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MEMORANDUM

TO: Jo Anne P. Maxwell
Director, Governance and Legislative Affairs Division

FROM: Chandra D. Lantz
Senior Assistant Attorney General and Section Chief

DATE: January 18, 2023

SUBJECT: Periodic Review of Urban Maintenance and Construction Policy, 24 VAC 30-325

In my capacity as legal counsel for the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board, it is my legal opinion that the Urban Maintenance and Construction Policy does not appear, on its face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it appear to conflict with federal or state law currently in effect.

The requested action also is within the authority of the Commonwealth Transportation Board. Virginia Code § 33.2-210 provides that the Commonwealth Transportation Board has the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations. Further, Virginia Code § 33.2-319 authorizes the Commissioner of Highways, subject to the approval of the Commonwealth Transportation Board, to make payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds.

Further, this action is exempt from the requirements of the Administrative Process Act pursuant to Virginia Code § 2.2-4002(B)(4). This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.