



**SUP – 21-1**  
**Special Use Permit**  
**90 Southgate Square, Suite 180, Parcel ID 69010300001**  
**Hookah Café and Lounge**  
**Staff Report**

To grant a special use permit to Southgate Square Virginia LLC to permit a hookah establishment at 90 Southgate Square, Suite 180, also known as parcel identification number 69010300001, which is zoned GB – General Business District. A hookah establishment is a lounge where patrons share flavored communal hookah or from one placed at each table or bar.

Below, you will find more detailed information regarding the location, zoning, land use, and staff analysis.

**Background**

Property owner Southgate Square Virginia, LLC is applying for a Special Use Permit to allow for a potential tenant, Poof Hookah Café & Lounge, to locate in Suite 180. The applicant on behalf of the property owner is John T. Wood Attorney of Law.

Below, you will find more detailed information regarding the location, zoning, land use, and staff analysis.

**Location**

90 Southgate Square is the Southgate Shopping Center, located on Southpark Boulevard across from Wal-Mart and adjacent to I-95. The parcel identification number is 69010300001. Suite 180 is located on the northern segment of the shopping center and was formally the clothing store Plato's Closet. Suite 180 is 3,600 square feet in size.

**Zoning**

The official zoning map shows this property zoned as GB - General Business District.

**Surrounding Zoning**

North: GB – General Business

South: GB – General Business

East: GB – General Business

West: Interstate 95 borders the parcel to the east. On the other side of the interstate is zoned I-Industrial.

**Land Use Plan**

The City's Land Use Plan identifies the parcel as "Mixed Use."

**Surrounding Land Use Plan**

Land Use Plan:

North: Mixed Use

South: Mixed Use

East: Mixed Use

West: Mixed Use

### **Analysis of Request**

A prospective tenant approached Southgate Square of Virginia, LLC to lease available commercial space for a hookah café and lounge. The City's Zoning Ordinance does not define a use type for establishments dedicated to smoking. Therefore, Southgate Square of Virginia, LLC is requesting a Special Use Permit to allow the use of smoking establishment.

A hookah, also known as shisha, is a water pipe dedicated to smoking tobacco or flavored tobacco. The tobacco is placed in a bowl heated by charcoal, and upon inhalation, the tobacco smoke is drawn through the water basin, converting the smoke into a vapor. The water pipe may be single stemmed or have multiple stems.

Hookah originates back to 16<sup>th</sup> century India during a time when the British East India Company exported glass manufactured in India and imported tobacco. Over the centuries, hookah has become culturally significant and is traditional among Indian, Persian, Turkish, Egyptian, and other Middle Eastern Cultures. During the 1960s and 70s, hookahs became popular with the general public across the Europe and the United States. Hookahs have once again become popular, and the hookah lounge industry has seen significant growth since 2000.

The Richmond Metropolitan Area currently has eight hookah lounges. Five lounges are located within Richmond city limits, two are in Henrico County, and one is located in Chesterfield County. There are no hookah lounges currently in the Tri-Cities area.

All smoking establishments within the state of Virginia must adhere to the Code of Virginia §15.2-2820 Virginia Indoor Clear Air Act.

In accordance with City Charter §17.11-1 Uniformity of Regulations within a District—Special Use Permits, the City Council has the authority to issue a special use permit by adopting an ordinance; however, prior to such adoption, the planning commission must investigate the circumstances and conditions and hold a public hearing. Once this occurs, “The city planning commission may recommend and the council may impose such conditions upon the use of the land, buildings and structures as will, in its opinion, protect the community and area involved and the public from adverse effects and detriments that may result there from”. As provided in this same section of the Charter, the Commission should investigate the circumstances and conditions to determine whether the “special use will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air”.

### **Staff Recommendation**

The recommendation from Staff for the Planning Commission is to approve Planning Commission Resolution 20-3, to recommend that the City Council approve Ordinance 21-5, To grant a special use permit to Southgate Square Virginia LLC to permit a hookah establishment at 90 Southgate Square, Suite 180, also known as parcel identification number 69010300001, which is zoned GB – General Business District.

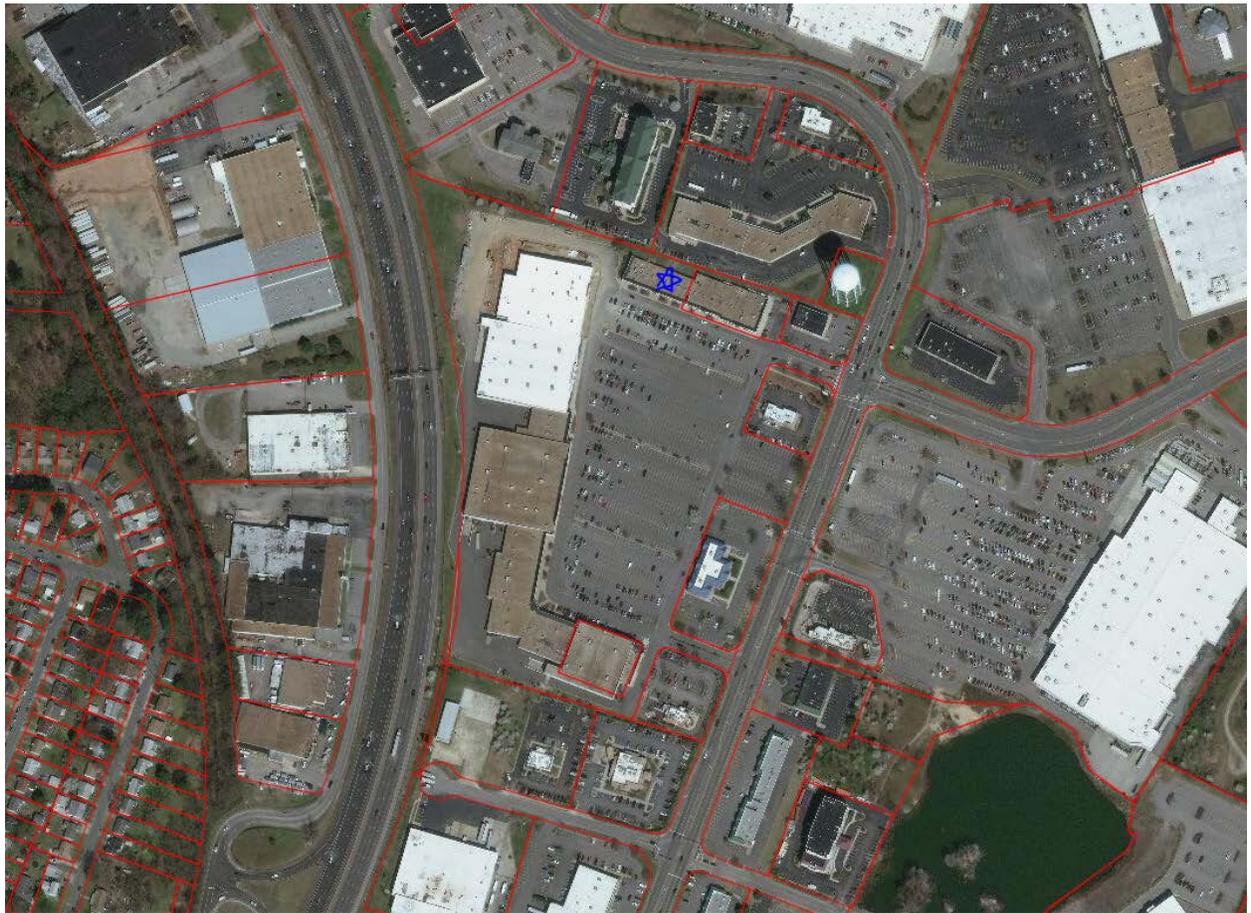
**Attachments**

Application

Power of Attorney

Aerial Image

Virginia Indoor Clean Air Act



## Kelly Hall

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**From:** noreply@civicplus.com  
**Sent:** Friday, February 19, 2021 1:00 PM  
**To:** Brandi Payne; Kelly Hall; Karen Epps  
**Subject:** Online Form Submittal: Request for Special Use Permit

### Request for Special Use Permit

#### Special Use Permit Application

*The deadline for Special Use Permit applications is the first Tuesday of the month. An application is complete when the fee and all request information is received.*

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Date of Request	1/20/2021
Address of Request	90 Southgate Square, Suite 180, Colonial Heights, VA 23834
Name of Project	Poof Hooka Care
Description of Request	Special Use Permit to permit tenant's operation of a Hooka Care and Lounge

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#### Applicant Information

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Name of Applicant	John John T. Wood Attorney at Law Wood
Applicant is...	Representative of Owner or Contract Purchaser
Mailing Address of Applicant	P.O. Box 509
Telephone Number of Applicant	804-732-1000
Email Address of Applicant	attyjwood@gmail.com
Purchase Contract	<i>Field not completed.</i>
Statement	All information is accurate to the best of my ability. By checking this box, you are agreeing to sign and take responsibility for the work on this permit.

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(Section Break)

#### Property Owner Information

*If applicant is property owner, skip section.*

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Name of Property Owner	Southgate Square Virginia LLC
Property Owner Mailing Address	222 Central Park Avenue, Suite 2100, Virginia Beach, VA 23462
Telephone Number of Property Owner	602-332-6166
Email Address of Property Owner	jsvobodova@armadahoffler.com

(Section Break)

**Other Representative**  
*Provide information for engineer, developer, attorney, or permit expeditor associated with this application. If no other representatives are associated with this application, or information has already been provided in the applicant section, skip section.*

Other Representative Contact Information	<i>Field not completed.</i>
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Parcel Identification	69010300007
Site Acreage	.756 acres
Existing/Proposed Square Footage of Structure(s) (if applicable)	16,840
Proposed Land Use Activity	Hooka Cafe and Lounge
Vehicles per Peak Hour (VPH)	25 (approximate)
Traffic Impact Analysis	<i>Field not completed.</i>

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**Adjoining Property Owners**  
*All adjacent property owner information shall be listed below or separately attached. Please provide property address, property owner name, and property owner mailing address for each adjacent parcel to the subject property. Applicants may submit property cards to satisfy this requirement. Property cards may be printed at the City Assessor's Office. Adjacent property owners include all property across from roadways, watercourses, railroads, and/or municipal boundaries.*

List information below	Faison Associates, LTD c/o Aston Properties 610 East Moorehead Street, Suite 100
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Charlotte, North Carolina 28202  
(Park South "Section" 4.554 ac. Lot 6)

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Adjacent Property Owner Information      [Adjacent propert owner information.pdf](#)

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**Narrative**

*The Comprehensive Plan is available on the City's website within the Planning Department webpage.*

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What is the Land Use and Transportation Plan Map designation of the subject property?      General Commercial (Shopping Center)

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Describe in Detail the Proposed Use of the Property.      Refurbish interior of subject property to create Hooka Cafe and Lounge to include installation of kitchen for food preparation and eating for 20-30 tables with chairs in a circular fashion around Hooka water pipes serving two to eight customers per table.

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Explain how this request is consistent with the Comprehensive Plan.      As per Ch. 6 of the Plan this use will: (a) generate and sustain small business growth; (b) create job growth and employment opportunities; (c) avoids vacancy blight and promotes economic health of nearby businesses; and (d) attracts and recruits new different businesses. As per Ch. 2 of the Plan this special use will: (a) enhance the quality of life by offering a culturally different cafe experience; and (b) welcome innovation for a different type of recreation while remaining consistent with the uses of other restaurants and cafes in the area.

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List any sensitive environmental or unique features of the property.      None. The Hooka pipes provide for the inhalation of flavored water vapor only, NOT traditional smoking of burning tobacco products such as cigars and cigarettes.

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Explain how this request will impact the surrounding neighborhood and/or the City of Colonial Heights.      1 - This special use will benefit the area in that it will provide an area for retail customers to stop for food and temporary rest and respite while shopping at retail stores in the Shopping Center.  
2 - This use will compliment the shopping experience and provide recreational opportunities because although compatible with other similar businesses in the immediate area, there is no other hooka cafe and lounge offering this specific cultural, social atmosphere.

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Have you prepared a conceptual plan of the proposed development,      No other special outside modifications other than a change of signage will be necessary. The site is a unit in a strip mall with

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including proposed uses, general lot configurations and road locations?

general access from the large public parking lot requiring no major changes to the site's current configuration.

What provisions will be made to provide safe and adequate access to the subject property?

The current design of the site already provides adequate access from the roadway and parking area of the Shopping Center. The front entrance of the unit is directly on the broad walkway serving adjacent businesses.

Please identify any known or suspected historic resources on both the subject property and adjacent properties.

None, the site has previously been designed, built and occupied by other commercial users.

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Attachments

Adjacent Property Owners Form, Thirteen Copies of the Plat of the Subject Property, Responses to Questions on following page, Owner's Power of Attorney Affidavit, if not applicant, Required \$1,500 fee

Please email attachments to [hallk@colonialheightsva.gov](mailto:hallk@colonialheightsva.gov) to include with your submission.

Email not displaying correctly? [View it in your browser.](#)

## Special Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that I, Louis S. Haddad, a Manager of Armada Hoffler Manager, LLC, a Virginia limited liability company ("AH Manager"), the Manager of Southgate Square Virginia, LLC, a Virginia limited liability company ("Southgate"), located at 222 Central Park Avenue, Suite 2100, Virginia Beach, Virginia 23462, for and on behalf of Southgate, have made, constituted and appointed and by these presents do make, constitute and appoint John T. Wood, Esq., of 800 South Sycamore Street, Petersburg, Virginia 23803, the true and lawful attorney-in-fact, for Southgate and in the name of Southgate for the following limited purposes: to execute an application for, pursue and acquire a special use permit for the operation of a Hooka Cafe and Lounge (the "Special Use Permit") on and in Spaces #180-182 in the commercial property owned by Southgate located in the City of Colonial Heights, Virginia (the "City"), more particularly described as follows:

Sub: Southgate Square Section, Block: .756 acres, Lot: 7,  
known by current city street address as 90 South Gate  
Square, Suite 180, Colonial Heights, Virginia 23834

And on behalf of AH Manager in its capacity as the Manager of and on behalf of Southgate, I hereby ratify and confirm all lawful acts done by said attorney-in-fact within the scope of the authority herein given to him, as fully and to the same extent as, if by me personally done and performed on behalf of AH Manager in its capacity as the Manager of and on behalf of Southgate.

This Special Power of Attorney shall terminate at such time as the Special Use Permit is either approved or denied by the City Council of the City, unless sooner

terminated or revoked in accordance with the applicable provisions of the Virginia Uniform Power of Attorney Act.

In Testimony Whereof, I have hereunto set my hand and seal on behalf of AH Manager in its capacity as the Manager of and on behalf of Southgate, this 15 day of February, 2021.

SOUTHGATE SQUARE VIRGINIA, LLC,  
a Virginia limited liability company

By: Armada Hoffer Manager, LLC,  
a Virginia limited liability company,  
its manager

By [Signature] (Seal)  
Louis S. Haddad, Manager

COMMONWEALTH OF VIRGINIA  
City of Virginia Beach, to-wit:

The foregoing Special Power of Attorney was signed and acknowledged before me this 15 day of February, 2021, by Louis S. Haddad, Manager of Armada Hoffer Manager, LLC, a Virginia limited liability company, in its capacity as the Manager of and on behalf of Southgate Square Virginia, LLC, a Virginia limited liability company.

[Signature]  
Notary Public

My Commission expires: 04.30.2024

Registration Number: 7877187



## Virginia Indoor Clean Air Act

### § 15.2-2820. Definitions

As used in this chapter, unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed, indoor area used by the general public and used as a

stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

"Restaurant" means any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private residence or in any location that is not a public place.

"Restaurant" shall include any bar or lounge area that is part of such restaurant.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

2009, cc. 153, 154.

#### **§ 15.2-2821. Applicability**

Nothing in this chapter shall be construed to:

1. Permit smoking where it is otherwise prohibited or restricted by other applicable provisions of law; or
2. Regulate smoking in retail tobacco stores, tobacco warehouses, or tobacco manufacturing facilities.

2009, cc. 153, 154.

#### **§ 15.2-2822. Authority of law-enforcement officials**

Any law-enforcement officer may issue a summons regarding a violation of this chapter.

2009, cc. 153, 154.

#### **§ 15.2-2823. Smoking in public buildings or facilities; exception**

A. The Commonwealth or any agency thereof and every locality shall provide reasonable no-smoking areas, considering the nature of the use and the size of the building, in any building owned or leased by the Commonwealth or any agency thereof or a locality.

B. The provisions of this chapter shall not apply to office, work, or other areas of the Department of Corrections that are not entered by the general public in the normal course of business or use of the premises.

2009, cc. 153, 154.

#### **§ 15.2-2824. (Effective until July 1, 2021) Prohibitions on smoking generally; penalty for violation**

A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 63.2-1701 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than \$25.

C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154.

**§ 15.2-2824. (Effective July 1, 2021) Prohibitions on smoking generally; penalty for violation**

A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 22.1-289.011 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than \$25.

C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154; 2020, cc. 860, 861.

**§ 15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for violation**

A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be permitted in:

1. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include the preparation or storage of food for catering services, pushcart operations, hotdog stands, and other mobile points of service;

2. Any outdoor area of a restaurant, with or without roof covering, at such times when such

outdoor area is not enclosed in whole or in part by any screened walls, roll-up doors, windows or other seasonal or temporary enclosures;

3. Any restaurants located on the premises of any manufacturer of tobacco products;

4. Any portion of a restaurant that is used exclusively for private functions, provided such functions are limited to those portions of the restaurant that meet the requirements of subdivision 5;

5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may be permitted is (i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited. For the purposes of the preceding sentence, nothing shall be construed to require the creation of an additional public entrance in cases where the only public entrance to a restaurant in existence as of December 1, 2009, is through an outdoor area described in subdivision 2;

6. Any private club; and

7. Any portion of a facility licensed to conduct casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 designated pursuant to the provisions of and that meets the requirements of § 15.2-2827. Any restaurant within a facility licensed to conduct casino gaming shall comply with the provisions of this section.

B. For the purposes of this section:

"Proprietor" means the owner, lessee or other person who ultimately controls the activities within the restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Structurally separated" means a stud wall covered with drywall or other building material or other like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-impervious building material.

C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to work in any area of the restaurant where smoking may be permitted without the consent of such individual. Nothing in this subsection shall be interpreted to create a cause of action against such proprietor.

D. The proprietor of any restaurant shall:

1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and

2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where smoking is prohibited in accordance with this section.

E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall

be subject to the civil penalty of not more than \$25.

F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in this section. Any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than \$25.

G. It shall be an affirmative defense to a complaint brought against a proprietor for a violation of this section that the proprietor or an employee of such proprietor:

1. Posted a "No Smoking" sign as required;
2. Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited;
3. Refused to seat or serve any individual who was smoking in a prohibited area; and
4. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment.

H. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

I. Any local health department or its designee shall, while inspecting a restaurant as otherwise required by law, inspect for compliance with this section.

2009, cc. 153, 154;2020, cc. 1197, 1248.

**§ 15.2-2826. Designation of "No-Smoking" areas; smoking prohibited in "No-Smoking" areas; penalty for violation**

A. The proprietor or other person in charge of (i) an educational facility, except any public elementary, intermediate, or secondary school; (ii) a health care facility; (iii) a retail establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, and shoe stores; and (iv) recreational facilities shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building.

B. The proprietor or other person in charge of a space subject to the provisions of this section shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking." Any person failing to post such signs shall be subject to a civil penalty of not more than \$25.

C. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than \$25.

D. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

2009, cc. 153, 154.

**§ 15.2-2827. Responsibility of building proprietors and managers**

Except as provided in § 15.2-2825, proprietors or persons who manage or otherwise control any building, structure, space, place, or area governed by this chapter in which smoking is not otherwise prohibited may designate rooms or areas in which smoking is permitted as follows:

1. Designated smoking areas shall not encompass so much of the building, structure, space, place, or area open to the general public that reasonable no-smoking areas, considering the nature of the use and the size of the building, are not provided;
2. Designated smoking areas shall be separate to the extent reasonably practicable from those rooms or areas entered by the general public in the normal use of the particular business or institution; and
3. In designated smoking areas, ventilation systems and existing physical barriers shall be used when reasonably practicable to minimize the permeation of smoke into no-smoking areas. However, this chapter shall not be construed as requiring physical modifications or alterations to any structure.

2009, cc. [153](#), [154](#).

#### **§ 15.2-2828. Ordinances regulating smoking generally**

- A. No ordinances enacted by a locality prior to January 1, 1990, shall be deemed invalid or unenforceable because of lack of consistency with the provisions of this chapter.
- B. Except as provided in § [15.2-2829](#), no ordinances adopted after January 1, 1990, shall contain provisions or standards that exceed those established in this chapter.
- C. However, any ordinance may provide that employers may regulate smoking in the private work place as they deem appropriate under the following circumstances: (i) if the designation of smoking and no-smoking areas is the subject of a written agreement between the employer and his employees, the provisions of the written agreement shall control such designation and (ii) a total ban on smoking in any work place shall only be enforced by the employer upon an affirmative vote of a majority of the affected employees voting, unless such ban is the subject of a contract of employment between the employer and the employees as a prior condition of employment. No ordinance adopted pursuant to this subsection shall affect no-smoking policies established by employers prior to the adoption of such ordinance.

2009, cc. [153](#), [154](#).

#### **§ 15.2-2829. Mandatory provisions of ordinances**

If an ordinance is enacted by a locality in accordance with this chapter, it shall provide that it is unlawful for any person to smoke in any of the following places:

1. Common areas in an educational facility, including but not limited to, classrooms, hallways, auditoriums, and public meeting rooms;
2. School buses and public conveyances; and
3. Any of the places governed by § [15.2-2824](#) or [15.2-2825](#).

2009, cc. [153](#), [154](#).

#### **§ 15.2-2830. Optional provisions of ordinances**

If an ordinance is enacted by a locality in accordance with this chapter, it may provide that management shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building, in the following places:

1. Retail and service establishments of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, and shoe stores;
2. Educational facilities, except as provided in § 15.2-2824;
3. Health care facilities;
4. Rooms in which a public meeting or hearing is being held;
5. Places of entertainment and cultural facilities, including but not limited to theaters, concert halls, gymnasiums, auditoriums, other enclosed arenas, art galleries, libraries, and museums;
6. Indoor facilities used for recreational purposes; or
7. Other public places.

2009, cc. 153, 154.

#### **§ 15.2-2831. Other ordinances not authorized**

The provisions of §§ 15.2-2828, 15.2-2829, and 15.2-2830 shall not be construed to allow local regulation of smoking in:

1. Conference or meeting rooms and public or private assembly rooms while such rooms are being used for private functions;
2. Private work places;
3. Areas of enclosed shopping centers or malls that are external to the retail stores therein, are used by customers as a route of travel from one store to another, and consist primarily of walkways and seating arrangements; or
4. Lobby areas of hotels, motels, and other establishments open to the general public for overnight accommodation.

2009, cc. 153, 154.

#### **§ 15.2-2832. Regulation of smoking; posting of signs**

Any person who owns, manages, or otherwise controls any building or area in which smoking is regulated by an ordinance shall post in an appropriate place, in a clear, conspicuous, and sufficient manner, "Smoking Permitted" signs, "No Smoking" signs, or "No-Smoking Section Available" signs.

2009, cc. 153, 154.

#### **§ 15.2-2833. Enforcement of ordinances**

A. Any ordinance may provide a civil penalty of not more than \$25 for violations of any provision of such ordinance.

B. Any ordinance may provide that no person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after being asked to refrain from smoking may be subject to a civil penalty of not more than \$25.

C. Any ordinance shall provide that any law-enforcement officer may issue a summons regarding

a violation of the ordinance.

D. Any civil penalties assessed under this section shall be paid into the treasury of the locality where the offense occurred and shall be expended solely for public health purposes.

2009, cc. [153](#), [154](#).