Article 2: Administration

Division 2.1 Zoning Administrator

Section 2.1.1 Appointment, Powers, and Duties

A. **Agent**

The Zoning Administrator is appointed by the Board of Supervisors as the Agent for this Ordinance except where otherwise specified.

B. **Agent Authority**

1. The Zoning Administrator has all necessary authority on behalf of the Board of Supervisors, as granted by the Virginia Code § 15.2-2286(4), to administer and enforce this Ordinance.
2. The Zoning Administrator may establish reasonable administrative procedures necessary for the administration of this Ordinance, including delegation of authority as the Agent.
3. No specific authority expressly granted to the Zoning Administrator in other sections of this Ordinance limits the authority of the Zoning Administrator to administer and enforce those sections where specific authority is not expressed.

Division 2.2 Planning Commission

Section 2.2.1 Appointment, Membership, Powers, Duties, and Meetings

A. The Planning Commission is organized, compensated, and removed according to the Virginia Code § 15.2-2210 and § 15.2-2212 and as outlined in Chapter 2, Article 4, of the Albemarle County Code.

B. The Planning Commission performs duties according to the Virginia Code, § 15.2-2221 and § 15.2-2230 et seq., and § 15.2-2285.

C. The Planning Commission will conduct meetings and public hearings according to Virginia Code § 15.2-2214 through § 15.2-2217.

Division 2.3 Board of Zoning Appeals

Section 2.3.1 Appointment, Terms, Compensation, and Removal of Members

The appointment, terms, compensation, and removal of members of the Board of Zoning Appeals (BZA) are as provided in Virginia Code § 15.2-2308, and that the BZA will consist of five residents of Albemarle County.

Section 2.3.2 Powers and Duties

Pursuant to Virginia Code § 15.2-2309, the Board of Zoning Appeals (BZA) has the power and duty to hear and decide:

1. Appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance and of Virginia Code § 15.2-2280 through § 15.2-2316.9;
2. Variance applications, as defined in the Virginia Code § 15.2-2201;
3. The granting and revocation of special use permits for signs under Section ____(section number to be added upon its creation); and
4. Applications for interpretation of the Zoning Map as to the location of a district boundary, only if:
    1. The Zoning Administrator is unable to interpret boundaries, as provided in Section 2.1.1, of this Ordinance; or
    2. An applicant appeals the Zoning Administrator's interpretation.

Section 2.3.3 Meetings and Procedures

A. **Adoption of rules.** The BZA may adopt rules to facilitate the conduct of its business at its meetings.

B. **Elections.** The BZA will elect at an annual meeting the following:
    1. A Chair, who will preside over all meetings and may administer oaths and compel the attendance of witnesses,
    2. A Vice-Chair, who will act in the absence of the Chair, and
    3. A Secretary.

C. **Procedures.** The BZA will conduct meetings and public hearings consistent with the Virginia Code § 15.2-2308 through § 15.2-2312.

D. **Ex parte communications.** All ex parte communications must comply with Virginia Code § 15.2-2308.1.

Division 2.4 Architectural Review Board

Section 2.4.1 Appointment, Terms, Compensation, and Removal of Members

As provided in Virginia Code § 15.2-2306, an Architectural Review Board (ARB) is established, subject to the following:

1. The ARB consists of five members. Each member will be appointed by and serve at the pleasure of the Board of Supervisors. Members are appointed for terms of four years.
2. Appointments for vacancies occurring otherwise than by expiration of term will in all cases be for the unexpired term.
3. Within the limits of funds appropriated by the Board of Supervisors, the ARB may employ or contract for legal counsel, consultants, and other technical and clerical services as it may deem necessary to transact its business. The ARB may request the opinion, advice or other aid of any officer, employee, board, bureau, or commission of the County.
4. Members of the ARB receive compensation authorized by the Board of Supervisors as provided in Chapter 2-905.

Section 2.4.2 Powers and Duties

The ARB has the following powers and duties to:

A. **Entrance Corridor Design Guidelines.** Develop and recommend appropriate design guidelines for Entrance Corridors, subject to the following:

B. Design guidelines being considered must be advertised as provided in Virginia Code § 15.2-2204; and

C. Design guidelines become effective only upon adoption by the Board of Supervisors;

D. **Administrative Review Guidelines.** Establish appropriate architectural or design guidelines for Administrative Review COA including the following:

1. Review and propose areas to be included in or removed from any entrance corridors;
2. Review and make recommendations on proposals or applications within any entrance corridor provided in Article X, Section X, as applicable; and
3. Review and act on applications for certificates of appropriateness as provided in Division 3.8.

Section 2.4.3 Meetings and Procedures

A. **Adoption of rules.** The ARB may adopt rules to facilitate the conduct of its business at its meetings.

B. **Elections.** The ARB will elect at an annual meeting:

1. A Chair, who will preside over all meetings, and

2. A Vice-Chair, who may act in the absence of the Chair.

C. **Quorum.** A quorum is a majority of all the members of the ARB.

Division 2.5 Floodplain Administrator

Section 2.5.1 Appointment

The County Engineer is designated the Floodplain Administrator.

Section 2.5.2 Powers and Duties

In accordance with Federal Law 44 CFR §§ 59.22(b), 60.2(e), 60.3(b)(5), 65.3, the Floodplain Administrator has the powers and duties to administer and enforce the Flood Hazard Overlay District (FH) regulations in Division 5.4 including performing all applicable County duties and responsibilities.

The Floodplain Administrator has the powers and duties to:

A. **Delegation.** Delegate of any duty or responsibility under the FH Overlay District regulations:

B. To qualified technical personnel, plan examiners, inspectors, and other employees; and

C. With the prior consent of the Virginia Department of Conservation and Recreation, to an authorized public entity by written memorandum of understanding or agreement.

D. **Implementation of commitments.** Implement of the commitments the County must make under 44 CFR § 59.22(a).

E. **Recordkeeping.** Maintain and permanently keep the records necessary to administer the FH Overlay District regulations, including:

F. Flood Insurance Studies, Flood Insurance Rate Maps (both historic and current effective versions), and Letters of Map Change; and

G. Documentation supporting the issuance and denial of permits, elevation certificates, flood-proofing elevations (in relation to the datum on the Flood Insurance Rate Map), other required design certifications, variances, and records of enforcement actions.

H. **Reporting.** Report information as required by law, including:

I. *County participation in the program.* Submit to the Federal Emergency Management Agency, annually or biennially as the floodplain administrator determines, a report on the County's participation in the National Flood Insurance Program under 44 CFR § 59.22(b).

J. *Buildings, development, and permits.* On the Federal Emergency Management Agency's request, submit a report on the County's participation in the National Flood

Insurance Program, which may include the number of buildings, development permits, and variances in the special flood hazard areas.

K. *Changes to base flood elevation.* As soon as practicable, and no later than six months after information becomes available showing an increase or decrease to the County's base flood elevations resulting from physical changes affecting flooding conditions, notify the Federal Emergency Management Agency by submitting the supporting technical or scientific data.

L. **Signatory on Letters of Map Change.** Sign as the community official on applications for Letters of Map Change to the Federal Emergency Management Agency.

M. **Enforcement.** With the Zoning Administrator, who is authorized to enforce this Ordinance, enforce the FH Overlay District regulations, investigating alleged violations, issue notices to comply, notices of violation, and stop work orders as authorized by law, and require permit holders to take corrective action.

Division 2.6 Enforcement

Section 2.6.1 Authority

As authorized by the Virginia Code § 15.2-2286(A)(4), the Zoning Administrator has all authority to enforce the provisions of this Ordinance.

Section 2.6.2 Violations

A. **Failure to comply.** Failure to comply with the requirements of this Ordinance constitutes a zoning violation and is unlawful.

B. **Falsification.** Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Zoning Administrator under this Ordinance, is in violation of this Ordinance.

Section 2.6.3 Complaints and Investigation

A. **Applicability.** Any person who alleges that violation of this Ordinance has occurred may file a complaint with the Zoning Administrator.

B. **Complaint requirements.** Complaints must state the basis and location of the alleged violation.

C. **Procedure.** The Zoning Administrator will evaluate complaints and take appropriate action.

Section 2.6.4 Notice of Violation

A. **Notice of violation or ticket.** If the Zoning Administrator determines that a violation of this Ordinance exists, a notice of violation or ticket may be issued to anyone committing and/or permitting the violation, the property owner, or any of the above.

B. **Notice requirements.** The notice of violation or ticket will state the violation, remedy, and right to appeal, consistent with Virginia Code § 15.2-2311.

Section 2.6.5 Remedies and Penalties for Violation

A. **Action on violations.** The Zoning Administrator may initiate appropriate action, as provided in applicable law.

B. **Civil Penalties.**

Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates any provision of this Ordinance or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the Zoning Administrator that the act violates this Ordinance will be subject to civil penalties, as provided in Virginia Code § 15.2-2209, as amended, and subject to the following:

C. *Procedure*. Civil penalties for violations of this Ordinance may be initiated either by filing a civil summons in the general district court or by the Zoning Administrator issuing a ticket.

D. Civil summons or ticket contents. A civil summons or ticket must contain the name and address of the person charged, the violation, and methods of resolution.

E. *Failure to enter waiver.* If a person charged with a violation does not enter a waiver of trial and admit liability, the violation will be tried in the general district court as provided by law. A finding of liability is not deemed a criminal conviction for any purpose.

F. *Penalties*.

G. Civil violations of this Ordinance are subject to the maximum penalty amounts specified in Virginia Code § 15.2-2209 for initial summons, additional summons arising from the same set of operative facts, and the civil penalty limit.

H. After the civil penalties reach the allowed limit, the violation may be prosecuted as a criminal misdemeanor under Section 2.5.5(C)(2).

I. *Exclusions*. The civil penalties imposed under this section do not apply to:

J. Land development activities as defined in Article 11; and

K. The posting of signs on public property or public rights-of-way, which are subject to Virginia Code § 33.2-1224.

C. **Criminal Penalties.**

L. Any of the following violations may be subject to criminal penalties:

M. Violations of this Ordinance resulting in injury to a person or persons; or

N. Violations where the maximum aggregate civil penalty has been reached and who continues to violate or permits to violate any provision of this chapter after being informed by the Zoning Administrator that the act continues to violate this chapter.

O. If the violation is uncorrected at the time of conviction, the court may order the violator to abate or remedy the violation.

P. Criminal violations of this Ordinance are subject to the maximum penalty amounts specified in Virginia Code § 15.2-2286(A)(5).

Q. Remedies provided in this Division are cumulative unless expressly stated otherwise and may be in addition to any other remedies authorized by law.

Division 2.7 Fees

Section 2.7.1 Fees and Charges

Fees, charges and expenses for applications relating to this Ordinance are as provided in Albemarle County Code Chapter 1, Article 5.

Division 2.8 Taxes and Expenses Paid

Section 2.8.1 Delinquent Taxes and Charges

Prior to the initiation of an application for a special use permit, variance, rezoning, legislative modification, or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, must produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the County have been paid, unless otherwise authorized by the Director of Finance.