

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting  
Saturday, October 15, 2011 - - 9:30 a.m.**

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Present: Mayor William D. Euille, Vice Mayor Kerry J. Donley, Members of Council Frank H. Fannon, Alicia Hughes, K. Rob Krupicka, Redella S. Pepper, and Paul C. Smedberg.

Absent: None.

Also Present: Mr. Johnson, Acting City Manager; Mr. Banks, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Castrilli, Director, Communications and Public Information; Ms. Orr, Director, Human Resources; Ms. Hamer, Director, Planning and Zoning (P&Z); Ms. Taylor, Acting Director, Office of Management and Budget (OMB); Ms. Harris, Communications Officer, Communications and Public Information; Mr. Randall, Urban Planner, P&Z; Ms. Ross, Deputy Director, P&Z; Ms. Wright, Division Chief, P&Z; Ms. North, Urban Planner, P&Z; Ms. Boyd, Special Assistant to the City Manager, City Manager's Office; Ms. Snow, Assistant City Attorney; Ms. Dawson, Director, Library; Mr. Catlett, Director, Code Administration; Ms. Triggs, Acting Chief Financial Officer/ Finance Director; Mr. Spengler, Director, Recreation, Parks and Cultural Activities; Ms. Carton, Park Planner, Recreation, Parks and Cultural Activities; Mr. Wagner, Principal Planner, P&Z; Mr. Braeden, Budget Analyst, OMB; Mr. McClanahan, Budget Analyst, OMB; Ms. McLean, ITS; Police Captain Ogden; and Mr. Lloyd.

Recorded by: Gloria Sitton, Deputy City Clerk and Clerk of Council.

**OPENING**

1. Calling the Roll.

The meeting was called to order by Mayor Euille, and the Deputy City Clerk called the roll. All the members of Council were present.

**New Business Item #1:**

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Vice Mayor Donley and carried unanimously, City Council reconvened out of Executive Session at 9:33 a.m. The voting was as follows:

Hughes "aye" Fannon "aye"

Donley	"aye"	Krupicka	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	"aye"	

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilman Smedberg and carried unanimously, City Council adopted the resolution pertaining to the Executive Session. The voting was as follows:

Hughes	"aye"	Donley	"aye"
Smedberg	"aye"	Fannon	"aye"
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

The resolution reads as follows:

**RESOLUTION NO. 2475**

**WHEREAS**, the Alexandria City Council has this 15th day of October 2011, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by the city council that such executive session was conducted in accordance with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED**, that the city council does hereby certify that, to the best of each member's knowledge, only public business matters that were identified in the motion by which the executive session was convened, and that are lawfully exempted by the Freedom of Information Act from the Act's open meeting requirements, were heard, discussed or considered by council during the executive session.

Mayor Euille announced that the City Council has selected Rashad Young, the current City Manager in Greensboro, N.C., as the new City Manager for the City of Alexandria. Mayor Euille noted that the formal appointment of Mr. Young will take place on October 24 at a special meeting at 6:00 p.m.

2. Public Discussion Period.

(a) Vola Lawson, former City Manager, announced that this month is National Adopt a Dog from Your Shelter Month and she encouraged everyone to consider adopting a dog. Ms. Lawson also had a shelter dog with her at the meeting for the announcement. Ms. Lawson announced that throughout the month, the adoption of a Fall color cat will be free.

(b) Jack Sullivan, 4300 Ivanhoe Street, updated Council on the Board of

Zoning Appeals (BZA) decision concerning the lighting at Hammond Middle School. Mr. Sullivan stated that the Seminary Hills neighborhood is willing to seek redress in court. Mr. Sullivan requested that Council direct the Planning and Zoning staff to stop putting their desires ahead of the Zoning Ordinances and require more transparency.

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES**

### **ACTION CONSENT CALENDAR (3-4)**

#### **Planning Commission**

3. SPECIAL USE PERMIT #2011-0052  
2016 EISENHOWER AVENUE (Parcel Address: 2000 Eisenhower Avenue)  
SUNO JAPANESE RESTAURANT  
Public hearing and consideration of a request to operate a restaurant; zoned CDD #11/Coordinated Development District 11. Applicant: Jian Yi Pan

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated October 4, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 10/15/11, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2011-0053  
2705 HEMLOCK AVENUE  
SUBSTANDARD LOT CONSTRUCTION  
Public hearing and consideration of a request for construction on a substandard lot for a single family house; zoned R8/Residential. Applicant: Sidney and Linda Lowery

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 6-1

(A copy of the Planning Commission report dated October 4, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 10/15/11, and is incorporated as part of this record by reference.)

### **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, City Council approved the action consent calendar, with the exception of docket item #4, which was considered under a separate motion. The approval was as follows:

3. City Council approved the Planning Commission recommendation.

The voting was as follows:

Krupicka	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	"aye"
	Smedberg	"aye"	

4. SPECIAL USE PERMIT #2011-0053

2705 HEMLOCK AVENUE  
SUBSTANDARD LOT CONSTRUCTION

Public hearing and consideration of a request for construction on a substandard lot for a single family house; zoned R8/Residential. Applicant: Sidney and Linda Lowery

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 6-1

(A copy of the Planning Commission report dated October 4, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 10/15/11, and is incorporated as part of this record by reference.)

Mr. Randall, Urban Planner, Planning and Zoning, gave a brief presentation of the proposed construction.

The following person participated in the public hearing on this item:

(a) Sidney Lowery, 105 West Mount Ida Avenue, the applicant, spoke in favor of the special use permit.

Ms. Ross, Deputy Director, Planning and Zoning, responded to questions from Council about changing the grade of the lot and infill development.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Donley and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

Smedberg	"aye"	Fannon	"aye"
Donley	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

5. Public Hearing to Obtain Citizens Input on the City's Proposed Fiscal Year 2012 Budget and Capital Improvement Program (CIP).

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

(a) Elliott Branch, 3830 Brighton Court, co-chair of the Budget and Fiscal Affairs Advisory Committee (BFAAC), noted that the City has exercised good stewardship over the budget and has weathered the economic uncertainty well. Mr. Branch stated that BFAAC recommended that the City continue to use caution and restraint in fiscal affairs, pointing to the development of the schools budget, particularly concerning the Capital Improvement Program budget; compensation should be considered as a whole and should be fair and balanced to employees and citizens alike; and BFAAC urged caution when using debt levels to finance Capital Improvement Projects.

Mr. Branch responded to questions from Council about the impact the Federal budgeting process will have on the economic health of the Washington Metropolitan region.

(b) Kathleen Pepper, 5320 Thayer Avenue, representing the Alexandria Archeological Commission, requested increased funding of up to \$5,200 for Alexandria Archeology in order to increase staff for the museums. Ms. Pepper requested funding for a consultant study to explore moving the museum from the Torpedo Factory. Ms. Pepper noted that the Archeology Commission recommended that funding be increased because its non-personnel operating budget was at 1995 levels.

(c) Frank Sokolove, 28 Kennedy Street, stated that he would like to see an increase in public safety compensation as part of the budget.

(d) Bill Rivers, 15 West Mount Ida Avenue, chairman of the Miracle League of Alexandria, updated Council on the progress of Miracle Fields and requested funding from the City for construction of the field. Mr. Rivers reported that the Miracle League has been working hard to raise \$135,000 by May 2012 for the public-private partnership effort.

(e) Gayle Terry, 910 Jefferson Street, #3, representing the Commission on HIV/AIDS, recommended that Council consider the Commission's recommendation for additional funding for a three year period. Ms. Terry requested \$50,000 a year for three years to fund a part-time position for a specific outreach prevention specialist to engage the African-American gay and bisexual male community.

(f) Fay Slotnick, 311 Second Street, representing Parent Leadership Training Institute (PLTI), Alexandria Council of Human Services Organizations (ACHSO) and herself, reported that the nonprofit organizations in the City supplement and complement the work of the City Human Service agencies. Ms. Slotnick stated that nonprofit organizations reach out to provide services to immigrant populations that will integrate them into the community.

(g) Denise Freeland, 917 Crestwood Drive, representing the Arts Forum of Alexandria, requested that Council increase the funding available to arts groups through the grants program to fund a growing arts community in the City of Alexandria. Ms.

Freeland noted that the additional funding contribute to Alexandria becoming a major arts destination for tourism and contribute to the economy of the community.

(h) Sean Casey, 119 South Iris Street, representing the Alexandria Committee of Police, Local 5, requested fair and adequate compensation for the Police Department in order to recruit and maintain excellent police officers who uphold the quality of life for the citizens of Alexandria.

(i) Brooksie Koopman, 116 West Maple Street, chair of Alexandria Library Board, thanked Council for the increased budget that allowed branches to stay open one night each week, the return of security personnel, and the ability to raise certain fines and fees. Ms. Koopman noted that the cuts over the years have affected the patronage access to the library services. Ms. Koopman requested that Council allocate \$294,000 to partially restore the book budget, return the library to regular operating hours and to pay for a library needs assessment study.

(j) Mary Anne Weber, 124 Roberts Lane, Apt. 201, chair of the Alexandria Community Services Board, stated that the board is concerned about meeting the unmet needs of the consumers in these uncertain economic times. Ms. Weber requested that Council continue to support with advocacy at the State level to eliminate any reduction in funding and request that the City's budget guidance includes funding to service some of Alexandria's most vulnerable residents.

(k) Matt Thorton, 317 8th Street, NE, Washington, DC, representing the Alexandria Mentoring Partnership, requested that Council fully fund the Alexandria Mentoring Partnership for the upcoming year and years to come. Mr. Thorton highlighted the benefits that the Partnership has brought to the youth in the City of Alexandria.

(l) Nathan Macek, 724 Franklin Street, representing the Waterfront Committee, noted the six budget priorities that the Committee has outlined for the Capital Improvement Program, including the City marina utility upgrade, sea wall maintenance, marina waterway trash deterrence, marina security improvements, Windmill Park bulk head repairs and waterfront restrooms. Mr. Macek noted that the sea wall maintenance should be prioritized for early repair because of the dangerous conditions and the operational impacts it has on the Marina. Mr. Macek pointed out that there should be additional barricades to impede access to the piers in the overnight hours to deter crimes and other nuisances.

(m) Katie Alarcon, 466 West Taylor Run Parkway, requested that Council include the traffic calming program in the upcoming City budget and responded to questions from Council about traffic calming measures in her neighborhood.

(n) Andrew Sulavik, 1105 North Pitt Street, #1A, representing the Alexandria Library Board, requested that Council fund the needs assessment study for the Library, increase the amount in the materials budget and increase the availability of electronic

materials.

(o) Peter Pennington, 1213 Prince Street, chair of the Environmental Policy Commission, reported that the Commission would submit a formal budget letter and discussion document about how to promote the Environmental Action Plan. Mr. Pennington requested funding for a specialist outreach person to promote environmental policy throughout the City. Mr. Pennington noted that the funding for this position could come from the permits for the stormwater sewer.

(p) Carolyn Griglione, 1416 North Ivanhoe Street, requested that the budget include more money for resurfacing the streets throughout the City, increased funding for the maintenance and improvement of the public landscaped areas, requested improvements at the Burke Library branch, and improvements for the swimming facilities in the City.

(q) Annabelle Fisher, 5001 Seminary Road, spoke about areas of the budget that needed to be examined during this budget cycle including the elimination of the food tax on grocery and compensation.

(h) Chet Avery, 16 East Linden Street, spoke about the impact the national economic crisis would have on the local budget and offered suggestions for managing the City's budget responsibly.

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing to obtain citizens input on the City's proposed fiscal year 2012 Budget and Capital Improvement Program (CIP). The voting was as follows:

Donley	"aye"	Fannon	"aye"
Pepper	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Smedberg	"aye"	

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

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

6. CDD CONCEPT PLAN #2011-0007  
DEVELOPMENT SPECIAL USE PERMIT #2009-0019  
350 and 400 HOOFF'S RUN DRIVE  
ALEXANDRIA SANITATION AUTHORITY  
Public hearing and consideration of a request for approval of A) a CDD Concept Plan; B) a development special use permit, with site plan, to construct above ground utility tanks and other ASA facilities, soccer field and administrative building and to extend the period of validity of the project; zoned CDD #11/Coordinated Development District #11. Applicant: Alexandria Sanitation

Authority represented by Kenneth Wire, attorney

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL  
w/amendments 7-0

(A copy of the Planning Commission report dated October 4, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 10/15/11, and is incorporated as part of this record by reference.)

Ms. North, Urban Planner, Planning and Zoning, gave a presentation of the proposed project. Ms. North and Ms. Wright, Division Chief, Planning and Zoning, responded to questions from Council about the proposed bike trail, parking and the construction of the playing field on the tanks.

Councilman Smedberg requested further information on the right of first refusal. In response to Councilman Smedberg, Ms. Wright noted that the right of first refusal must come back to Council for separate and final approval.

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

(a) Jonathan Rak, 1750 Tysons Blvd, McLean, attorney for the applicant, spoke in support of the development special use permit and responded to some of the concerns of Council, including the proposed bike trail and the right of first refusal.

(b) Jonathan Krall, 6A East Mason Avenue, representing the Alexandria Bicycle and Pedestrian Advisory Committee, spoke in support of the project, particularly the inclusion of the bike trail.

(c) Carolyn Griglione, 1416 North Ivanhoe Street, stated that she was interested in the use of the property as a playing field and would like to know if there would be multiple uses for the field. Ms. Griglione also noted a concern about the parking available for the facility and inquired where there would be seating available at the field.

Ms. Carton, Park Planner, Recreation, Parks and Cultural Activities, responded to the questions about field usage, parking and seating for the playing field.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation with an amendment to page 7, referring to right of first refusal by adding a sentence to read, "such right of first refusal shall be granted only after presentation to and approval by City Council in a subsequent docket item." The voting was as follows:

Krupicka	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"



Euille	"aye"	Hughes	"aye"
	Smedberg	"aye"	

**ORDINANCES AND RESOLUTIONS**

7. Public Hearing on the Report on the Proposed Renewal of the City's Cable Television Franchise and the Fiber Use Agreement Between the City of Alexandria and Comcast of Virginia, Inc. (Council Consideration Will Be On Tuesday, October 25.) (#14, 10/11/11)

(A copy of the City Manager's memorandum dated October 7, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 10/15/11, and is incorporated as part of this record by reference.

Ms. Boyd, Special Assistant to the City Manager, gave a brief overview of the cable television franchise agreement.

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

(a) Carolyn Griglione, 1416 North Ivanhoe Street, reviewed all the charges on her Comcast bill and noted that there were services and charges that were unnecessary. Ms. Griglione requested that Council require more concessions from Comcast before renewing the franchise agreement.

(b) Annabelle Fisher, 5001 Seminary Road, expressed her dissatisfaction with the services that Comcast provides to the City of Alexandria and requested that competition for cable services be provided to the citizens. Ms. Fisher also stated that the City should not be part of the franchise agreement because it is a tax to give free advertising to local businesses.

(c) John Bohm, 8 West Oak Street, expressed concern about the inadequate level of customer service he received recently from Comcast and he stated that he hoped the franchise agreement would make Comcast more responsive and more accountable.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried unanimously, City Council closed the public hearing on the report on the proposed renewal of the City's Cable Television Franchise and the Fiber Use Agreement between the City of Alexandria and Comcast of Virginia, Inc. The voting was as follows:

Pepper	"aye"	Donley	"aye"
Hughes	"aye"	Fannon	"aye"
Euille	"aye"	Krupicka	"aye"
	Smedberg	"aye"	

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain the City's Cable Communications Code Chapter 3 (Alexandria Cable Communications Code) of Title 9 (Licensing and Regulation) of the Code of the City of Alexandria, Virginia 1981, as Amended, to Comply With Changes in Federal and State Law. (#15, 10/11/11)

(A copy of the City Attorney's memorandum dated October 3, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 10/15/11, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 8; 10/15/11, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 8; 10/15/11, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Hughes and carried unanimously by roll-call vote, City Council adopted an ordinance to amend and reordain the City's Cable Communications Code Chapter 3 of Title 9 of the Code of the City of Alexandria, Virginia, 1981, as amended, to comply with changes in Federal and State Law. The voting was as follows:

Donley	"aye"	Fannon	"aye"
Hughes	"aye"	Krupicka	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	"aye"	

The ordinance reads as follows:

**ORDINANCE NO. 4738**

AN ORDINANCE to amend and reordain Chapter 3 (ALEXANDRIA CABLE COMMUNICATIONS CODE) of Title 9 (LICENSING AND REGULATION) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 3 (Alexandria Cable Communications Code) of Title 9 (Licensing and Regulation) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

[The following is all new language]

## CHAPTER 3

### ALEXANDRIA CABLE COMMUNICATIONS CODE

#### ARTICLE A General Provisions

- Sec. 9-3-1 Title.
- Sec. 9-3-2 Purpose.
- Sec. 9-3-3 through 9-3-10 reserved.

#### ARTICLE B Definitions and Word Usage

- Sec. 9-3-13 Affiliate.
- Sec. 9-3-14 Administrator.
- Sec. 9-3-15 Basic service.
- Sec. 9-3-16 Cable act.
- Sec. 9-3-17 Cable service.
- Sec. 9-3-18 Cable system or system.
- Sec. 9-3-19 City.
- Sec. 9-3-20 City council or council.
- Sec. 9-3-21 Educational access channel.
- Sec. 9-3-22 FCC.
- Sec. 9-3-23 Franchise.
- Sec. 9-3-24 Franchise agreement.
- Sec. 9-3-25 Franchise area.
- Sec. 9-3-26 Franchisee.
- Sec. 9-3-27 Governmental access channel.
- Sec. 9-3-28 Gross revenues.
- Sec. 9-3-29 Ordinance Cable Franchise.
- Sec. 9-3-30 Person.
- Sec. 9-3-31 Public access channel.
- Sec. 9-3-32 Public rights-of-way.
- Sec. 9-3-33 Sale.
- Sec. 9-3-34 Service tier.
- Sec. 9-3-35 Subscriber.
- Sec. 9-3-36 Transfer.
- Sec. 9-3-37 Transmission of video programming directly to subscribers.
- Sec. 9-3-38 User.
- Sec. 9-3-39 through 9-3-51 reserved.

#### ARTICLE C General Franchise Characteristics

- Sec. 9-3-52 Grant of franchise.

- Sec. 9-3-53 Franchise required.
- Sec. 9-3-54 Operation of a cable system without a franchise.
- Sec. 9-3-55 Franchise characteristics.
- Sec. 9-3-56 Franchisee subject to other laws, police power.
- Sec. 9-3-57 Acts at franchisee's expense.
- Sec. 9-3-58 Eminent domain.
- Sec. 9-3-59 Interpretation of franchise terms.
- Sec. 9-3-60 Filing fees.
- Sec. 9-3-61 Public hearings.

**ARTICLE D**  
**Initial Grant of Franchise**

- Sec. 9-3-62 Length of franchise.
- Sec. 9-3-63 Initiation of application process.
- Sec. 9-3-64 Grant of franchise: notices, publications, acceptance.
- Sec. 9-3-65 Contents of application.
- Sec. 9-3-66 Public hearings.
- Sec. 9-3-67 through 9-3-70 reserved.

**ARTICLE E**  
**Franchise Renewal and Modification**

- Sec. 9-3-71 Renewal.
- Sec. 9-3-72 Application for grant of a franchise renewal.
- Sec. 9-3-73 Application for modification of a franchise or franchise agreement.
- Sec. 9-3-74 through 9-3-80 reserved.

**ARTICLE F**  
**Franchise Transfers**

- Sec. 9-3-81 City approval required.
- Sec. 9-3-82 Application for a transfer.
- Sec. 9-3-83 Determination by city council.
- Sec. 9-3-84 Transferee's agreement.
- Sec. 9-3-85 Approval does not constitute waiver of city rights.
- Sec. 9-3-86 through 9-3-88 reserved.

**ARTICLE G**  
**Termination of Franchise**

- Sec. 9-3-89 Forms of termination.
- Sec. 9-3-90 Revocation of franchise.
- Sec. 9-3-91 Expiration of franchise.
- Sec. 9-3-92 through 9-3-98 reserved.

**ARTICLE H**  
**System Facilities, Equipment, and Services**

- Sec. 9-3-99 Compliance with article.
- Sec. 9-3-100 Provisions of service.
- Sec. 9-3-101 Full service to municipal buildings.
- Sec. 9-3-102 Leased access requirement.
- Sec. 9-3-103 Technical standards.
- Sec. 9-3-104 Proof of performance tests.
- Sec. 9-3-105 Interconnection.
- Sec. 9-3-106 System design review process.
- Sec. 9-3-107 Emergency alert system.
- Sec. 9-3-108 through 9-3-115 reserved.

**ARTICLE I**  
**Construction, Operation and Maintenance of Cable System**

- Sec. 9-3-116 System construction schedule.
- Sec. 9-3-117 Construction, operation and maintenance requirements.
- Sec. 9-3-118 Use of public property.
- Sec. 9-3-119 Interference with public projects.
- Sec. 9-3-120 Publicizing proposed construction and other work.
- Sec. 9-3-121 Continuity of service.
- Sec. 9-3-122 through 9-3-145 reserved.

**ARTICLE J**  
**Operation and Reporting Provisions**

- Sec. 9-3-146 Open books and records
- Sec. 9-3-147 Communication with regulatory agencies.
- Sec. 9-3-148 Reports.
- Sec. 9-3-149 Records required.
- Sec. 9-3-150 Performance evaluation.
- Sec. 9-3-151 Voluminous materials.
- Sec. 9-3-152 Retention of records; relation to privacy rights.
- Sec. 9-3-153 through 9-3-165 reserved.

**ARTICLE K**  
**Consumer Protection Provisions**

- Sec. 9-3-166 General provisions
- Sec. 9-3-167 Telephone and office availability.

- Sec. 9-3-168 Scheduling work.
- Sec. 9-3-169 Notice to subscribers.
- Sec. 9-3-170 Interruptions of service.
- Sec. 9-3-171 Billing.
- Sec. 9-3-172 Disconnection/downgrades.
- Sec. 9-3-173 Changes in service.
- Sec. 9-3-174 Deposits.
- Sec. 9-3-175 Parental control option.
- Sec. 9-3-176 Anti-competitive acts prohibited.
- Sec. 9-3-177 through 9-3-195 reserved.

### **ARTICLE L Rate Regulation**

- Sec. 9-3-196 Scope and applicability.
- Sec. 9-3-197 Local regulatory framework.
- Sec. 9-3-198 Schedule of rates, rules and regulations.
- Sec. 9-3-199 Notice to subscribers.
- Sec. 9-3-200 Discrimination and preferences prohibited.
- Sec. 9-3-201 Establishment of rates, charges and rules.
- Sec. 9-3-202 Filing and review of rates and charges.
- Sec. 9-3-203 Provisions generally applicable to rate orders.
- Sec. 9-3-204 Obligations of franchisee.
- Sec. 9-3-205 Duties of the administrator.
- Sec. 9-3-206 Penalties and forfeitures.
- Sec. 9-3-207 Proprietary information.
- Sec. 9-3-208 Petition for change in effective competition status.
- Sec. 9-3-209 reserved.
- Sec. 9-3-210 Waiver and extension.
- Sec. 9-3-211 through 9-3-224 reserved.

### **ARTICLE M Franchise Fee**

- Sec. 9-3-225 Finding.
- Sec. 9-3-226 Payment to city.
- Sec. 9-3-227 Not a tax or in lieu of any other tax or fee.
- Sec. 9-3-228 Payments.
- Sec. 9-3-229 No accord or satisfaction.
- Sec. 9-3-230 Audit and related records.
- Sec. 9-3-231 through 9-3-244 reserved.

### **ARTICLE N Insurance; Indemnification; Performance Guarantees**

- Sec. 9-3-245 Insurance required.
- Sec. 9-3-246 Qualifications of sureties.
- Sec. 9-3-247 Policies available for review.
- Sec. 9-3-248 Additional insureds; prior notice of policy cancellation.
- Sec. 9-3-249 Failure constitutes material violation.
- Sec. 9-3-250 Indemnification.
- Sec. 9-3-251 No limit of liability.
- Sec. 9-3-252 No recourse.
- Sec. 9-3-253 Security fund.
- Sec. 9-3-254 Performance bond
- Sec. 9-3-255 Failure constitutes material violation.
- Sec. 9-3-256 Remedies.
- Sec. 9-3-257 Remedies cumulative.
- Sec. 9-3-258 Relation to insurance and indemnity requirements.
- Sec. 9-3-259 Cost of consultant.
- Sec. 9-3-260 through 9-3-273 reserved.

**ARTICLE O**  
**Administrator**

- Sec. 9-3-274 Cable television administrator.
- Sec. 9-3-275 Responsibilities of administrator.
- Sec. 9-3-276 Expenditures.
- Sec. 9-3-277 through 9-3-283 reserved.

**ARTICLE P**  
**Reserved**

- Sec. 9-3-284 through 9-3-293 reserved.

**ARTICLE Q**  
**State Regulation**

- Sec. 9-3-294 Virginia public telecommunications board.
- Sec. 9-3-295 through 9-3-303 reserved.

**ARTICLE R**  
**Rights of Individuals**

- Sec. 9-3-304 Discriminatory practices prohibited.
- Sec. 9-3-305 Equal employment opportunity.
- Sec. 9-3-306 Subscriber privacy.
- Sec. 9-3-307 Restrictions on cable monitoring.
- Sec. 9-3-308 Permission of property owner required.
- Sec. 9-3-309 through 9-3-322 reserved.

**ARTICLE S**  
**Resolution of Disputes**

- Sec. 9-3-323 Reasonable conduct.
- Sec. 9-3-324 Intent.
- Sec. 9-3-325 Fact-finding.
- Sec. 9-3-326 Mediation.
- Sec. 9-3-327 Arbitration
- Sec. 9-3-328 Selection procedures.
- Sec. 9-3-329 Fees and expenses.
- Sec. 9-3-330 through 9-3-343 reserved.

**ARTICLE T**  
**Miscellaneous Provisions**

- Sec. 9-3-344 Compliance with laws.
- Sec. 9-3-345 Captions.
- Sec. 9-3-346 No recourse against the city.
- Sec. 9-3-347 Rights and remedies.
- Sec. 9-3-348 Day-to-day enforcement.
- Sec. 9-3-349 Powers of court to enforce obedience to franchises.
- Sec. 9-3-350 Subsequent action by state or federal agencies.
- Sec. 9-3-351 Amendments to this chapter.
- Sec. 9-3-352 Incorporation by reference.
- Sec. 9-3-353 Prohibition of ownership by city employees.
- Sec. 9-3-354 Force majeure.
- Sec. 9-3-355 Public emergency.
- Sec. 9-3-356 Connections to system; use of antennae.
- Sec. 9-3-357 Severability.

**ARTICLE A**  
**General Provisions**

**Sec. 9-3-1 Title.**

This chapter shall be known and may be cited as the "Alexandria Cable Communications Code."

**Sec. 9-3-2 Purpose.**

The City Council of Alexandria finds that the development of cable television systems has the potential to be of great benefit to those who reside and work in the city. Cable technology is rapidly changing, and cable plays an essential role as part of the city's basic infrastructure. Cable television systems make extensive use of scarce and valuable public rights-of-way in a manner that differs from the way in which the general



public uses them. As a result, the grant of a franchise for the use of public rights-of-way has the effect of giving the holder extensive economic benefits. For these reasons, the city council finds that general welfare of the city requires that regulations be established to ensure that any cable television franchise granted by the city is in accord with and is operated in the public interest. In light of the foregoing, the following goals, among others, underlie the provisions set forth in this chapter:

(a) Cable television should be available to as many city residents as possible.

(b) A cable system should be capable of accommodating both the present and the reasonably foreseeable future cable-related needs of the community.

(c) A cable system should be constructed and maintained during a franchise term so that changes in technology may be integrated into existing system facilities to the maximum extent feasible.

(d) A cable system should be responsive to the needs and interests of the local community. It is the intent of the city council that all provisions set forth in this chapter be construed to serve the public interest and the foregoing public purposes, and that any franchise issued pursuant to this chapter be construed to include the foregoing findings and public purposes as integral parts thereof.

**Sec. 9-3-3 through 9-3-10 reserved.**

### **Definitions and Word Usage**

**Sec. 9-3-11 Definitions and usage--general.**

For the purposes of this chapter, the following terms, phrases, words and abbreviations shall have the meanings given in this article, unless otherwise expressly stated. Words not defined herein shall have a meaning set forth in Title 47 of the United States Code, Chapter 5, Subchapter V-A, 47 U.S.C. § 521, et seq., as amended, and, if not defined therein, should have their common and ordinary meaning within the cable television industry.

**Sec. 9-3-12 Access Channel.**

"Access channel" shall mean any channel on a cable system set aside by a franchisee for public, educational or governmental use.

**Sec. 9-3-13 Affiliate.**

"Affiliate" shall mean any person who owns or controls, is owned or controlled by, or is under common ownership or control with a franchisee.

**Sec. 9-3-14 Administrator.**

"Administrator" shall mean the cable television administrator appointed by the city manager.

**Sec. 9-3-15 Basic service.**

"Basic service" shall mean any service tier that includes the retransmission of local television broadcast signals.

**Sec. 9-3-16 Cable act.**

"Cable Act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, et seq., as it may be amended from time to time.

**Sec. 9-3-17 Cable service.**

"Cable service" shall mean (1) the one-way transmission to subscribers of video programming or other programming services, and (2) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

**Sec. 9-3-18 Cable system or system.**

"Cable system" or "system" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and is provided to multiple customers within the city, but such term does not include any of the following: (1) a system that serves fewer than 20 subscribers; (2) any facility that serves only to retransmit the television signals of one or more television broadcast stations; (3) any facility that serves only subscribers without using any public right-of-way; (4) any facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201, *et seq.*, provided that such facility shall be considered a cable system if it is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (5) any facility of any electric utility used solely for operating its electric utility systems; (6) any portion of a system that serves fewer than 50 subscribers in any locality where such portion is a part of a larger system franchised in an adjacent locality; or (7) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573. A reference to a cable system refers to any part thereof, including, without limitation, converters.

**Sec. 9-3-19 City.**

"City" shall mean the City of Alexandria, Virginia.

**Sec. 9-3-20 City council or council.**

"City council" or "council" shall mean the governing body of the city.

**Sec. 9-3-21 Educational access channel.**

"Educational access channel" shall mean any channel on a cable system set aside by a franchisee for educational use.

**Sec. 9-3-22 FCC.**

"FCC" shall mean the Federal Communications Commission, its designee or any successor governmental entity.

**Sec. 9-3-23 Franchise.**

"Franchise" shall mean a non-exclusive authorization granted in accordance with this chapter to construct, operate and maintain a cable system along and within the public rights-of-way of the city or a specified portion thereof. Any such authorization, in whatever form granted, shall not include, or be deemed to include, an authorization to transact or carry on a business within the city, or to attach devices to poles or other structures, whether owned by the city or a private entity, or to excavate or perform work in or along any public right-of-way.

**Sec. 9-3-24 Franchise agreement.**

"Franchise agreement" shall mean a contract between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

**Sec. 9-3-25 Franchise area.**

"Franchise area" shall mean the area of the city that a franchisee is authorized to serve by its franchise agreement.

**Sec. 9-3-26 Franchisee.**

"Franchisee" shall mean a person who has been granted a franchise by the city.

**Sec. 9-3-27 Governmental access channel.**

"Governmental access channel" shall mean any channel on a cable system set aside by a franchisee for government use.

**Sec. 9-3-28 Gross revenues.**

"Gross revenues" shall mean all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the Cable System to provide Cable Services in the franchise area. Gross revenues shall include, without limitation, monthly fees charged subscribers for any basic, optional, premium, per-channel or per-program service; installation, disconnection, reconnection and change-in--service fees; leased channel fees; late fees and administrative fees; revenues from the rentals and sales of converters or other equipment; fees for the rental of studios and production equipment and the use of franchisee personnel; advertising revenues; revenues from program guides; and revenues from home shopping channels, including commissions from the sales of goods; provided, however, that in an ordinance cable franchise "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

**Sec. 9-3-29 Ordinance Cable Franchise.**

"Ordinance cable franchise" shall mean a franchise issued in accordance with Va. Code § 15.2-2018.21.

**Sec. 9-3-30 Person.**

"Person" shall mean a natural person, partnership, association, joint stock company, organization, corporation, limited liability corporation and any other legal entity, and any lawful successor thereto or transferee thereof, but such term does not include the city.

