



## COMMONWEALTH of VIRGINIA

### Commonwealth Transportation Board

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Chairperson

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*Agenda item # 4*

#### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

December 6, 2022

#### MOTION

**Made By: Ms. Sellers, Seconded By: Mr. Fowlkes**

**Action: Motion Carried, Unanimously**

**Title: Amendments to regulation for Urban Maintenance and Construction Policy,  
24 VAC 30-325-10**

**WHEREAS**, Chapter 684 of the 2015 Acts of Assembly eliminated allocation of construction funds for urban highways by amending §§ 33.2-319 and 33.2-358 and repealing § 33.2-362 of the *Code of Virginia*; and

**WHEREAS**, the amended § 33.2-319 of the *Code of Virginia* authorizes the Commissioner of Highways to make payments to cities and certain towns for maintenance of certain urban highways; and

**WHEREAS**, the Commonwealth Transportation Board adopted on December 14, 2006 an Urban Maintenance and Construction Policy, which was also published as a regulation, 24 VAC 30-325, and which provides internal and external instructions in the administration of maintenance and construction payments for qualifying cities and towns; and

**WHEREAS**, this regulation contains obsolete language regarding urban construction formula funding and is no longer consistent with the amended §§ 33.2-319 and 33.2-358 ; and,

**WHEREAS**, the Urban Maintenance and Construction Policy adopted in December, 2006 contains obsolete language and is duplicative of 24 VAC 30-325-10.

Resolution of the Board  
Amendments to regulation for Urban Maintenance  
and Construction Policy, 24 VAC 30-325-10  
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**NOW, THEREFORE, BE IT RESOLVED** that the Commonwealth Transportation Board hereby adopts the revised regulation as shown in Attachment A to this resolution.

**BE IT FURTHER RESOLVED**, that the Commonwealth Transportation Board directs the Commissioner of Highways or his designee to take all actions necessary to effectuate and publish this revised regulation in the *Virginia Administrative Code*.

**BE IT FURTHER RESOLVED**, that the Urban Maintenance and Construction Program Policy, approved by the Commonwealth Transportation Board on December 14, 2006, is superseded by this revised regulation and is hereby rescinded.

####

## CTB Decision Brief

### **Amendments to regulation for Urban Maintenance and Construction Policy, 24 VAC 30-325-10**

**Issue:** A periodic review of 24 Virginia Administrative Code (VAC) 30-325 (Urban Maintenance and Construction Policy) identified obsolete and conflicting language with the *Code of Virginia*.

**Facts:** 24 VAC 30-325, entitled *Urban Maintenance and Construction Policy*, establishes Virginia Department of Transportation policies and procedures relative to the Urban Construction and Maintenance Programs. Current language in the VAC includes two paragraphs that are outdated due to changes in the *Code of Virginia*. Both paragraphs reference an outdated process of funding urban construction projects, known as urban construction allocations and refer to projects funded using those allocation as urban construction projects. Those two paragraphs found in VAC-325-10 F and G are as follows:

*F. Municipalities, by resolution of their governing body and agreement with the department, may elect to utilize up to one-third of their urban construction allocation for reimbursement of debt incurred for eligible project costs on approved projects. The payback is limited to a maximum 20-year timeframe.*

*G. Landscaping is important to enhance the safety and visual quality of roads and to maintain quality of life for communities. It is the intent of the board that a maximum of 3.0% of the construction budget for individual urban construction projects may be allocated for landscape improvements. Pavers and stamped asphalt for crosswalks are considered a pedestrian safety and traffic calming measure for project participation and are not subject to this limitation. Elements of streetscape can also be constructed at project expense if the project is an identified gateway project or located within a historic or cultural district.*

Chapter 684 of the 2015 Acts of Assembly amended § 33.2-358 of the *Code of Virginia* by changing the previous construction formula distribution – 40% to the primary system, 30% to the secondary system, and 30% to the urban system – to the current process which no longer utilizes an urban construction allocation. This change to the distribution formula applied to funds allocated for fiscal years beginning on and after July 1, 2020. Further, § 33.2-362 of the *Code of Virginia*, which outlined the allocation of construction funds for urban system highways, was repealed by Chapter 684. Finally, § 33.2-319 of the Code of Virginia, which describes the payments that can be made to cities and towns for maintenance of certain highways, was amended by Chapter 684 to remove reference to the allocation of construction funds for urban system highways.

The amendment of §§ 33.2-319 and 33.2-358 regarding the way funds are allocated to localities and the repeal of § 33.2-362 have made provisions of the regulation referencing the urban construction allocation obsolete. Urban allocations were provided through a 40/30/30 formula, however, due to budget amendments, 2009 was the last year formula funding was budgeted to projects. Urban formula allocations not committed to projects and expended by January 1, 2018 were deallocated and transferred to the State of Good Repair Program unless they were transferred to a fully funded, active project.

Additionally, the Commonwealth Transportation Board (CTB) adopted an Urban Maintenance and Construction Program Policy on December 14, 2006, which was published as a regulation in the Virginia Administrative Code verbatim, as 24 VAC-325-10.

**Recommendations:** The CTB approve a resolution to adopt amendments to the Urban Maintenance and Construction Program regulation removing the obsolete language, as shown in Attachment A, and rescind the outdated and duplicative CTB Policy.

**Action Required by CTB:** The *Code of Virginia* requires a majority vote by the CTB before the above mentioned can be implemented. The CTB will be presented with a Resolution for a formal vote.

**Result, if Approved:** The revision of 24 VAC 30-325-10 will be effective upon filing with the State Registrar or Regulation's Office and the outdated and duplicative Urban Maintenance and Construction Program Policy will be rescinded immediately after CTB Resolution approval and removed from the CTB Policy Index.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** One public comment was received during the periodic review, but the comment was unrelated to the change being proposed and was addressed during the periodic review.

Attachment A

## Chapter 325. Urban Maintenance and Construction Policy

### **24VAC30-325-10. Eligibility criteria and conditions governing receipt and use of urban maintenance and construction funds.**

A. In addition to the eligibility requirements identified in Section 33.2-319 of the *Code of Virginia*, the road and street eligibility criteria for urban maintenance payments shall also include the following:

1. The basic right-of-way width for cul-de-sacs eligible for payment will be 40 feet, with consideration of requests for pavement widths less than 30 feet. For the purpose of making this assessment, a cul-de-sac will be defined as a dead end street, open only at one end.

2. If a municipality has jurisdiction over and operates a toll facility, such facility is eligible for street payments.

3. Local one-way streets, loop roads, and school bus entrances will be eligible for payment provided that they are constructed to a width of 16 feet with a right of way width of not less than 40 feet. This includes service and frontage roads where contiguous to an interstate, primary, or urban system route.

4. VDOT can consider a waiver of standards on a site specific basis with appropriate supporting information. Each case will be considered on its own merits.

B. In determining lane mileage eligibility, the following conditions will apply:

1. Turning lanes and ramps will not be considered for street payments. This includes center turn lanes unless they serve as moving through lanes during peak hours.

2. Parking must be restricted and enforced by towing during peak traffic periods.

3. Each road or street with more than two moving lanes must have pavement markings in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways published by the U. S. Departments of Transportation, Federal Highway Administration.

4. Pavement widths of less than 14 feet qualify for only one moving lane even if it carries traffic in two directions.

5. Non-hard surfaced streets do not qualify for street payments.

C. Mileage adjustments, including the results of annexations, mergers, or incorporations, will be made on an annual basis as part of this Board's approval of the annual maintenance payments. All adjustments submitted to the Department by February 1 will be eligible for payment effective July 1 of the following fiscal year.

D. For the purpose of calculating maintenance payments, streets will be functionally classified based on the Federal Functional Classification system, except for where the federal system is not parallel with the state system.

E. Bridge safety and regular inspection is of utmost importance. The Federal Highway Administration and the Department require strict compliance with the National Bridge Inspection Standards (23 CFR Part 650) regarding the frequency of inspection and load posting requirements. The Commissioner of Highways may elect to withhold street payments from a municipality for delinquent or inadequate bridge inspection reports.

Attachment A

- ~~F. Municipalities, by resolution of their governing body and agreement with the department, may elect to utilize up to one-third of their urban construction allocation for reimbursement of debt incurred for eligible project costs on approved projects. The payback is limited to a maximum 20-year timeframe.~~
- ~~G. Landscaping is important to enhance the safety and visual quality of roads and to maintain quality of life for communities. It is the intent of the board that a maximum of 3.0% of the construction budget for individual urban construction projects may be allocated for landscape improvements. Pavers and stamped asphalt for crosswalks are considered a pedestrian safety and traffic calming measure for project participation and are not subject to this limitation. Elements of streetscape can also be constructed at project expense if the project is an identified gateway project or located within a historic or cultural district.~~
- H. F. The Commissioner of Highways is directed to establish administrative procedures to assure the provisions of this policy and legislative directives are adhered to and complied with.