



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

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Chairman

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*Agenda item # 2*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

October 15, 2009

#### MOTION

Made By: Ms. Pandak Seconded By: Mr. Koelemay  
Action: Motion Carried, Unanimously

#### Title: Adoption of Land Use Permit Regulations (24 VAC 30-151) and Repeal of Land Use Permit Manual (24 VAC 30-150)

**WHEREAS**, section 33.1-12 (3) of the *Code of Virginia* gives the Commonwealth Transportation Board the authority to make regulations concerning the use of the system of state highways and § 33.1-206.1 of the *Code of Virginia* requires the Board to establish regulations concerning the erection of roadside memorials; and

**WHEREAS**, the Board has exercised its authority to maintain the rights-of-way along the highways in a manner necessary to preserve the integrity, operational safety, and service of function of the roadway, using a permit process, administered by the Virginia Department of Transportation (VDOT), that minimizes the risk that work performed on Board or VDOT property will result in any damage to existing structures or utilities; and

**WHEREAS**, the *Land Use Permit Manual* defines what uses may be permitted on the right-of-way under control of the Board and VDOT; and

**WHEREAS**, the *Land Use Permit Manual*, currently filed in the Virginia Administrative Code (VAC) as 24 VAC 30-150, was approved by the State Highway and Transportation Commission, predecessor to the Board, at its August 11, 1983, meeting; and

**WHEREAS**, the *Land Use Permit Regulations*, to be filed as 24 VAC 30-151, were developed to simplify the *Land Use Permit Manual* requirements, proscribe the use and standards of roadside memorials, adjust permit fees to reflect increases in administrative costs, add accommodation fees for utilities within limited access right-of way, and eliminate redundant or obsolete provisions; and

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**WHEREAS**, the promulgation of the *Land Use Permit Regulations* makes it necessary to repeal the *Land Use Permit Manual*; and

**WHEREAS**, this combined regulatory action is subject to the Administrative Process Act (§2.2-4000 et seq. of the *Code of Virginia*); and

**WHEREAS**, to this end, the Board published an initial Notice of Intended Regulatory Action (NOIRA) on March 12, 2001, and a second NOIRA reflecting a change in regulatory scope on February 24, 2004, to solicit public input; and

**WHEREAS**, the proposed regulation was published in the *Virginia Register* on July 9, 2007, three public hearings were held throughout the state, and public comments were received through September 9, 2007; and

**WHEREAS**, public comments received during the public comment periods, from the public hearings, and from subsequent meetings with stakeholders have been taken into account by VDOT in drafting a final regulation; and

**WHEREAS**, the General Assembly enacted legislation, Chapters 863 and 928 of the 2007 Acts of the Assembly, which was later amended by Chapters 454 and 274 of the 2008 Acts of Assembly, to require the Commonwealth Transportation Commissioner to develop comprehensive highway access management standards; and

**WHEREAS**, to meet the deadlines imposed by the legislature, VDOT promulgated highway access management regulations separately from the proposed *Land Use Permit Regulations*, which had addressed the subject in broad detail; and

**WHEREAS**, VDOT has developed access management standards for preserving and improving the efficient operation of the state systems of highway through the promulgation of the *Access Management Regulations: Principal Arterials* (24 VAC 30-72), effective July 1, 2008, and *Access Management Regulations: Minor Arterials, Collectors, and Local Streets* (24 VAC 30-73), effective October 14, 2009, therefore allowing the *Land Use Permit Regulations* to be finalized and acted upon by the Board.

**NOW THEREFORE BE IT RESOLVED**, that the Commonwealth Transportation Board hereby adopts the *Land Use Permit Regulations* (24 VAC 30-151) attached hereto, and simultaneously repeals the *Land Use Permit Manual* (24 VAC 30-150); and

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**BE IT FURTHER RESOLVED**, that the Commonwealth Transportation Board hereby adopts the revisions made to the following regulations in the VAC, as attached hereto, to replace references to the *Land Use Permit Manual*, or any of its provisions, with citations to the *Land Use Permit Regulations*, and to address outdated references to the VDOT organizational structure:

- *Subdivision Street Requirements* (24 VAC 30-91)
- *Secondary Street Acceptance Requirements* (24 VAC 30-92)
- *Comprehensive Roadside Management Regulations* (24 VAC 30-121)
- *Vegetation Control Regulations on State Rights-of-Way* (24 VAC 30-200)
- *Change of Limited Access Control* (24 VAC 30-401); and

**BE IT FURTHER RESOLVED**, that the effective date of the regulatory actions approved herein shall be as provided for by the regulatory submission requirements established by the *Code of Virginia*, Executive Order 36 (2006), and the State Registrar of Regulations; and

**BE IT FURTHER RESOLVED**, that the Commonwealth Transportation Board hereby repeals its resolution dated February 20, 2003, which established a Roadside Memorial Program for all state highways.

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