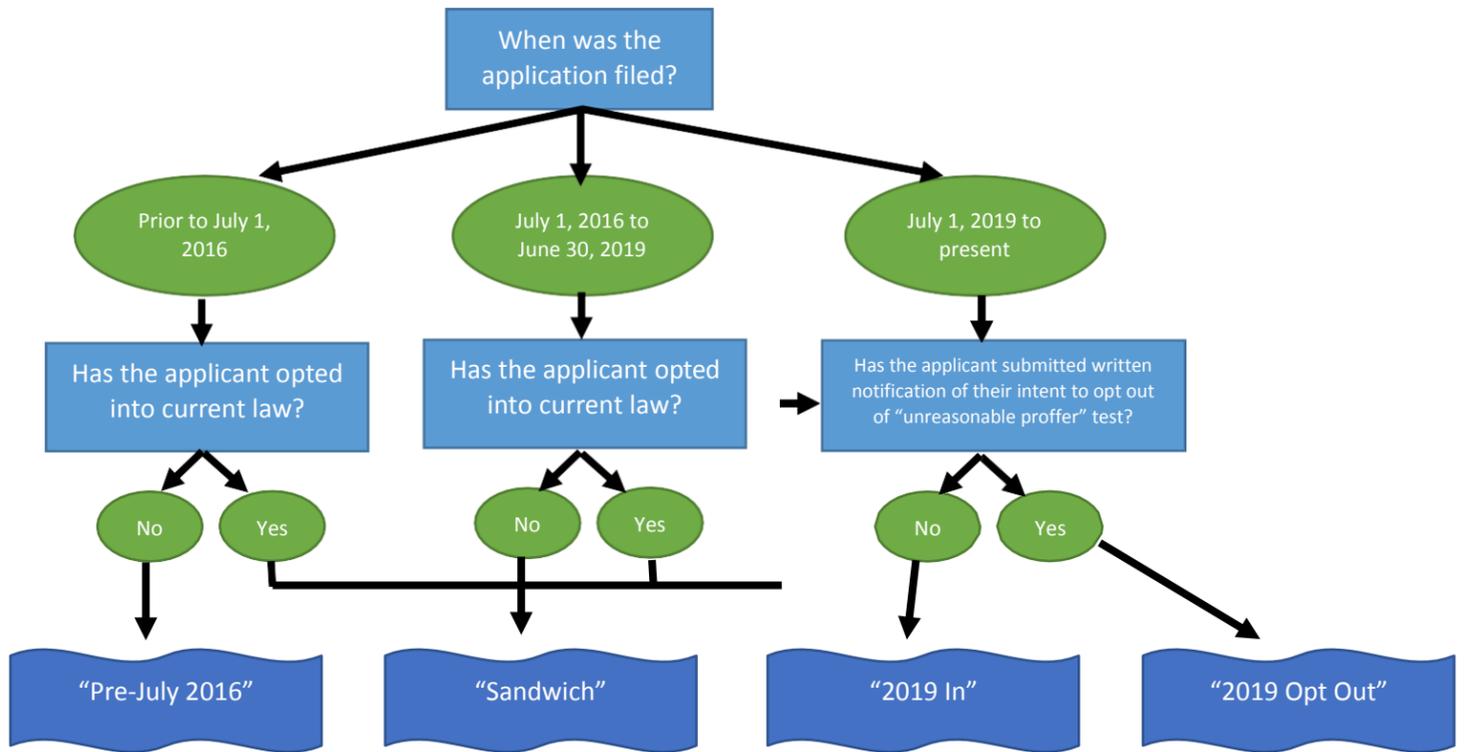
developer may transfer to the locality by written agreement its right to the maximum reimbursable amount for the water or sewer facility in exchange for entitlement to the respective water or sewer connection or capacity fees due to the locality that are imposed upon the installing developer's lots within its subdivision or development. An installing developer's right to reimbursement shall expire fifteen (15) years after the date the installed facility is placed into service by the locality if the installing developer fails to submit to the locality evidence of its actual cost for the installed facility. The maximum reimbursable amount shall be equal to the actual cost for the installed facility, less the installing developer's pro rata share. The locality is authorized to administer by ordinance and promulgate by reasonable policies and procedures standards for installation of such water and sewerage facilities and parameters for pro rata reimbursement or connection or capacity fee reimbursement.

~~B.~~ C. Each such payment received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program; however, in lieu of such payment the governing body may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such studies or construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All bonds, payments, cash escrows or other performance guarantees hereunder shall be released and used, with any interest earned, if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

~~C.~~ D. Any funds collected for pro rata programs under this section prior to July 1, 1990, shall continue to be held in separate, interest bearing accounts for the project or projects for which the funds were collected and any interest from such accounts shall continue to accrue to the benefit of the subdivider or developer until such time as the project or projects are completed or until such time as a general sewer and drainage improvement program is established to replace a prior sewer and drainage improvement program. If such a general improvement program is established, the governing body of any locality may abolish any remaining separate accounts and require the transfer of the assets therein into a separate fund for the support of each of the established sewer, water, and drainage programs. Upon the transfer of such assets, subdividers and developers who had met the terms of any existing agreements made under a previous pro rata program shall receive any outstanding interest which has accrued up to the date of transfer, and such subdividers and developers shall be released from any further obligation under those existing agreements. All bonds, payments, cash escrows or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

Appendix B

Residential Proffer Process Flow Chart



Onsite Proffers	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed; and (iii) be roughly proportional to the extent of the impact	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed; (iii) be roughly proportional to the extent of the impact AND (iv) specifically attributable to the proposed new residential development	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed; (iii) be roughly proportional to the extent of the impact AND (iv) specifically attributable to the proposed new residential development	Deemed reasonable and appropriate by owner and applicant as evidenced by signed proffer statement
Offsite Proffers	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed; and (iii) be roughly proportional to the extent of the impact	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed, (iii) be roughly proportional to the extent of the impact AND (iv) are limited to transportation, public safety, schools, and parks facilities only and must (a) address impacts specifically attributable to the proposed development; (b) address increased facility needs created by the new development; and (c) provide a direct and material benefit to the new residential development	(i) Reasonably related to the needs generated by the development; (ii) must have an essential nexus between the impact and the condition imposed, and (iii) be roughly proportional to the extent of the impact AND (iv) are limited to transportation, public safety, schools, and parks facilities only and must (a) address impacts specifically attributable to the proposed development; (b) address increased facility needs created by the new development; and (c) provide a direct and material benefit to the new residential development	Deemed reasonable and appropriate by owner and applicant as evidenced by signed proffer statement
Cash Proffers	Cash proffers can be applied to most City facilities and needs within service districts as identified in the Proffer Policy	N/A	N/A	Deemed reasonable and appropriate by owner and applicant as evidenced by signed proffer statement
Communication	City Council Members, Planning Commissioners, and Staff can communicate directly with applicant's representatives to discuss the impacts of the proposed rezoning and appropriate means to mitigate.	City Council Members, Planning Commissioners, and Staff communication with applicant representatives will be limited to avoid potential litigation.	City Council Members, Planning Commissioners, and Staff may engage in verbal discussions regarding proffers, but should not engage in any other form of communication regarding proffers.	City Council Members, Planning Commissioners, and Staff may engage in verbal discussions regarding proffers, but should not engage in any other form of communication regarding proffers.

Appendix C

A RESOLUTION IN SUPPORT OF SECOND AMENDMENT RIGHTS AND EXPRESSING COMMITMENT TO RESPECT, PRESERVE, AND UPHOLD THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE I, § 13 OF THE VIRGINIA CONSTITUTION.

WHEREAS, the Second Amendment of the United States Constitution states in part that the “right of the people to keep and bear arms shall not be infringed”; and

WHEREAS, Article I, § 13 of the Virginia Constitution reads: “That a well regulated militia, composed of the body of the people, trained to arms. is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed...”; and

WHEREAS, the United States Supreme Court, in *District of Columbia v. Heller*, 554 U.S. 570 (2008), affirmed an individual’s right to own and possess firearms for self-defense within the home or other lawful purposes; and

WHEREAS, the United States Supreme Court, in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to “keep and bear arms,” as protected under the Second Amendment applies to the states through the Due Process Clause of the Fourteenth Amendment to the United States Constitution; and

WHEREAS, the Chesapeake City Council feels that the right of citizens to bear arms, as stated in both the United States Constitution and the Virginia Constitution, is a fundamental right that should be protected to the greatest degree possible; and

WHEREAS, the Fifth Amendment to the United States Constitution provides that “No person shall...be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation”; and

WHEREAS, the members of the Chesapeake City Council have taken an oath to defend and uphold the United States and Virginia Constitutions; and

WHEREAS, the Chesapeake City Council is concerned that certain pre-filed legislation for the 2020 session of the Virginia General Assembly may threaten the rights of law-abiding citizens guaranteed by the Second Amendment to the United States Constitution and Article I, § 13 of the Virginia Constitution; and

WHEREAS, the Chesapeake City Council is concerned that the passage of these bills, may place undue burdens on the right of law-abiding citizens to keep and bear arms, including but not limited to divesting property from citizens who currently lawfully possess certain weapons and certain capacity magazines; and

WHEREAS, unless an express delegation exists from the General Assembly, the Chesapeake City Council has no legislative or regulatory authority related to “the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof”, as provided by Section 15.2-915 of the Code of Virginia, 1950, as amended, and has no authority over the independent execution of the duties of the constitutional officers involved in law enforcement; and

WHEREAS, the Chesapeake City Council expresses opposition to any law that would unconstitutionally restrict the rights of law-abiding citizens of the City of Chesapeake to keep and bear arms; and

WHEREAS, the Chesapeake City Council strives to act in the best interest of the City and its citizens, and accordingly wishes to express its sentiments with regard to this important matter, and its continuing intent to take lawful action to protect these important rights.

NOW, THEREFORE, BE IT RESOLVED, by the Chesapeake City Council that this body expresses its commitment by all legal means and remedies to respect, preserve, and uphold the Second Amendment of the United States Constitution and Article I, § 13 of the Virginia Constitution; and

BE IT FURTHER RESOLVED, that the Chesapeake City Council hereby expresses its strong support for the rights of law-abiding citizens to keep and bear arms and urges the members of the General Assembly and the Governor to take no action which would violate the freedoms guaranteed in both Constitutions or burden law-abiding citizens who currently lawfully possess certain weapons and capacity magazines; and

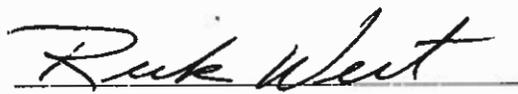
BE IT FURTHER RESOLVED, that the Chesapeake City Council hereby expresses its intent to uphold the Second Amendment rights of law-abiding citizens within the limits of the Constitutions of the United States, the Commonwealth of Virginia, and the laws thereof; and

BE IT FURTHER RESOLVED, that the Chesapeake City Council declares Chesapeake a “Second Amendment Constitutional City”; and

BE IT FURTHER RESOLVED, that the Chesapeake City Council directs the City Manager to forward a copy of this resolution to the City’s General Assembly delegation and to the Governor of Virginia.

ADOPTED by the Council of the City of Chesapeake, Virginia this 10th day of December, 2019.

APPROVED:



Mayor

ATTEST:



Clerk of the Council

APPROVED AS TO FORM:



City Attorney