

TAX MAP NO. 3070316

NOTICE OF USE LIMITATION

§ 10.6.B., VHWMR

9 VAC 20-60-264

Hazardous Waste Site Name: Middle Lot of Public Works Service Center – Unit No. 2

I.D. No: VAD 123725350

This Notice of Use Limitation ("Notice") is made as of the 20<sup>th</sup> day of MAY, 2002, by the City of Roanoke, a Virginia municipal corporation ("Owner" or "Grantor" or "Grantee").

## WITNESSETH:

WHEREAS, the City of Roanoke, Virginia, is the owner in fee simple of a certain parcel of real estate within the City of Roanoke, Virginia, with the buildings and improvements thereon, referred to as the Public Works Service Center, Tax Map No. 3070316, located at 1802 Courtland Road, N.E., Roanoke, Virginia 24012 (hereafter "the Property");

WHEREAS, a portion of the Property is more specifically subject to this Notice of Use Limitation. This portion of the Property is more particularly bounded and described as follows:

BEGINNING at an existing iron pin, said point being a corner to the lands of the City of Roanoke, Tax Parcel #3070316 and also being on the westerly property line of the property of Calvin W. & Mary C. Powers and Theodore J. & Judy P. Sutton; thence with said property line S 04°36'00" W 225.93 feet; to the southeasterly corner of the aforesaid City property and on the northerly line of the property of the City of Roanoke, Tax Parcel #3070501; thence with said properties S 83°35'00" W 269.00 feet; to the southerly corner of Tax Parcel #3070316, said point also being a corner to the property of Robert R. Young; thence with said Young's property line N 70°20'00" W 361.30 feet; to the southwesterly corner of Tax Parcel #3070316, said point also being the southeasterly corner of the property of the City of Roanoke, Tax Parcels #3070301 through #3070315; thence with said properties of the City of Roanoke N 23°02'00" W 295.10 feet; to the westerly corner of Tax Parcel #3070316; thence leaving the outside boundary of Tax Parcel #3070316 and with a tie line S 89°41'46" E 71.39 feet; to the True Point of Beginning having a Virginia South Zone State Plane Grid NAD 83 value of Northing: 3630555.32376, Easting: 11064693.01545, Elevation of 969.97 NGVD 29, said point being on the westerly line of the existing Unit No. 2 and also being N 78°23'46" W 683.71(Deed Meridian) N 79°05'59" W (Va. State Plane) feet from the Point of Beginning and ; thence with said Unit No. 2 in a clockwise direction the following thirty-four courses; thence N 09°05'37" E 9.05 feet; thence N 35°07'31" E 8.74 feet; thence N

49°56'35" E 7.45 feet; thence N 52°27'40" E 11.71 feet; thence N 54°06'23" E 14.60 feet; thence N 54°10'32" E 16.25 feet; thence N 47°28'23" E 17.54 feet; thence N 48°10'54" E 16.15 feet; thence N 64°11'55" E 9.17 feet; thence N 78°03'57" E 17.57 feet; thence N 88°36'10" E 14.82 feet; thence S 77°25'28" E 10.90 feet; thence S 60°12'23" E 8.44 feet; thence S 36°34'37" E 5.64 feet; thence S 11°04'10" E 7.58 feet; thence S 09°43'04" W 8.42 feet; thence S 20°48'53" W 14.57 feet; thence S 23°40'26" W 12.30 feet; thence S 25°30'57" W 13.24 feet; thence S 25°32'29" W 14.51 feet; thence S 23°26'21" W 14.00 feet; thence S 23°31'44" W 13.48 feet; thence S 37°04'37" W 10.16 feet; thence S 57°15'14" W 13.51 feet; thence S 72°09'09" W 17.01 feet; thence S 84°03'36" W 19.33 feet; thence N 89°54'36" W 11.90 feet; thence N 89°52'00" W 13.10 feet; thence S 84°14'14" W 15.05 feet; thence N 66°37'10" W 3.70 feet; thence N 16°02'49" W 3.28 feet; thence N 02°15'23" W 19.77 feet; thence N 04°48'02" W 16.69 feet; thence N 04°25'17" W 8.39 feet; to the True Point of BEGINNING and containing 0.260 acres as more particularly shown on survey entitled "Plat Showing Exhibit A-1 Unit No. 2" prepared by Lumsden Associates, P.C., dated 25 March 2002.

This parcel is further shown in a plat dated March 25, 2002, and marked as Exhibit A-1, attached hereto and made a part hereof and also recorded in Map Book 1, page 2450 in the Office of the Clerk of the Circuit Court of the City of Roanoke. Such portion as shown on the plat is marked as Unit No. 2 and Exhibit A-1 will be recorded in the above Clerk's Office with this Notice and such portion will be referred to herein as Unit No. 2;

WHEREAS, Unit No. 2 comprises part of a disposal site as the result of a release of hazardous waste. Exhibit A-1 is a sketch Plan showing the relationship of Unit No. 2 subject to this Notice of Use Limitation to the boundaries of the property; and

WHEREAS, one or more response actions have been selected for Unit No. 2 in accordance with closure performance standards of § 10.6.B., of Virginia Hazardous Waste Management Regulations (VHWMR) and 9 VAC20-60-264. Such response actions are based upon (a) the restriction of human access to and contact with hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under Unit No. 2 .

NOW, THEREFORE, notice is hereby given that the use limitations for Unit No. 2 are set forth as follows:

1. Permitted Activities and Uses Set Forth in the Use Limitation. The use limitation provides that a condition of No Significant Risk to health, safety, public welfare or the environment (such condition being defined in the Closure Plan) exists for any foreseeable period of time so long as any of the following activities and uses and related work connected therewith occur on Unit No. 2:

- A. Construction, including grading, for a parking area for private and City owned vehicles;
  - B. Construction of a stadium/amphitheater complex; and
  - C. Such other uses, which in the opinion of an independent Registered Professional Engineer retained by the City, with the approval of the Virginia Department of Environmental Quality (VDEQ), shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this paragraph.
2. Uses Inconsistent with the Notification. Uses which are inconsistent with the notification, and which, if implemented at Unit No. 2, may result in a significant risk of harm to health, safety, public welfare or the environment, are as follows:
- A. Construction and occupancy of residential dwellings;
  - B. Playgrounds for children;
  - C. Childcare center; and
  - D. Public garden space.
3. Obligations and Conditions Set Forth in the Notification. If applicable, obligations and/or conditions to be undertaken and/or maintained at Unit No. 2, other than as set forth in 1 above, to maintain a condition of No Significant Risk as set forth in the notification shall include the following:
- A. No construction in Unit No. 2 shall be undertaken without consultation with the Department of Environmental Quality;
  - B. All soil removed from within the boundaries of Unit No. 2 shall be tested and treated as hazardous waste and disposed of as such if found to contain hazardous waste constituents; and
  - C. All workers involved in disturbing soils from Unit No. 2 shall be properly trained and provided with proper personal protective equipment.
4. Proposed Changes in Uses. Any activities and uses at Unit No. 2 other than as set forth in 1 above, which may result in higher levels of exposure to hazardous material than currently exist shall be evaluated by a Registered Professional Engineer or Department of Environmental Quality representative, who shall render an opinion, in accordance with § 10.6. of VHWMR and 9 VAC20-60-264, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in the Notice to ensure a condition of No Significant Risk in the implementation of the proposed activity or use shall be satisfied before any such activity or use is commenced.
5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment due to exposure to hazardous

material without the prior evaluation of DEQ, and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by DEQ in accordance with § 10.6. of the VHWMR and 9 VAC 20-60- 264 the owner or operator of Unit No. 2 subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in § 10.6. of VHWMR and 9 VAC 20-60-264.

6. Incorporation into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use Unit No. 2 thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice to become effective when executed and sealed by the undersigned Professional Engineer, and recorded in the Office of the Clerk of the Circuit Court for the City of Roanoke.

WITNESS the execution hereof under seal this 20TH day of MAY, 2002.

ATTEST:  
Mary F. Parker  
Mary F. Parker, City Clerk

CITY OF ROANOKE, VIRGINIA  
By: Darlene L. Burcham  
Darlene L. Burcham, City Manager

COMMONWEALTH OF VIRGINIA  
CITY OF ROANOKE, to-wit:

The foregoing instrument was acknowledged before me this 20th day of May, 2002, by Darlene L. Burcham, City Manager of the City of Roanoke, Virginia, on behalf of said municipal corporation.

My commission expires:  
08/31/04

Notary Public  
[Signature]

Approved as to Form:

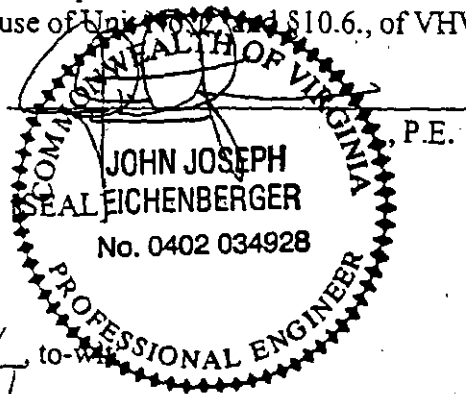
Approved as to Execution:

Darryl E. Zepher  
A. City Attorney 5-20-02

Darryl E. Zepher  
A. City Attorney 5-20-02

The undersigned Professional Engineer hereby certifies that he/she executed the aforesaid Notice of Use Limitation and that in his/her Opinion this Notice of Use Limitation is consistent with the Department of Environmental Quality performance standards for restricted use of Unit No. 10.6., of VHWMR.

Date: 5/20/02



COMMONWEALTH OF VIRGINIA

City of Roanoke, to-wit

John Joseph Eichenberger then personally appeared and acknowledged the foregoing to be a free act and deed before me this 20th day May, 2002.

My commission expires:  
06 30 03

Notary Public  
Daryn C. Fulford

LUMSDEN ASSOCIATES P.C. ENGINEERS-SURVEYORS-PLANNERS ROANOKE, VIRGINIA  
 4644 BRAMBLETON AVENUE SW ROANOKE, VIRGINIA 24018  
 PHONE: (540) 774-4413 FAX: (540) 772-9445 EMAIL: MAL@LUMSDENPC.COM

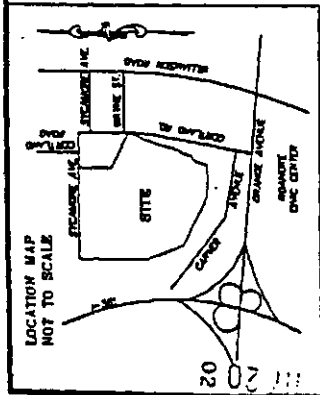
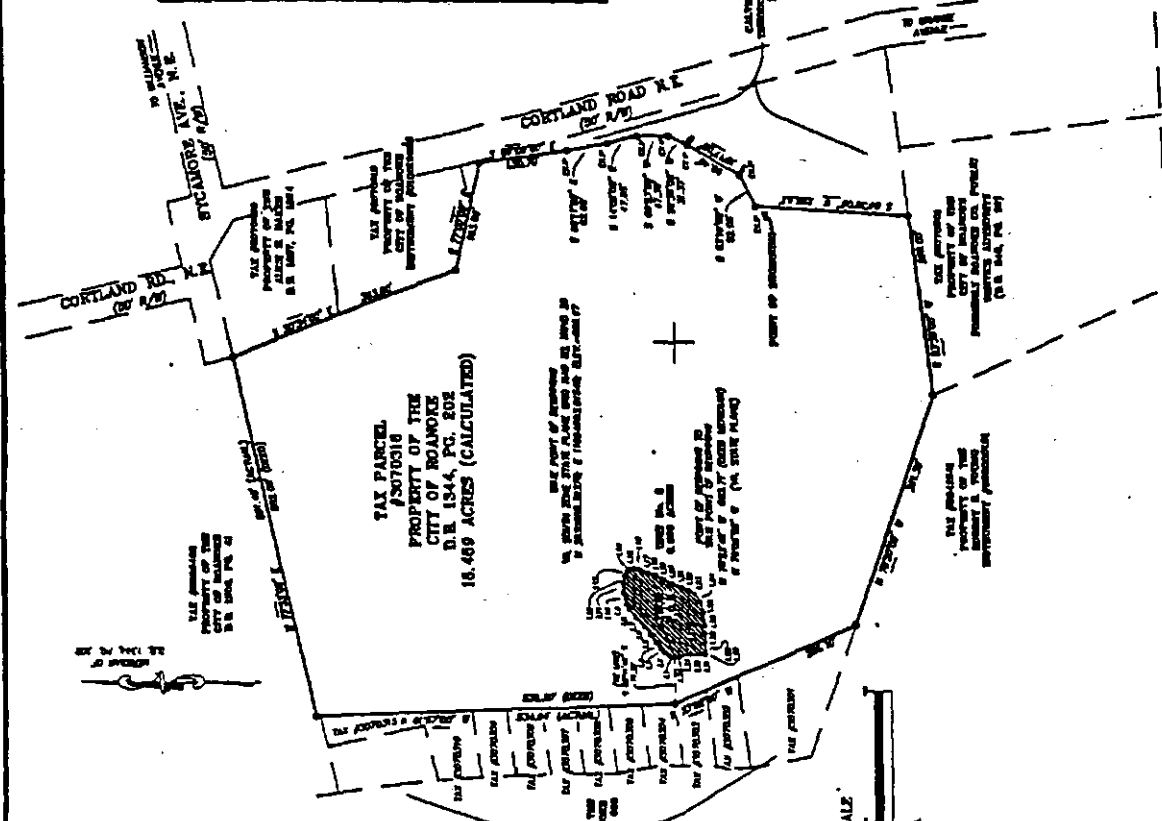
DATE	17	100
NO.	99-042	
DATE	MARCH 24, 2002	

PLAT SHOWING  
**EXHIBIT A-1**  
 UNIT No.2  
 PROPERTY OF  
**CITY OF ROANOKE**  
**PUBLIC WORKS**  
**SERVICE CENTER**  
 SITUATED ALONG CORTLAND ROAD N.E.  
 CITY OF ROANOKE, VIRGINIA



UNIT No. 2  
LAND TABLE

NO.	ACRES	FRONT	DEPTH	AREA
1	0.10	10.00	10.00	100.00
2	0.10	10.00	10.00	100.00
3	0.10	10.00	10.00	100.00
4	0.10	10.00	10.00	100.00
5	0.10	10.00	10.00	100.00
6	0.10	10.00	10.00	100.00
7	0.10	10.00	10.00	100.00
8	0.10	10.00	10.00	100.00
9	0.10	10.00	10.00	100.00
10	0.10	10.00	10.00	100.00
11	0.10	10.00	10.00	100.00
12	0.10	10.00	10.00	100.00
13	0.10	10.00	10.00	100.00
14	0.10	10.00	10.00	100.00
15	0.10	10.00	10.00	100.00
16	0.10	10.00	10.00	100.00
17	0.10	10.00	10.00	100.00
18	0.10	10.00	10.00	100.00
19	0.10	10.00	10.00	100.00
20	0.10	10.00	10.00	100.00
21	0.10	10.00	10.00	100.00
22	0.10	10.00	10.00	100.00
23	0.10	10.00	10.00	100.00
24	0.10	10.00	10.00	100.00
25	0.10	10.00	10.00	100.00
26	0.10	10.00	10.00	100.00
27	0.10	10.00	10.00	100.00
28	0.10	10.00	10.00	100.00
29	0.10	10.00	10.00	100.00
30	0.10	10.00	10.00	100.00
31	0.10	10.00	10.00	100.00
32	0.10	10.00	10.00	100.00
33	0.10	10.00	10.00	100.00
34	0.10	10.00	10.00	100.00
35	0.10	10.00	10.00	100.00
36	0.10	10.00	10.00	100.00
37	0.10	10.00	10.00	100.00
38	0.10	10.00	10.00	100.00
39	0.10	10.00	10.00	100.00
40	0.10	10.00	10.00	100.00
41	0.10	10.00	10.00	100.00
42	0.10	10.00	10.00	100.00
43	0.10	10.00	10.00	100.00
44	0.10	10.00	10.00	100.00
45	0.10	10.00	10.00	100.00
46	0.10	10.00	10.00	100.00
47	0.10	10.00	10.00	100.00
48	0.10	10.00	10.00	100.00
49	0.10	10.00	10.00	100.00
50	0.10	10.00	10.00	100.00



LEGEND

CL	EXISTING
SL	SETBACK
PL	PLAT
PL	POINT-OF-IRRY
PL	POINT OF BEGINNING
PL	POINT OF BEGINNING
PL	UNIT No. 1
PL	UNIT No. 2

- NOTES:
- 1) THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE SURVEY AND SHOULD BE CONSIDERED AS AN APPROXIMATE REPRESENTATION OF THE SUBJECT PROPERTY AND DOES NOT CONSTITUTE A WARRANTY.
  - 2) THE AREA SHOWN ON THIS PLAT IS TO CORRECT THE UNIT No. 1 AND DOES NOT CONSTITUTE A WARRANTY.
  - 3) THE PROPERTY AS SHOWN HEREON DOES NOT INCLUDE THE LANDS OF A 100 YEAR PLACED ROAD OF THE CITY OF ROANOKE, VIRGINIA AND HAS NOT BEEN SURVEYED BY ANY OTHER SURVEYOR. SET COMPLETION DATE: MARCH 24, 2002.
  - 4) ALL DIMENSIONS OF SUBJECT PROPERTY ARE NOT SHOWN FOR CLARITY.
  - 5) THIS PLAT WAS CORRECTED BY THE CITY OF ROANOKE, VIRGINIA, AND ALL DIMENSIONS SHOWN ARE AS SHOWN ON THE ORIGINAL RECORD MAP.