



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

June 14, 2013

The Honorable Robert B. Bell  
Member, House of Delegates  
2309 Finch Court  
Charlottesville, Virginia 22911

Dear Delegate Bell:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

## Issue Presented

You ask whether the City of Charlottesville may lawfully erect signs on city-owned property stating "Reserved Parking" for "Low Emitting/Fuel Efficient Vehicles Only."

## Response

It is my opinion that the City of Charlottesville may lawfully erect signs to regulate parking on city-owned property, including signs that state "Reserved Parking" for "Low Emitting/Fuel Efficient Vehicles Only."

## Background

You state that your question arises from signs posted in a city-owned parking lot for a municipal park, the Smith Aquatic & Fitness Center. Although the signs state "Reserved Parking" for "Low Emitting/Fuel Efficient Vehicles Only," there is no indication that a violator would be subject to a fine or other enforcement. You also note that the constituent who brought this matter to your attention requested information from the City of Charlottesville. According to your report, the constituent learned that the signs were erected in part to achieve a Leadership in Energy and Environmental Design (also known as "LEED") Platinum Certification, a designation provided to buildings employing sustainable and energy efficient measures. Your constituent further related that the City of Charlottesville informed him that the signs represented a "voluntary restriction."

## Applicable Law and Discussion

Localities in the Commonwealth have only those powers granted to them by the state, those powers that are necessarily implied from those granted to them, and those that are essential and indispensable.<sup>1</sup> The *Code of Virginia* provides that the "governing body of any county, city or town may by ordinance provide for

---

<sup>1</sup> See, e.g., *Schefer v. City Council*, 279 Va. 588, 593, 691 S.E.2d 778, 780 (2010) (and cases cited therein).

the regulation of parking . . . within its limits.”<sup>2</sup> Moreover, through its charter, the General Assembly specifically granted the City of Charlottesville the authority

[t]o pass all by-laws, rules and ordinances, not repugnant to the Constitution and laws of the State, which they deem necessary for the good order and government of the city, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health, and protection of its citizens . . .<sup>[3]</sup>

and “to make such other and additional ordinances as it may deem necessary for the general welfare of said city[.]”<sup>4</sup> The City of Charlottesville, pursuant to those powers granted to it, adopted an ordinance prohibiting citizens from parking in contravention to the signs the city has posted.<sup>5</sup> The City also enacted an ordinance deeming such a parking violation to be a traffic infraction and subject to a monetary penalty.<sup>6</sup>

Although I do not opine on the policy embodied by the signs themselves, I conclude that the erection of signs to ostensibly reserve parking spaces for a specific category of vehicles appears to be within the enabling authority granted by the General Assembly to the City of Charlottesville. The action has the dual result of regulating parking and managing city-owned property — each a legitimate exercise of municipal power. These conclusions are not affected by the manner or rate of enforcement or the suggested motivation of the City to earn a form of environmental certification.

### Conclusion

Accordingly, it is my opinion that the City of Charlottesville may lawfully erect signs on city-owned property that state “Reserved Parking” for “Low Emitting/Fuel Efficient Vehicles Only.”

With kindest regards, I am

Very truly yours,



Kenneth T. Cuccinelli, II  
Attorney General

---

<sup>2</sup> VA. CODE. ANN. § 46.2-1220 (Supp. 2012).

<sup>3</sup> CHARTER FOR THE CITY OF CHARLOTTESVILLE, VA., § 14(20).

<sup>4</sup> *Id.*, § 14(16).

<sup>5</sup> CITY OF CHARLOTTESVILLE, VA., Code § 15-141 (2010).

<sup>6</sup> *Id.*, § 15-148.