Article 1: General Provisions

Division 1.1 Enactment and Authority

Section 1.1.1 Title

This Chapter will be known and may be cited as the "Albemarle County Zoning Ordinance," "Zoning Ordinance," or "Ordinance."

Section 1.1.2 Authority

This Ordinance is adopted in accordance with Virginia Code § 15.2-2200 et seq., and other titles of the Virginia Code enabling the County to classify and regulate land development and use through its zoning regulations.

Section 1.1.3 Purpose

This Ordinance is adopted to implement the comprehensive plan and associated plans adopted by the Board of Supervisors, to promote the public health, safety, convenience, and welfare of the community, and to accomplish the objectives of Virginia Code §§ 15.2-2200 and 15.2-2283.

Section 1.1.4 Applicability

In accordance with Virginia Code § 15.2-2281, § 15.2-2284, and § 15.2-2293, this Ordinance applies to all of the unincorporated territory of the County.

Section 1.1.5 Conformity Required

Except as otherwise provided in this Ordinance or as modified through a zoning approval, all land, buildings, structures, and/or premises within the County may be used, occupied, erected, constructed, moved, enlarged, and/or altered only in conformance with this Ordinance.

Section 1.1.6 Severability

If any Section or any provision of this Ordinance is decided by the courts to be unconstitutional or invalid, that decision will not invalidate the Ordinance as a whole, or any part of the Ordinance, other than the part decided to be unconstitutional or invalid.

Division 1.2 Ordinance Conflicts and Interpretation

Section 1.2.1 Interpretation

The Zoning Administrator will interpret this Ordinance as follows:

1. Provisions must be considered to promote the public health, safety, convenience, and general welfare of the community;
2. Unless otherwise specified, the standards of this Ordinance are the minimum or maximum required;
3. In accordance with Virginia Code § 15.2-2315, when regulations of this Ordinance conflict with each other, other County Ordinances, or Commonwealth or federal law, the more restrictive regulation governs;
4. This Ordinance does not negate private easements, covenants or other agreements, however, nothing in this Ordinance authorizes the County to enforce a private easement, covenant, or agreement; and
5. Conditions imposed or proffers accepted as part of a zoning approval prior to _____ (effective date of revised ordinance) remain in effect. Any condition imposed or proffer accepted prevails over the general provisions of this Ordinance.

Section 1.2.2 Figures and References

A. **Figures.** Unless specified as illustrative only, any figures contained in this Ordinance are governing regulations.

B. **References.** If any Section of this Ordinance incorporates by reference any state or federal statute or regulation, this Ordinance incorporates future amendments of the referenced state or federal statute or regulation.

Division 1.3 Zoning Districts Map

Section 1.3.1 Establishment, Maintenance, and Amendment

A. **Establishment of map.** The authoritative location and boundaries of the primary zoning districts and overlay districts created by this Ordinance are shown on the official zoning map titled “County of Albemarle Zoning Map,” hereby referred to as the “Zoning Map.”

B. **Map symbols.** The Zoning Map also includes symbols that represent the existence of conditions, including proffers, attaching to the zoning of a parcel on the Zoning Map.

C. **Format.** The Zoning Map is the digital form of the Zoning Map adopted on December 10, 1980, as amended by all Zoning Map amendments after that date.

D. **Map updates.** The Zoning Map is updated from time to time with the results of the following Board of Supervisor's actions:

1. Amendments to the Ordinance;
2. Approval of a Zoning Map amendment; or
3. Approval of a conditional zoning.

Section 1.3.2 Incorporated by Reference

The Zoning Map is composed of several maps and digital source files and all dimensions, symbols, notations, and designations shown on the maps and in the digital source files. The Zoning Map is maintained by the Department of Community Development, and is incorporated by reference as part of this Ordinance.

Section 1.3.3 Interpretation of Boundaries

The Zoning Map will be interpreted as follows:

1. **Boundaries designated.** The district boundaries shown on the Zoning Map are intended to follow the lot lines and the center lines of streets or alleys as they existed on December 10, 1980 and as amended. Where a district boundary obviously does not follow any lot line or center line, and is not depicted on an approved subdivision plat or site plan or described by dimensions or other means, the district boundary must be determined by measurement using a scale.
2. **Boundaries not designated.** All waterways, roads, streets, alleys, highways, railroads, and other rights-of-way (collectively, "features"), if not otherwise specifically designated and if not part of a parcel abutting the feature, are classified in the same zoning district as the immediately abutting parcels, and the departing boundary lines from those abutting parcels will be deemed to extend to the centerline of the feature. If the center line of a feature serves as a parcel boundary, the feature, if not otherwise specifically designated, is classified in the same zoning district as that of the parcel to which it is a part.
3. **Superjacent and subjacent airspace.** The superjacent and subjacent airspace of any unincorporated territory within the County is classified as the same zoning district as the parcel to which it pertains unless the superjacent or subjacent airspace is zoned otherwise by a Zoning Map amendment.
4. **Areas not otherwise designated.** Except for those features identified in Section 1.3.3(2), any area not otherwise designated in a zoning district on the Zoning Map is deemed to be in the Rural Areas (RA) district.

5. **Prevailing Decisions.** Any decision made by the Board of Supervisors or an interpretation of the Zoning Map made by the Board of Zoning Appeals after December 10, 1980, prevails in the interpretation of the Zoning Map.

6. **Interpretation.** The Zoning Administrator has the authority to interpret the district boundaries in accordance with Section 2.1.1 of this Ordinance.

7. **Appeal.** The Zoning Administrator's interpretations may be appealed to the Board of Zoning Appeals in accordance with Article 3, Section 1, of this Ordinance. The Board of Zoning Appeals does not have the power to substantially change the locations of district boundaries.

Section 1.3.4 Unauthorized Changes

The Zoning Map may be altered or amended only in compliance with this Ordinance.

Division 1.4 Transition of Regulations After Adoption

Section 1.4.1 Effective Date

This Ordinance was adopted on _____(date of adoption of revised ordinance). This Ordinance is effective on _____(date of adoption of revised ordinance) and repeals and replaces any prior Zoning Ordinance adopted in Albemarle County. Its provisions are in force until repealed or amended.

Section 1.4.2 Violations Continue

Any violation of the previous Zoning Ordinance will continue to be a violation under this Ordinance unless or until the subject use, structure, or sign complies with the express terms of this Ordinance.

Section 1.4.3 Nonconformities

If any use, structure, parcel, or sign legally existed immediately prior to ____ (effective date of revised ordinance) but does not fully comply with this Ordinance or any amendment thereto, the use, structure, parcel, or sign is nonconforming under this Ordinance and must comply with Article 10: Nonconformities: Uses, Structures, Parcels, and Signs.

Section 1.4.4 Pending Applications

A. **Applicability.** This Section governs applications for the following:

1. Zoning map amendments (rezoning);

2. Conditional zoning map amendments (proffers);

3. Special use permits;
4. Legislative modifications;
5. Variances;
6. Site plans;
7. Certificates of appropriateness;
8. Zoning permits; and
9. Building permits and certificates of occupancy.

B. **Regulations in effect.** Applications deemed complete by the Zoning Administrator prior to ____ (effective date of revised ordinance) but still pending final action and being diligently pursued by the applicant as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted. Amendments to applications may be approved if they do not create any new or additional noncompliance with this Ordinance.

C. **Resubmittal under this Ordinance.** An applicant with a pending application accepted prior to ____ (effective date of revised ordinance) may opt to withdraw the pending submittal and submit a new application under this Ordinance.

D. **Nonconformities.** For applications approved under subsection B, any resultant development or use that does not comply with this Ordinance, although permitted, will be nonconforming and subject to Article 10: Nonconformities: Uses, Structures, Parcels, and Signs.

Section 1.4.5 Approved Applications and Permits

A. **Applicability.** This Section governs applications for the following:

1. Zoning map amendments (rezoning);
2. Conditional zoning map amendments (proffers);
3. Special use permits;
4. Legislative modifications;
5. Variances;
6. Site plans;
7. Certificates of appropriateness;
8. Zoning permits; and
9. Building permits and certificates of occupancy.

B. **Period of validity.** Any approved application or permit granted prior to ____(effective date of revised ordinance) remains valid until their expiration date.

1. If the prior approval expires or is revoked, any subsequent development or use is subject to this Ordinance.
2. Previously approved applications or permits may be amended if they do not create any new or additional noncompliance with this Ordinance.

C. **Nonconformities.** For applications or permits approved prior to ____ (effective date of revised ordinance), any resultant development or use that does not comply with this Ordinance, although permitted, will be nonconforming and subject to Article 10: Nonconformities: Uses, Structures, Parcels, and Signs.