

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 18, 2020 at 5:00 p.m., Lane Auditorium, Second Floor, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson, Deputy County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette K. Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 5:00 p.m., by the Chair, Mr. Gallaway.

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Agenda Item No. 2. Closed Meeting.

At 5:01 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia

- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to:
  1. The continuity of County Government during the COVID-19 disaster.
  2. The public's access to and use of the County Courthouse Grounds; and
- under Subsection (19), to discuss plans related to the safety of persons using the County facilities during the COVID-19 disaster.

The motion was **seconded** by Ms. Price. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

Mr. Gallaway noted that for the closed meeting that day, the Board would remain seated in the auditorium, and that those not part of the closed meeting would need to leave until it was complete.

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Agenda Item No. 3. Certify Closed Meeting.

At 6:05 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None.

Ms. McKeel said the Board had a resolution to amend its original Declaration of Local Emergency, and that Mr. Kamptner would talk about what this means before the Board takes a vote on it.

Ms. Mallek said she would second the motion.

Mr. Greg Kamptner (County Attorney) said that before the Board was a resolution to consent to a proposed amended Declaration of Emergency that would be made by Mr. Jeff Richardson (County Executive), who is also the Director of Emergency Management.

Mr. Kamptner said the change to Mr. Richardson's declaration incorporates the reference to "disaster." He said the original declaration was prepared before the Governor issued the State of Emergency, and the Governor has expressly declared that the COVID-19 virus is a disaster within the meaning of the Virginia Emergency Services and Disaster law. He said therefore, the Board wants to incorporate the "disaster" reference into the local emergency declaration.

Ms. McKeel **moved** that the Board adopt the resolution. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None.

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**RESOLUTION CONSENTING TO THE COUNTY EXECUTIVE  
ISSUING AN AMENDED DECLARATION OF LOCAL EMERGENCY**

**(COVID-19 Virus)**  
**(Virginia Code § 44-146.21)**

**WHEREAS**, the County Executive, acting as the Director of Emergency Management (the "County Executive"), issued a Declaration of Local Emergency on March 12, 2020 related to the COVID-19 virus; and

**WHEREAS**, the County Executive desires to issue an Amended Declaration of Local Emergency, a copy of which is attached hereto.

**NOW THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors consents to the County Executive issuing the Amended Declaration of Local Emergency.

\* \* \* \* \*

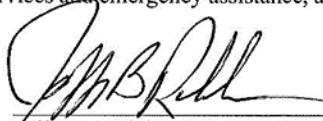
**AMENDED DECLARATION OF LOCAL EMERGENCY**  
**(COVID-19 Virus)**  
**(Virginia Code § 44-146.21)**

COVID-19 is a communicable disease that was declared by the World Health Organization ("WHO") to be a "public health emergency of international concern" on January 30, 2020, and its spread was characterized by the WHO as a pandemic on March 11, 2020.

On March 12, 2020, the Governor of the Commonwealth of Virginia issued a Declaration of a State of Emergency related to COVID-19, and that declaration states that the "anticipated effects of COVID-19 constitute a disaster as described" in Virginia Code § 44-146.16, and a "communicable disease of public health threat," a term that is also defined in Virginia Code § 44-146.16.

As the County Executive and Director of Emergency Management for the County of Albemarle, Virginia, I find the imminent threat to the public health and safety of the residents of Albemarle County posed by the COVID-19 virus to be of sufficient severity and magnitude to be an emergency and a disaster, as those terms are defined in Virginia Code § 44-146.16, and to warrant coordinated local government action to prevent or alleviate any potential damage, hardship, suffering, or possible loss of life. Therefore, pursuant to Virginia Code § 44-146.21, this Amended Declaration becomes effective on March 20, 2020 at 8:00 p.m. and supersedes the Declaration of Local Emergency issued by me on March 12, 2020. *Am. J.R.*

In accordance with this Amended Declaration, the Regional Emergency Operations Plan is activated, furnishing aid and assistance under the Plan are authorized, and all appropriate County departments and agencies are hereby vested with, and authorized to carry out, all powers, duties and functions prescribed by State and local laws, rules, regulations, and plans as may be necessary to adequately and appropriately respond to the Local Emergency by providing emergency services and emergency assistance, and by taking emergency actions.



Jeffrey B. Richardson, County Executive and  
Director of Emergency Management  
County of Albemarle, Virginia

3/20/20  
Date

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Agenda Item No. 4. Call back to Order.  
Agenda Item No. 5. Pledge of Allegiance.  
Agenda Item No. 6. Moment of Silence.

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Agenda Item No. 7. Adoption of Final Agenda.

Ms. Mallek said she had questions about some items on the Consent Agenda.

Mr. Gallaway asked if Ms. Mallek wanted to pull any items.

Ms. Mallek replied no, noting that she only wanted clarification.

Mr. Gallaway said they would handle this with the discussion part of the motion for the Consent Agenda.

Ms. McKeel **moved** that the Board adopt the final agenda. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None.

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**Introductions.** Mr. Gallaway introduced staff present and the presiding security officers, Officer Ryan Esquirell and Officer Brian Miller.

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Agenda Item No. 8. Brief Announcements by Board Members.

Ms. Price said they have all seen news of the economic impact, and that she wanted encourage everyone to practice as safely as possible in terms of their health, but if possible, to try to find a way to support local businesses, as so many employees in the County are in situations where their jobs and financial stability are at great risk. She encouraged people to order out from favorite restaurants to help keep people in their jobs.

Ms. Price thanked Mr. Kamptner and his staff. She said in the midst of everything else that they normally have to do, to go back and review arcane statutory enactments from decades ago, and to go through what is not always clear language to find some inconsistencies and actions at the State level that will now be able to be corrected, to help the local community take care of things was a tremendous service.

Ms. Mallek thanked all the County departments, from EMS to people in the County Office Building. She said everyone was doing the best job they could and that the citizens appreciated it. She said she understood that some things, such as Meals on Wheels, were going out of service next week. She requested citizens to be in contact with their elderly neighbors and check in on them to see how they are doing and perhaps bring them things. She encouraged everyone to all pull together.

Mr. Gallaway said he understood they were asking everyone to socially isolate and stay at home, and that this year, one of the first things that was cancelled was the Festival of the Book. He said when the Board made their proclamation and resolution, the Supervisors had received the book Brown Girl Dreaming by Jacqueline Woodson. He said the book was absolutely wonderful. He encouraged people to catch up on their reading and in particular to read this book.

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Agenda Item No. 9. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. John Edward Hall (Fry's Springs and Jack Jouett District) said he didn't think the virus was dangerous yet. He said City Hall building is now closed, and standing out front was trespassing, even for an appointment with the City Manager at 2:00 p.m. that day, which was the case for him. He said he was praying fervent prayers that God lifts this virus pandemic from the nation and from Virginia. Mr. Hall said he didn't think God would do so until government officials remember that people are human beings not to be governed as second-class metal and plastic robots online. He asked if government was trying to terminate their will, even on a local level, and asked God to forbid it.

Mr. Hall said Ms. Palmer wrote him an email about his Second Chance program at Biscuit Run Park saying that, as a private citizen, his project was a non-starter. He said he wrote back that he is a non-profit, and he showed this by payment of \$275 to the IRS. He said this shows that he can become a bona fide 501(c)(3) organization with a following of thousands people on LinkedIn and Facebook. He said it could be social media or benign sedition. He said to remember Thomas Jefferson's words and warning in the Declaration of Independence of what it could become.

Mr. Hall said the Board knew that he wanted 40 acres at Biscuit Run Park for the poor and time-served individuals that growing season. He asked if he needed Board feedback now on vegetable farming there by the poor and Southwood Trailer Park, the time-served individuals from Albemarle Charlottesville Regional Jail, and other blighted individuals such as himself.

Mr. Hall said he would allow the remainder of his three minutes for questions and what he hoped would be an indication of interest and appropriate action.

Mr. Gallaway told Mr. Hall that they do not do a back-and-forth at that time.

Mr. Hall said there was still 27 seconds and he was open for questions.

Mr. Gallaway reiterated that they do not do a back-and-forth debate during this time.

Mr. Hall asked why not.

Mr. Gallaway said it was their policy.

Mr. Hall asked whose policy this was.

Mr. Gallaway said this was the Board's policy.

Mr. Hall said the Board was treating him like a cyborg, a plastic and metal man, a robot.

Mr. Gallaway closed Matters from the Public.

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Agenda Item No. 10. Consent Agenda.

Ms. McKeel **moved** to approve the Consent Agenda. Ms. Price **seconded** the motion.

In further discussion, Ms. Mallek said she would check on her emails to see if Ms. Ragsdale had responded to her earlier about if there were any photo simulations for the antennae array. She said this was her neglect in not doing so.

Ms. Mallek said her question on the proffer revenue was if there was a policy about keeping track of the sources of where the proffers come from. She said she was only thinking about this for the areas where proffer money has been generated that will then have needs in the future. She said this was not an extensive discussion, if the Board wanted to think about this some more, but that she would appreciate quick responses, if there were any.

Mr. Gallaway said there was a reply that used the phrase "meticulous tracking."

Mr. Gallaway said there is the Facilities and Environmental Study report as part of this. He said one included item as an update was the right of way maintenance on Berkmar Drive, and that the warranty time is coming to a close. He said this item would be coming to the Board, and he wanted to make sure that there was some sort of checklist or procedure to make sure everything was good, if there were issues with them coming up to the end of that period.

Mr. Gallaway said one issue in particular was a time when there was water going over the road, during a very wet and cold weather, and it was icing over. He said this year, they would have not had this issue, as it hasn't been as cold and wet. He said he wanted to make sure that those particular items had been corrected before this comes under County maintenance, as those were real problem issues when a lot of icing was happening out there.

Ms. McKeel added that there were a lot of complaints within the first season when the road went in that many of the trees that had been planted were dying. She said the Board was told it was okay because they were under warranty, and they would be taken care of. She said she would like to add to the list to double-check on the plants and trees.

Mr. Gallaway noted that the punch list should be complete.

Ms. Mallek said within the last two weeks, there was water running across the road, and that she was glad it was 50 degrees out as the issue had not been solved. She noted that the engineer and VDOT were each claiming it was the other's responsibility.

Mr. Gallaway said that without it being very cold that year, they would not have seen the prolonged icing in those areas.

Ms. Mallek said the water is on a slope, in a dangerous spot.

Mr. Gallaway said he would appreciate a check into that and some follow-up.

Ms. McKeel said what they were seeing on the new road where Sam's Club and the hotel comes out were small illegal signs from the hotel, Sam's Club, and the restaurant at the hotel. She suggested reaching out to those businesses, and that there may be a possibility to put up a nice sign that VDOT would allow to say that this was the way to get to those facilities, rather than small illegal signs that are stuck in the ground.

Mr. Gallaway agreed, noting that there are proper signage pieces that should be used.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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Item No. 10.1. Approval of Minutes: September 17, 2019.

Ms. Palmer read the minutes of September 17, 2019 and found them to be in order.

**By the above-recorded vote, the Board approved the minutes as read.**

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Item No. 10.2. Procurement of a Construction Management Contract for Courts Complex Project.

The Executive Summary forwarded to the Board states that the Albemarle County's Purchasing Manual, as adopted by the Board of Supervisors, governs and guides local government and school purchases in accordance with the Virginia Public Procurement Act (VPPA). The chapters regarding Design-Build and Construction Management Procedures were added to the Purchasing Manual by the Board on March 4, 2020.

The Courts Complex Project is an approximated \$46M design, construction and renovation project. The selection for the Architect began in October 2019 and construction is expected to be completed in 2025. Staff has concluded that it is in the best interests of the County to procure this project's construction work utilizing a Construction Management Procedures.

Construction Management (CM) is a competitive procurement and delivery process for construction, useful in the completion of projects of various size, values, and complexity when the Purchasing Agent has determined that the County's usual design-bid-build process is not practicable or fiscally advantageous. Use of the CM Procedures may result in more cost-efficient decisions on materials, equipment, and methods of performing the work; and fewer costly change orders, and project delays associated with those change orders. A staff memorandum has been included with this Executive Summary to provide the Board with details of the CM procurement process and its benefits (Attachment A). The Purchasing Agent concurs with project staff that sealed bidding is not practicable or fiscally advantageous for this project (Attachment B) and that using CM Procedures would provide the following general benefits:

- Shortened design and construction schedule that would result in overall cost savings; a shorter period of inconvenience for County Courts related staff and community members; and fewer traffic and pedestrian interruptions in the Court Square area;
- Reduction in risk: once the County accepts the guaranteed maximum price from the firm, any additional cost overruns become the obligation of the Construction Manager;
- Improved quality of end-product due to increased collaboration between the architect, construction manager and Owner;
- Potential reduction of costly, time-consuming change orders; and
- Optimal planning and coordination with project team members.

Staff anticipates that the design and construction schedule could be reduced by as much as twelve months (52 weeks) utilizing the CM Procedures.

Funds for the Court Complex have already been appropriated. Staff does not anticipate any additional budgetary impact.

Staff recommends that the Board adopt the attached Resolution (Attachment C).

**By the above-recorded vote, the Board adopted the resolution to approve procurement of contract for courts complex project using construction management procedures:**

**RESOLUTION TO APPROVE PROCUREMENT  
OF CONTRACT FOR COURTS COMPLEX PROJECT  
USING CONSTRUCTION MANAGEMENT PROCEDURES**

**WHEREAS**, Virginia Code § 2.2-4382 authorizes local public bodies to enter a contract for construction on a fixed price or not-to-exceed price construction management basis, provided that the local body: (i) has implemented specific procedures set forth in Virginia Code § 2.2-4382; (ii) has in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall advise the public body regarding the use of construction management for that project and shall assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals; and (iii) makes a written determination that competitive sealed bidding is not practicable or fiscally advantageous, and shall document the basis for the determination to utilize construction management; and

**WHEREAS**, the County's Purchasing Manual includes Chapter 28, Construction Management Procedures, which delineates procedures as required in Virginia Code § 2.2-4382; and

**WHEREAS**, the County has under term contract a licensed engineer with professional competence appropriate to the Courts Complex Project (the "Project") who has advised the County in the use of construction management for the project and will assist with the preparation of the Request for Proposal and the evaluation of the proposals; and

**WHEREAS**, the County's Purchasing Agent has made a written determination that sealed bidding is not practicable or fiscally advantageous to the County for the procurement of the Project contract, which is supported by the written analysis in the memorandum dated February 26, 2020 from Blake Abplanalp, Chief of Facilities Planning and Construction, to Tom Winder, Purchasing Agent (and which is attached hereto) that was used as the basis to determine the use of construction management procedures for the Project; and

**WHEREAS**, the Board finds it is in the best interests of the County to approve the procurement of the contract for the Project using construction management procedures.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the procurement of the contract for the Courts Complex Project using construction management procedures.

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Item No. 10.3. Authorization to Schedule a Public Hearing for Ordinance to Amend County Code Chapter 5, Building Regulation Fees.

The Executive Summary forwarded to the Board states that the purposes of this proposed ordinance are to provide fees for two services for which there currently is no fee, and to revise the name of the fee for alarm systems.

The proposed ordinance (Attachment A) would amend County Code §§ 5-201, 5-202, and 5-208 to update the fee schedule for building permit-related work. It includes two new fees for services currently provided with no fee (bridge inspections and appeals to the local Board of Building Code Appeals) and a revision to the name of the fee for alarm systems. The Building Official recommends the proposed ordinance.

Due to the small numbers of these permits and applications, the budget impact will be negligible.

Staff recommends that the Board schedule a public hearing to consider the adoption of the attached proposed ordinance (Attachment A) at a future Board meeting.

**By the above-recorded vote, the Board the Board authorized the Clerk to schedule a public hearing to consider adoption of the attached proposed ordinance (Attachment A) at a future Board meeting:**

**ORDINANCE NO. 20-5(1)**

AN ORDINANCE TO AMEND CHAPTER 5, BUILDING REGULATIONS, ARTICLE 2, FEES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 5, Building Regulations, Article 2, Fees, is hereby amended and reordained as follows:

**By Amending:**

Sec. 5-201 Fees for building permits.

Sec. 5-202 Fees for electrical permits.

Sec. 5-208 Fees for other permits, plan amendments and reinspections.

**Chapter 5. Building Regulations**

**Article II. Fees**

**Sec. 5-201 Fees for building permits.**

The fees for building permits are:

M. Bridges. The fee for each bridge is \$85.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-201, Ord. 98-A(1), 8-5-98; Ord. 08-5(1), 8-6-08; Ord. 15-5(1), adopted 10-14-15, effective 11-1-15; Ord. 18-5(1), 3-14-18)

**Sec. 5-202 Fees for electrical permits**

The fees for electrical permits are:

K. Alarm systems. Fire alarm and signaling systems. The fee for each alarm system fire alarm and signaling system is \$0.04 per square foot of the gross square footage of the structure. The minimum fee is \$80.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-202, Ord. 98-A(1), 8-5-98; Ord. 08-5(1), 8-6-08; Ord. 15-5(1), adopted 10-14-15, effective 11-1-15; Ord. 18-5(1), 3-14-18)

**Sec. 5-208 Fees for other permits, plan amendments, and reinspections, and appeals.**

The fees for other permits, plan amendments, and re-inspections, and appeals are:

A. Other permits. The fees for any other building, electrical, plumbing, or mechanical permit not identified in this article is \$32.00 per inspection.

B. Plan amendments. The fee for each new plan submitted which requires any structural or fire safety review is \$32.00.

C. Reinspections. The fee for each inspection of work performed, after the second inspection of the work, is \$32.00 per inspection.

D. Appeals. The fee for each appeal to the Board of Appeals is \$300.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-201, Ord. 98-A(1), 8-5-98; Ord. 08-5(1), 8-6-08; Ord. 15-5(1), adopted 10-14-15, effective 11-1-15; Ord. 18-5(1), 3-14-18)

Draft: March 4, 2020

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____

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Item No. 10.4. B201903268ATWR Special Exception for Proposed Antenna Array at an Existing Wireless Facility (529 Woodchuck Lane).

The Executive Summary forwarded to the Board states that a special exception has been submitted by Jacobs Telecommunications on behalf of AT&T, along with an associated building permit application, to replace an existing array of three antennae with an array of six antennae.

County Code § 18-5.1.40(a)(12) allows special exceptions to waive or modify the requirements of County Code § 18-5.1.40 for personal wireless service facilities. This request is to modify County Code § 18-5.1.40(b)(2)(c), which requires that antennas be mounted so that the closest point of the back of the antenna be no more than 12 inches from the facility and that the farthest point of the back of the antenna be no more than 18 inches from the facility.

Staff analysis of the requests is provided as Attachment A.

Staff recommends that the Board adopt the attached Resolution (Attachment E) approving the special exception with the following condition:

1. No antenna authorized by this special exception may project more than five (5) feet from the face of the monopole to the back of the antenna.

**By the above-recorded vote, the Board adopted the** attached Resolution (Attachment E) approving the special exception with the condition contained therein:

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR B2020-03268A TWR**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.40 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c) for B2020-03268A TWR, subject to the condition attached hereto.

\* \* \*

**B202003268A TWR Special Exception Condition**

1. No antenna authorized by this special exception may project more than five (5) feet from the face of the monopole to the back of the antenna.

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Item No. 10.5. Report on Cash Proffer Revenue and Expenditures July 2018-July 2019, **was received for information.**

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Item No. 10.6. 1st Quarter CY2020 Facilities and Environmental Services Report, **was received for information.**

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Agenda Item No. 11. **Action Item – HS202000005 Homestay Special Exception (Smith).**

The Executive Summary forwarded to the Board states that the applicants request one special exception pursuant to County Code § 18-5.1.48(i) for an existing Homestay at 420 Patterson Mill Lane to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125 foot setback from both side property lines for a Homestay use.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

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Mr. Francis MacCall, Principal Planner, said he was joined by Ms. Rebecca Ragsdale. He said they were there to hear this Homestay Special Exception request, along with two others.

Mr. MacCall said staff has gone through a number of these particular applications previously with the Board. He said this first application was greater than 5 acres, and that all the particular homestay applications have the same regulations, though the applications greater than 5 acres have regulations that apply.

Mr. MacCall said these Special Exceptions have to do with four identified criteria, and that this particular application was asking for reduced setbacks.

Mr. MacCall presented a slide that explained how the staff processes these applications, and the factors to be considered. He said the two factors are whether there are detriments to the abutting lots, and that there is no harm to public health, safety, or welfare. He said the Board may impose reasonable conditions.

Mr. MacCall said this particular application was for a modification of the 125-foot setback for two side property lines for the dwelling and the parking. He said the dwelling does meet the 125-foot setback from the front and the rear property lines. He said there is one letter of support for this application, and that no objections had been received.

Mr. MacCall presented a location map of the homestay. He presented another location map that offered more context with the surrounding features. He presented the parking and house location exhibit that was part of the conditions for the recommended approval.

Mr. MacCall said staff is of the opinion that these setback reductions do not cause that detriment to the abutting lots, or cause harm to the public health, safety, or welfare of the surrounding area. He presented the recommended conditions that were part of the resolution (Attachment F).

Ms. Mallek said that from the picture, it looked as if the lot has a shared easement with a neighbor. She asked if the applicant would get permission from the easement holder, as this would be a commercial use and perhaps not included in what was originally planned for a shared driveway easement. She said she knew the Board didn't like to get into private arrangements, but if they asked them to stipulate that, it would save everyone from pain in the future.

Mr. MacCall said that those two lots there were done as a family subdivision, so this was a private

street serving both of those lots. He said the street has a maintenance agreement between the two property owners and more than likely, that agreement does not speak to particular commercial uses, but was about maintaining that street in the standard that was approved at that time.

Ms. Mallek asked if the shared family person was aware and supportive.

Mr. MacCall replied yes.

Ms. Mallek said this was great for those owners, at least, and that it would be up to future owners to go with it.

Mr. MacCall said those agreements are recorded when they do the subdivision, and so this information would be available to other potential future property owners.

Ms. Mallek said though not today, it may come up in future applications, and that there have been problems in the past.

Ms. Price said there is a letter in the Board's packet from the applicant and the parents. She said Ms. Mallek raised an excellent point, which has come up in previous discussions, that the Special Exception goes with the property and not with the applicant. She said what they have is something that is very common in the County. She said in this case, they bought the 13 acres and divided them evenly. She said this was exactly what they were planning to do, but that the exception would go with the property.

Ms. Price said they should all understand that at some point, one or both of those owners will move. She said the parents, they presume, are older and are likely going to pass before the applicant. She said it could be another family member or a third party who comes in, and that it was very important when the Board looks to approve these requests that they take out of consideration what the current adjacent property owners believe and look at it more from a holistic standpoint of what the long-term impact of this will be by approving this.

Ms. Price said that having said this, she didn't see a complication with this request. She said there are very often private access easements on these sorts of driveways or roads. She said the setback is the only issue, and when looking at the map, it is very clear that there is a sufficient distance.

Ms. Price said that while she supported the application, she thought it was important that the Board distances themselves from the current owners and look at it as the long-term impact on the land.

Ms. Palmer agreed, noting that she had no objection to the request except that she was still waiting to hear specifically how the County will record these Special Exceptions so that the next buyer of the property can easily find this out. She said the last time the Board discussed this, they talked about a title search. She expressed that she did not prefer this outcome and that she would like it to be more obvious, in some way, when people are looking at a property, and that she assumed there would be a date sometime in the future where the Board would be discussing all these issues.

Mr. Kamptner said at the discussion they had at the last Board meeting when there was a homestay application and dealing with this issue, the approach that was going to be taken was to have the GIS mapping system start identifying Special Exceptions and Special Use Permits as a way to track this. He said the feeling was that recording these types of documents and them showing up in title searches may not be the easiest way for the prospective buyer. He said with the GIS mapping, there is the opportunity to look at the surrounding parcels, whereas a title search would involve a lot of money and time searching.

Ms. Palmer said she hoped there would be another layer (as there currently is for leaky underground storage tanks) that they could flip on when looking at a property. She said she assumed this was what they were talking about.

Mr. MacCall said this was potentially one of the options. He said he believed they would have some better things honed for the April meeting.

Mr. Gallaway noted that the applicants wrote to the Board and did not want to be present due to social distancing. He said he would read their statement into the record.

Mr. Gallaway read the letter aloud from Courtney and Ryan Smith: "We appreciate your reviewing our case for Special Exception. We meet all criteria for homestay in Albemarle County, except for the criteria regarding how close we are to a neighboring property line. The property line we are closest to is that of my parents, Miranda and David Beaver. They are in full support of us continuing to do homestay, and have written letters on our behalf. They have not had any trouble or disturbances from our occasional homestay, and they want us to be able to continue because they see how it gives us a bit of added financial stability. We are happy to answer any additional questions, and so appreciate you taking time to review our case."

Mr. Gallaway said they would make sure the email is part of the record as well.

Ms. Price thanked the Smiths for social distancing that evening. She said it shows great respect for the members of the community to do that. She said she appreciated the confidence and trust they

have given the Board in being able to proceed without them being physically present.

Ms. Palmer **moved** to approve the attached resolution "F" to approve the Special Exception, with conditions contained therein. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR HS2020-00005 SMITH HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot north side and south side yards required for a homestay in the Rural Areas zoning district for HS2020-00005 Smith Homestay, subject to the conditions attached hereto.

\* \* \* \* \*

**HS 2020-00005 Smith Homestay Special Exception Conditions**

1. No more than one (1) guest room may be rented for Homestay use within the existing residence as depicted on the Parking and House Location Exhibit dated February 24, 2020.
2. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated February 24, 2020.

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Agenda Item No. 12. **Action Item** – HS202000012 Homestay Special Exception (Page).

The Executive Summary forwarded to the Board states that the applicant requests one special exception pursuant to County Code § 18-5.1.48(i) for a proposed Homestay at 734 Osprey View Way to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125 foot setback from both side property lines for a Homestay use.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

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Mr. MacCall said this is a parcel that is greater than 5 acres, at just over 9 acres. He presented the applicable homestay regulations.

Mr. MacCall said this request was for reduced setback a side property line, and that the dwelling meets the 125 feet for two property lines (front and rear). He said there have not been any objections that staff has received regarding this request, which leaves staff to recommend that there was no detriment to abutting lots, or harm to the public health, safety, or welfare.

Mr. MacCall presented a location map of the property, off of Woodlands Road. He indicated on the map to the Rivanna Reservoir.

Mr. MacCall said there are two dwellings on the property, one under construction (which is the proposed homestay) and the existing current owner's residence (noting they reside on the property).

Mr. MacCall presented the location map that will be used for the conditions, which shows the approximate location of the homestay and distances (less than 125 feet). He indicated on the map to the existing dwelling.

Mr. MacCall said staff recommended approval, with two conditions in Attachment F.

Ms. Mallek said at a previous meeting, she had talked about tree protection. She said in this case, she has talked to Karen Pape about this, and it was especially important when looking at site plans around the reservoir to heed rules that Rivanna and the WPO has about preventing tree cutting. She said this was not applicable in this circumstance, because Ms. Pape was far back from the water, but that if the house locations were reversed, what she would want to avoid was everyone ignoring this until all the trees between the structure and water had been cut down to improve views.

Ms. Mallek said the County has to do what they can at every step along the way to make sure this doesn't happen. She said if there was a way to write this in or alarm staff of this when they are looking at things around the reservoir, this could prevent that type of behavior.

Mr. MacCall said staff would be able to incorporate some sort of look into that matter.

Ms. Price asked for the general setback for a structure on property.

Mr. MacCall said on the side property line, Woodlands Road would be the front setback, which would be 75 feet, and the side property line would be 25 feet. He said the structure does meet the standard dwelling setbacks.

Ms. Price said something they always need to look at, if they are approving an exception to distance such as this, is what impact this could have on an adjacent property owner if that adjacent owner then wanted to construct something. She recalled last year, there were three rectangles in a presentation that showed the way the previous regulations were. She said while they want to be supportive in the cases where they can be, they always want to be thinking about the surrounding property owners, and perhaps these could put an unreasonable burden on an adjacent property owner to be able to use their property as they would like.

Ms. Price said she didn't see this issue here, but that it was something the Board should always think about.

Ms. McKeel asked if Ms. Price was saying that the first applicant would get the use, and then the adjacent would not.

Ms. Price replied yes.

Ms. McKeel said they have discussed this.

Ms. McKeel **moved** to adopt the Resolution (Attachment F) to approve the Homestay Special Exception to modify the minimum 125-foot side yard required for a homestay in the Rural Areas Zoning District, with the conditions contained therein. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR HS2020-00012 PAPE HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot east side and west side yards required for a homestay in the Rural Areas zoning district for HS2020-00012 Pape Homestay, subject to the conditions attached hereto.

\* \* \* \* \*

**HS 2020-00012 Pape Homestay Special Exception Conditions**

1. No more than one (1) guest room may be rented for Homestay use within the existing residence as depicted on the Parking and House Location Exhibit dated February 24, 2020.
2. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated February 24, 2020.

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Agenda Item No. 13. **Action Item** – HS20200003 Homestay Special Exception (Bahn – Hatton Ferry Hideaway).

The Executive Summary forwarded to the Board states that the applicant requests one special exception pursuant to County Code § 18-5.1.48(i) for an existing Homestay at 859 Hatton Court to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125 foot setback from one side property line for a Homestay use.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the condition contained therein.

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Mr. MacCall said this parcel is less than 5 acres, and so there are a few different regulations that apply. He said staff had brought one or two of these types of requests previously that showed this.

Mr. MacCall said the applicant is requesting a reduced setback, with the reduction being from one side property line for the dwelling and parking. He said the dwelling does meet the 125 feet from the front and rear property lines. He said no objections had been received, and staff did not see any particular detriment to abutting lots or cause that may cause harm to public health or safety of the community.

Mr. MacCall presented a general location map of the property. He said the area map on the lower right showed a better picture. He presented aerial photography showing the surrounding

conditions, as well as the particular house and parking location exhibit that would be part of the resolution.

Mr. MacCall said staff was recommending that this resolution be adopted as Attachment F, with the condition. He said the report did identify two conditions, but the resolution was written for only one condition. He said staff has been identifying limiting the number of homestay guestrooms to typically one or two. He said in the Rural Area, where there is less than 5 acres, that is already limited to two rooms, and so staff did not see a need to limit it further beyond the two that are already permitted.

Ms. Price commented that the house appears to be centrally located on the property and was about as close to the center one could get, given the shape of the property. She said it has a minimal potential impact, based upon the request for the variance with the exception for the 125 feet. She said it was almost 100 feet.

Ms. Price **moved** the Board adopt the Resolution (Attachment F) to approve the Special Exception to modify the minimum 125-foot setback for HS202000003, with the condition contained therein. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR HS2020-00003 HATTON FERRY HIDEAWAY HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot northeast side yard required for a homestay in the Rural Areas zoning district for HS2020-00003 Hatton Ferry Hideaway Homestay, subject to the condition attached hereto.

\* \* \* \* \*

**HS 2020-00003 Hatton Ferry Hideaway Homestay Special Exception Condition**

1. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated February 24, 2020.

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**Agenda Item No. 14. Public Hearing – FY 20 Budget Amendment and Appropriations.**

The Executive Summary forwarded to the Board states that Virginia Code 15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The cumulative total of the FY 2020 appropriations itemized below is \$5,931,391.74. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 2020 Budget Amendment totals \$5,931,391.74. The estimated expenses and revenues included in the proposed amendment are shown below:

**PROPOSED FY 2019-20 BUDGET AMENDMENT**

**ESTIMATED REVENUES**

Local Revenues	\$	106,309.27
State Revenues	\$	1,369,481.93
Federal Revenues	\$	7,500.00
General Fund Balance	\$	652,800.00
Other Fund Balances	\$	3,795,300.54
<b>TOTAL ESTIMATED REVENUES</b>	<b>\$</b>	<b>5,931,391.74</b>

**ESTIMATED EXPENDITURES**

General Fund	\$	60,898.34
Special Revenue Funds	\$	1,959.00
Schools	\$	150,000.00
School Programs	\$	3,607,735.83
Emergency Communications Center	\$	293,586.90
Capital Projects	\$	1,817,211.67
<b>TOTAL ESTIMATED EXPENDITURES</b>	<b>\$</b>	<b>5,931,391.74</b>

The budget amendment is comprised of a total of sixteen (16) separate appropriations. Fifteen (15) have already been approved by the Board as indicated below:

- Three (3) appropriations approved 12/4/2019
- Seven (7) appropriations approved 1/8/2020
- Three (3) appropriations approved 2/5/2020
- Two (2) appropriations approved 3/4/2020

One (1) appropriation request for approval on 3/18/2020 is the remaining as described in Attachment A.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment B) for local government and school projects and programs as described in Attachment A.

**Appropriation #2020053** **\$ 372,934.00**

Source:	ECC Fund Balance	\$372,934.00
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The Emergency Communication Center (ECC) requests that the County, acting as fiscal agent for the ECC, appropriate the following items totaling a net \$372,934.00 increase approved by the ECC Management Board on February 18, 2020, funded by ECC fund balance:

- \$234,328.00 to upgrade the Emergency Medical Dispatch, Emergency Fire Dispatch, and Emergency Police Dispatch electronic call-taking protocols to align with both the International Academy of Emergency Dispatch (IAED) standards and Commission on Accreditation of Law Enforcement (CALEA) standards;
- \$208,606.00 to complete phase three of the multi-year replacement and upgrade of the ECC's IT Infrastructure at its Primary Datacenter and Disaster Recovery Datacenter;
- \$20,000.00 to upgrade and replace the ECC's fire alarm panel and related system components to prevent false alarms; and
- A \$90,000.00 reduction for an elevator replacement and roof drainage repair and replacement that are not needed in FY 20.

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Mr. Jeff Richardson said he was presenting on behalf of Mr. Andy Bowman (Budget Manager). He said the Virginia Code requires the County to hold a public hearing before amending its budget when the total amount of the funds exceed 1% of the current adopted budget.

Mr. Richardson said the proposed FY 20 budget amendment for the Board's consideration is an increase of approximately \$5.9 million. He said the budget amendment is comprised of 16 separate appropriations, and that 15 have already been approved by the Board.

Mr. Richardson said Attachment A includes the details of the appropriation for approval that evening, which is to appropriate funding for the Emergency Communications Center (ECC), pursuant to a prior action by the ECC Board. He said this is a management board, and that the County serves as the fiscal agent for the ECC.

Mr. Richardson said after the public hearing, staff recommends that the Board adopt the resolution, which is included as Attachment B.

Ms. Price asked if the 15 appropriations had already previously been approved, and the Board just had the \$373,000 appropriation for that evening, if this was a sort of clean-up amendment more than anything else. She said she was unsure about the process on that.

Ms. Mallek said it was cumulative throughout the year.

Mr. Kamptner said this was correct. He said the way OMB presents these appropriations is that they aggregate, and once they reach the 1% threshold, then they come to the Board for public hearing.

Ms. Mallek asked if besides the removal of the elevator, if all the other improvements and investments were in software as opposed to the physical building. She said she heard that UVA was going to take back the lease on this property, and she assumed that ECC would not be investing hard-earned cash in the building if they would not get to use it for a long time.

Mr. Richardson replied yes. He said most of the improvements seen there are IT infrastructure-related improvements, which are critical to the day-to-day functioning of that operation.

Ms. Mallek asked if these were improvements that were portable and will belong to the ECC.

Mr. Richardson replied yes.

Mr. Gallaway opened the public hearing and asked if anyone from the public wanted to speak on this item. Hearing no comments from the public, he closed the public hearing and brought the matter back to the Board for further comments, questions, or a motion.

Ms. McKeel **moved** that the Board adopt the Resolution (Attachment B) for local government and school projects and programs, as described in Attachment A. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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**RESOLUTION TO APPROVE  
ADDITIONAL FY 2020 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That the FY 20 Budget is amended to increase it by \$5,931,391.74;
- 2) That Appropriation #2020053 is approved; and
- 3) That the appropriation referenced in Paragraph #2, above, is subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2020.

\* \* \* \* \*

Account String	Description	Amount
3-4100-51000-351000-510100-9999	SA2020053: Fire Alarm Panel, Electronic Dispatch Protocols, IT Infrastructure Updates	\$372,934.00
4-4100-31040-435600-331800-1003	SA2020053: Fire Alarm Panel/Sys. Components & reallocation from Elevators & Roof Drainage Repairs	-\$70,000.00
4-4100-31040-435600-800712-1003	SA2020053: Electronic Dispatch Protocols	\$234,328.00
4-4100-31040-435600-800700-1003	SA2020053: IT Infrastructure Updates	\$208,606.00

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Agenda Item No. 15. **Public Hearing – Ordinance to Amend Parking Provisions in County Code Chapter 9, Motor Vehicles.** To receive comments on its intent to adopt an ordinance to amend Albemarle County Code Chapter 9, Motor Vehicles and Traffic, Section 9-102, General prohibitions, and Section 9-118, Removal or immobilization of vehicles with outstanding parking violations-enforcement of parking regulations; notice of violations; waiver of trial; contesting charges; penalties. The proposed ordinance would prohibit parking or stopping a vehicle within fifteen feet of any mailbox or within 20 feet from the intersection of curb lines, or, if no curb lines, within fifteen feet of the intersection of property lines at any highway intersection as provided in Virginia Code Section 46.2-1200; prohibit commercial and recreational vehicles from being parked on, and storage containers and dumpsters from being placed on, secondary streets in areas zones for residential use in the County; provide definitions for “commercial and recreational vehicles” and “areas zoned for residential use;” impose a \$25.00 fine for the violation of new regulations pertaining to commercial and recreational vehicles, storage containers, and dumpsters described above; increase current fines for other parking violations; and clarify the fine payment process.

The Executive Summary forwarded to the Board states that In 2018, the General Assembly added Albemarle County to the list of localities in Virginia Code § 46.2-1222 enabled to regulate on-street parking on public streets in the State's secondary system of highways (“secondary streets”). Section 46.2-1222 enables the Board of Supervisors to adopt an ordinance that: (1) restricts or prohibits parking on any secondary streets in the County; (2) creates vehicle classifications that would or would not be subject to these restrictions and prohibitions; and (3) provides that the violation of the ordinance would be a traffic infraction and prescribe penalties. The proposed ordinance is intended to allow the County to address on-street parking of commercial vehicles and on-street storing of trailers, boats, storage containers, buses, and recreational vehicles in the County's residential neighborhoods, an issue that has generated complaints from residents.

A team that included representatives from the County Attorney's Office, the Department of Community Development, and the Police Department developed a draft ordinance that would implement Virginia Code § 46.2-1222 and update parking violation fine levels, which have not been changed since at least 1998.

At the November 20, 2019 meeting, the Board scheduled a public hearing on a draft ordinance for December 18, 2019. However, the Board deferred the public hearing for further study and revisions. In addition, several clarifications were made to the draft ordinance that went to the Board on February 19, 2020 as highlighted on the attached proposed ordinance (Attachment A).

The proposed ordinance would amend County Code § 9-102 to prohibit commercial, recreational, and other large vehicles from being parked on secondary streets in areas zoned for residential use in the County. The proposed ordinance also would prohibit storage containers and dumpsters from being placed on those same secondary streets. A violation of these regulations would be subject to a fine pursuant to County Code § 9-118, which the proposed amendment would increase. The terms “commercial and recreational vehicle” and “areas zoned for residential use” are defined in the ordinance.

The Police Department proposes to enforce the ordinance by first educating the residents about the parking restrictions and providing warnings. Subsequent violations by the same vehicle owner could be enforced by issuing a notice of violation.

The proposed increased fines remain in line with state parking and stopping violations filed in court. Those pre-payable fines, including the mandated \$51.00 processing fee, range from \$71.00 to \$81.00, with a handicap parking violation being \$201.00. The purpose of increasing the fines is to deter violations.

The budget impact on the Police Department will depend on whether the ordinance is enforced on a complaint basis or proactively. If it is enforced on a complaint basis, staff has not identified a need for additional staffing at this point. Proactive enforcement may necessitate creating a parking enforcement unit within the Police Department. An increase in the number of parking tickets would also have an impact on the Department of Finance, which processes fine payments and appeals. An increase in the number of parking tickets and the fine amounts may increase the parking fines collected by the County, but the purpose is to deter and decrease the incidence of violations.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

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Mr. Richard DeLoria, Senior Assistant County Attorney, said he had the privilege of working with a big group of County employees and Ms. McKeel to address changes they thought were necessary to parking ordinances.

Ms. McKeel added that Chief Lantz, Deputy Chief Major "K.C." Carr, Lt. Miller Stoddard, and many others were involved in this.

Mr. DeLoria added that Amelia McCulley with Community Development was involved, as well as Scott Miller with the Police Department.

Mr. DeLoria said that this effort has been a long time coming, and that it was his understanding that this has been a four-year process. He said it started when the Board was interested in having the Virginia Code amended to give the Board authority to regulate parking on secondary streets. He said in 2018, the General Assembly amended the statute that added Albemarle County to the jurisdictions that were able to regulate parking. He said this allowed the County to regulate parking on any secondary street in the County. He said it also allowed the Board to classify certain types of vehicles that could be parked on secondary streets, and to declare traffic offenses and set fines.

Mr. DeLoria said this was the purpose for the group to convene to discuss. He said the overriding theme in these discussions was that there are a number of older neighborhoods, primarily in the urban ring, that didn't have the benefit of homeowner's associations that have regulations as to what type of vehicles can park on the streets. He said Belvedere and Dunlora, for example, have covenants that say that there cannot be trailers, boats, or campers on the streets. He said there, they are to be stored in garages, or in a more appropriate location.

Mr. DeLoria said it had come to their attention that in neighborhoods that don't have the benefit of an HOA, people involved in business would store their equipment on neighborhood streets because there weren't any regulations or prohibitions. He said they can come from outside the County or neighborhood and find that if they are doing most of their work in Albemarle County, it is easy to leave their trailers or equipment parked on neighborhood streets. He said the concerns are that these streets would get built up, visibility issues, safety issues for driving, and quality of life issues in terms of having the street filled with these types of vehicles.

Mr. DeLoria said based on this, the group was trying to figure out ways to regulate the parking and incentivize the businesspeople to store their equipment and vehicles in more appropriately zoned areas or take them back to their business to be stored there.

Mr. DeLoria said in terms of where the problems are, Albemarle County Police Department was kind enough to provide the County with a heat map. He presented the map, explaining that it shows the parking incidents that have been reported from 2018 through February 2020. He said it was apparent that the concentration of the parking issues is somewhat north of Charlottesville, in the Jouett/Commonwealth area. He said there are also some more south of town, and in the Crozet area. He said the Board could see in the Development Areas where those incidents were reported, and how the police responded to them.

Mr. DeLoria said in terms of numbers, in 2018, there were 115 incidents. He said the word "dispositions" means that those were cleared. He said the police went out and investigated and may or may not have issued a ticket.

Mr. DeLoria said for 2019, he was able to receive from Finance the numbers of tickets that were issued and paid, not necessarily including what were issued and not paid. He said in terms of those, 137 out of 146 incidents were cleared. He said this is not done in the courts, but with the Finance Department. He said tickets are hopefully paid within 48 hours and if not, the fines may be doubled.

Mr. DeLoria said in 2020, in the first two months, there were 18 incidents, and so these were on par with what has happened in the past.

Mr. DeLoria said in terms of what the group tried to address, they focused on something that the Board could do essentially on a County-wide basis. He said they didn't want to go and cherry-pick certain neighborhoods that might be problematic and put signs there. He said they wanted to do something broad, and easily interpreted by residents as well as the Police Department so that they can take action.

Mr. DeLoria said they focused on residential areas, and that the ordinance defines what this means. He said it includes the standard Residential Area districts, Village Residential, and Planned Residential Developments. He said it also goes into the Neighborhood Model Developments and Planned Unit Developments, and that they have residential components as well as some more intense components (e.g. commercial).

Mr. DeLoria said in Belvedere, for example, where SOCA is building a sports facility, if there is a road that is on a boundary, only the side that is on the residence comes under the ordinance. He said if there are commercial vehicles parking by the facility, for instance, they will not be covered by the ordinance, and so they are really just focused on the residential areas.

Ms. Mallek asked if this is required, or an option that is put forth in the draft.

Mr. DeLoria replied that it is an option.

Ms. Mallek said she suspected that allowing this parking on one side of the road would be a real problem.

Ms. McKeel asked for more explanation about the one side. She asked if everywhere, for example, was only one side.

Mr. DeLoria replied that it was only the case on a boundary. He said perhaps Belvedere was a bad example because it will have HOA covenants that would take care of the issue. He said Ms. McKeel might have better examples. He said on Commonwealth Drive, for instance, there are elements that are residential and across the street, there may be some businesses, depending on what the particular zoning is.

Ms. Mallek said perhaps one clarification the Board might consider is if there is a business there just as someone has the right to have a sign where there is a business, the same should be true of vehicles. She said she was horrified to find out recently that people from out of the area were parking their business vehicles in neighborhoods, then coming back to get them the next morning. She said this was completely inappropriate, and no matter where it is, this shouldn't be happening. She said the County's roads are not that wide, and there are many of those hot spots that were on the map where even if they are doing this on one side of the road, it would still make a big mess.

Ms. McKeel said sometimes, people will leave these vehicles for weeks. She said they could try the ordinance and always come back. She asked if it was difficult to change it later on.

Ms. Mallek said it was easier to make it lighter.

Mr. DeLoria said he was at a loss on how to fix that.

Ms. McKeel agreed that Commonwealth Drive was an area of concern. She told Ms. LaPisto-Kirtley that she has heard complaints about this in Camelot. She mentioned Oak Forest Circle, Hessian Hills, and her own neighborhood as other examples.

Ms. Mallek said Laurel Hills and Old Ballard in Crozet were other examples.

Mr. DeLoria said one option is to go with the ordinance as proposed, and if there are areas that become problematic, the Board has the ability to regulate the parking and can do so by signage. He said he wasn't sure if this was feasible, however.

Ms. Mallek asked if signs were going to automatically go up.

Mr. DeLoria replied no. He said one of the reasons to go this route is that it would be a County-wide ordinance to the extent that it covers residential areas, and so the Board would not have to authorize signs.

Ms. McKeel said they were trying to avoid putting signs up everywhere. She reminded that this is basically enforced by complaint, so it seemed as if the ordinance was the best alternative.

Ms. Palmer asked if there were areas that were particularly problematic, they could put up signs.

Ms. McKeel replied yes.

Mr. Kamptner said one reason why the ordinance was written as it was is because it is based on the zoning designation, and they have identified residential districts to which these rules will apply. He said the way the zoning map is interpreted by ordinance is that the zoning district goes to the center line of these roads, so what's on the other side has a different designation. He said at this point, it maintains the purity that this is a residential targeted parking regulation.

Ms. McKeel said she was currently comfortable with the ordinance, and that they could go back and adjust as needed.

Ms. Mallek asked where the rural neighborhoods fit in. She asked if they are included in the R1 and R2 list.

Mr. DeLoria replied that they are not.

Ms. Mallek said in Briarwood, which is in the Rural Area, had terrible trouble with people parking vehicles right to the intersection, where no one could see. She said after about three years of coercion, VDOT was able to fix that by putting up signs. She asked what would be happening to those other orphan neighborhoods.

Mr. DeLoria replied that it would depend on what the zoning is there. He said if it is zoned Rural Areas, this ordinance would not apply. He said the Board has authority to designate an area, and in terms of notice to the citizenry, signs would be appropriate in that situation.

Mr. DeLoria said in terms of authority, the Board can look at particular types of vehicles. He said this particular proposal looks to regulate commercial and recreational vehicles. He said it defines these in two ways by vehicles dimensions or size, and categories. He said there was an interest in doing this because there was precedent for it in other jurisdictions, and also if there are questions from business owners or residents about whether or not their vehicle is covered, they can look at the ordinance and see.

Mr. DeLoria said the first thing they looked at was size, and the notion was that by regulating the size of the vehicles or dimensions, they likely capture most of the vehicles that are of concern. He said there was significant debate over registered gross weight, as there are a number of measures that could have been used. He said in consultation with the Police Department, the registered gross weight was something that they could get from DMV. He said essentially, the registered gross weight is the total weight that the vehicle can carry without a trailer, and so it is the passengers and cargo one can put on the vehicle.

Mr. DeLoria said he learned from Scott Miller that, because of advances in technology, vehicles have become lighter but their capacity to haul cargo has become larger. He said they started out with 10,000 pounds and found out that most family pickup trucks (such as a Ford F-250) are over 10,000 pounds. He said they thought the community would not be happy about that. He said getting into the larger vehicles (particularly ones that haul horse trailers, which they were sensitive about), these vehicles were starting to get into about 14,000 pounds.

Mr. DeLoria said they ended up landing on 16,000 pounds as the maximum registered gross weight, with the feeling that the larger pickup trucks that are used for horse trailers and other things that families have wouldn't land above that mark. He said it also included sprinter vans where large families take larger vehicles and outfit them to drive the family around, and that these vans would fit within the regulation. He said the recommendation was to adopt a registered gross weight of 16,000 pounds.

Mr. DeLoria said there was a spirited debate over 25 feet. He said they started at 20 feet, went up to 24 feet, then learned that a Ford F-250 with a trailer hitch and something on the front bumper came out at over 24 feet. He said this was why they went with 25 feet, which is longer than any other ordinance he had seen, so it was generous. He said 8 feet wide seemed to be fairly standard, and that a school bus is a little over 102 inches (or 8.5 feet wide), and so this was a limit as well, which could capture a significant number of commercial vehicles.

Mr. DeLoria said in terms of categories, they were looking at commercial construction-type vehicles, and that those were listed. He said box trailers, food trucks, or any type of trailer or vehicles that would store food or other commercial items would be covered by this ordinance. He said motor homes, campers, school buses, and boats also would be.

Mr. DeLoria said another issue that other jurisdictions have tackled are vehicles for hire (e.g. taxis, limousines, and transportation network companies (TNC) such as Uber and Lyft). He said there was spirited discussion as to whether to include the TNC partners, and although there might be difficulty in terms of enforcement and identifying, because of the nature of those vehicles and the ability to remove credentials when they are parked, the team felt that they shouldn't be treated differently, so they were included also. He said the vehicles for hire would also be barred from parking in residential areas. He said there are exceptions.

Ms. McKeel said what they were finding was that people who are driving for Lyft or Uber were not able to park their own vehicles in their own neighborhoods because they live in apartment complexes, and so they were bringing them over into other neighborhoods and parking them on the street.

Mr. DeLoria said essentially, those people were storing those cars outside of their residence, and that there was an instance of several cars being parked in a residential area, and when the owner wanted to use it for commercial purposes, they would come and pick up their car out of that neighborhood.

Ms. Price said if she understood correctly, each residence could have one such vehicle. She said this was important because they didn't want to adversely impact someone's job.

Ms. McKeel said they also didn't want someone using neighborhoods to push the business expenses into other neighborhoods.

Mr. DeLoria said the ordinance provides for this.

Ms. Mallek asked if this affected the other, larger vehicles where if someone happens to live there, they can still park these large vehicles on the curb.

Mr. DeLoria replied no.

Ms. Mallek said having a connection to the property was a real solution, because if someone doesn't live there or has a business there, this is perhaps a useful category to add.

Mr. DeLoria said that this was discussed, and that the police decided that this was fairly difficult. He said what they landed on is that they will allow one vehicle for hire per address, and that it was something that the police could readily identify and determine if it was on an adjacent parcel. He said it didn't have to be directly in front of the person's resident, it could be next door or across the street. He said it has to be in the area.

Chief Ron Lance said for the police to be able to identify where the cars are parked, they will run the tag and see if the car is associated with that neighborhood or not. He said as Ms. McKeel illustrated earlier, many of these vehicles are being parked in neighborhoods where the owners don't even live. He said they would discuss the exemption of one per household.

Ms. McKeel said at one point, they were having a problem with some of the neighborhoods around the airport, with Ubers and Lyfts using the neighborhoods to park.

Chief Lantz said this was correct. He said they were able to partner with the business community and the airport to solve that problem. He said there were quite a few complaints about that, as the drivers were literally staging there waiting for calls.

Mr. Gallaway said this was not about parking, but the drivers there waiting in the vehicles, and the things that were happening during the time passing.

Ms. Mallek said the airport wouldn't let them stage at the airport anymore.

Mr. DeLoria presented a slide that contained pictures. He said the ordinance would cover the PODS (temporary storage) that is placed on the roadways. He said it doesn't prevent the PODS from going into a yard. He said one of the pictures was of a flatbed trailer, which had weeds growing up around it.

Mr. DeLoria said the interesting thing about it was that it was on the shoulder, but that the ordinance adopts the Virginia Code definition of "highway," which includes the full right of way. He said they specifically addressed whether they wanted it to be roadway or highway. He said the roadway is the travel portion, and the bottom line is if that is parked on the right of way (and it may depend on when the road was built, how far the right of way is), this potentially could be in violation. He said it could cover shoulders. He said if the shoulder was on private property, then it would not cover it, and this may be more of a zoning issue.

Ms. Palmer asked if they term it as "highway," it incorporates the shoulders.

Mr. DeLoria replied that it did not necessarily do this. He said if it becomes problematic and needs to be looked at, they can get with Community Development to see how big the right of way is. He said it depends on when the road was built and designed.

Ms. Palmer said they own to the middle of the road on many of these.

Mr. DeLoria said some neighborhoods, the grassy areas go 10 feet or more, and that is still the right of way.

Mr. DeLoria presented a picture of a camper motor home, which was fairly significant in size. He said this would fall under the motor homes category as well as the size dimensions. He said tractor trailers parked, flatbed trucks, and haulers would as well.

Ms. McKeel said 18-wheelers are using neighborhood roads that aren't meant to support them.

Mr. DeLoria said one of the issues was the landscapers coming from outside the area and leaving their trailers there. He said they may serve the neighborhood, and this may be more convenient for them to do, but that the ordinance would get at this practice.

Mr. DeLoria said there are exceptions, which are fairly standard. He said if there is a person with a disability who has a large vehicle that is properly tagged, and is not being used for hire, it would be allowed.

Mr. DeLoria said moving trucks must be used, and someone could use a U-Haul or Mayflower, for instance, for a 48-hour window.

Mr. DeLoria said a major question was about having a landscaping trailer parked while working on someone's yard, or a plumber having to work on someone's house. He said if someone is there performing the service, then that is temporary parking and is not covered by the ordinance, so it would be permitted.

Mr. DeLoria said in terms of the vehicles for hire, a limo would not fall under the exception. He said these were limited to 7-person vehicles, which would cover SUVs and minivans as well as passenger cars. He said getting into 15-person or 20-person buses, these will not fall under the exception. He said they are looking at Uber and taxi drivers who would be able to have their passenger cars, which will need to be parked adjacent to the address it is registered to.

Ms. Price said there is a Suburban SUV that can hold 8 people, though most are 7 passengers. She said this was a minor point.

Ms. Price said regarding moving trucks, in the ordinance, there are two different policies. She said if it is a moving company, it is restricted to 48 hours of the move, but if it is a rented moving truck, it is 48 hours from the execution of the lease. She said she recognizes that this is complaint-driven, but there is a difference between the two. She said if someone is moving themselves, they may be using the truck more than 48 hours from the time they lease it. She recommended it be 48 hours of the move in either case.

Mr. Gallaway noted that most minivans are 8 seats as well.

Mr. DeLoria said his experience was 7.

Mr. Gallaway said he was thinking 3, 3, and 2.

Mr. DeLoria said he was thinking 2, 2, and 3.

Ms. Mallek said there was a bench in the middle.

Mr. Gallaway said his Honda Odyssey is 3, 3, and 2. He said every minivan usually has a standard option of 8 seats.

Mr. DeLoria said this may be appropriate to amend to 8 passengers.

Ms. Price said she believed 8 would make more sense, and that with moving vehicles, it should be within 48 hours of the move rather than the lease of the vehicle. She said when she self-moved, she had the truck for more than 48 hours.

Ms. McKeel pointed out that Ms. Price had hers on private property. She reminded that they were talking about vehicles in the street.

Ms. Price said she understood this.

Ms. McKeel said she was not objecting to Ms. Price's comment, but she wanted people to remember that if they are moving and have the moving truck in their driveway, that is not a problem.

Ms. Price said she understood, but that the 48 hours from the lease may not give someone enough time.

Ms. McKeel agreed.

Mr. DeLoria referred to the third page of the ordinance, 2B, for the change Ms. Price was discussing.

Ms. Price said it should be 48 hours of the move on both instances, rather than differentiating between a moving company and rented truck.

Mr. DeLoria asked if for "any rented moving truck," they should strike "if parked within 48 hours of execution of the lease."

Ms. Price recognized that this was probably a smaller number, but that it struck her that 48 hours of the lease could be tight on someone. She said in some of the areas, there is not that much parking to begin with, and the truck may be on the street.

Mr. DeLoria said if someone is moving from out west, it may take them 4-5 days just to get to the area. He said he noted to strike, "If parked within 48 hours of execution of the lease."

Ms. McKeel added that 7 passengers in the vehicle should go to 8.

Mr. DeLoria said this would be in B, 1E.

Ms. Price noted that the ordinance spoke to the driver plus 6 passengers.

Mr. DeLoria said the passengers would change from 6 to 7.

Mr. DeLoria concluded his discussion on the residential parking regulations. He said there are other suggested changes by the amended ordinance. He said one is that in terms of general prohibitions, there is a prohibition of parking within 15 feet of a fire hydrant. He said the team suggested that mailboxes be added to that.

Mr. DeLoria said he understood this may be somewhat contentious, but the concern was that there could be habitual blocking of a mailbox that on a regular basis, may prevent the post office from making deliveries. He said the other notion on this was that the team discussed making a time limit on this (perhaps 8:00 a.m. to 5:00 p.m.), but then they realized in this day and age, deliveries are occurring 24-7. He said the post office often comes later than 8:00 p.m. and even on Sundays now. He said the final notion was if it was limited to normal business hours, not every accesses their mailbox during those hours, so if they get home from work and a truck or trailer is blocking their mailbox, some people may have difficulty accessing their mailbox.

Ms. Price said she was the one who brought up the time aspect of the mailboxes. She said there is a difference between blocking a mailbox versus parking within 15 feet of it. She said she had asked about a time limit so that from 8:00 a.m. to 6:00 p.m., someone cannot park there, but if there is a weekend or evening and people are coming over, it can be difficult to find any place that is 15 feet from a mailbox.

Ms. Price said if there is a densely-populated area that has very limited parking to begin with, such as Mill Creek (where she has canvassed and found difficulty finding parking), this was why she suggested not parking within 15 feet of a mailbox during "banker's hours" and allowing weekends or Sundays where someone could park within 15 feet. She said she didn't think, however, that anyone should ever block a mailbox.

Ms. McKeel said the problem they have had in some of the neighborhoods was with people parking vehicles and blocking mailboxes, and people could not get their mail. She said those vehicle owners would leave their vehicles there for days at a time.

Ms. Price said she completely agreed with not blocking the mailboxes.

Ms. McKeel said it is true that people get deliveries now on Saturdays and Sundays frequently.

Ms. Mallek said that USPS cars are out until well after dark every day now because they are so understaffed.

Ms. Palmer said if they are keeping people from leaving their cars and commercial vehicles in places, and getting rid of those, they are now just talking about residents that are coming to stay or visit. She said she wondered if this could be overkill on never allowing anyone to park near a mailbox. She said she knows of several neighborhoods where if someone is going to someone else's house for dinner, they cannot find a place to park. She said she was not planning on blocking a mailbox, but that 15 feet was far.

Ms. Mallek said it was not far enough for the mailman's car to pull in from the street in front of another parked car, get to the mailbox, and pull out again. She said it was barely going to fit, which is what she was worried about. She said she liked the proposal the way it was, and if someone parks by a party host's own mailbox, it was no big deal.

Ms. McKeel said it was not as if Chief Lantz was going to be riding looking for these vehicles, as it was all by complaint.

Mr. DeLoria said the team did consider that, but Chief Lantz indicated that they were talking about complaint-based situations, and the Police Department is not going to be actively looking for violations and issuing tickets. He said it would be a matter of someone complaining about chronic violations.

Ms. Price said she accepted that, and the consensus of the Board. She said she wanted to raise the time issue for being near a mailbox, and that there should be absolute prohibition against blocking a mailbox. She said she saw those as two different things but did accept the consensus of the Board and was not going to raise a motion to change that.

Ms. Palmer said she tended to think it was overkill, as they were already keeping people from parking illegally. She said she would vote for the proposal, however.

Ms. McKeel said in this day and age, she was always hearing about people not getting their mail.

Ms. Palmer said the biggest problem she has with people complaining about the mail is that they can't get to their mailbox without taking their lives in their hands because of speeding.

Ms. McKeel said this was also true.

Mr. DeLoria said the next part of the proposed ordinance would apply to all areas in the County, and it clarifies what it means to park near an intersection. He said the team has heard that there were some concerns about that happening, particularly in the Rural Areas where people would park on the

curb itself and block visibility.

Mr. DeLoria said the suggestion is that the Board adopt language (which comes from the Virginia Code) that clarifies what it means to be in an intersection. He said it talks about being within 20 feet of the intersection of curb lines, noting that there are not always curb lines in the County or in the Rural Areas, so it would then be within 15 feet of the intersection of property lines at a highway intersection. He said it does indicate that one cannot park in the curb itself.

Mr. DeLoria said as far as minor things, there is a clarification of a heading that did not apply anymore. He said finally, Mr. Kamptner cleaned it up to make the wording consistent with the recodification process.

Ms. Price said as a minor point, everywhere in the ordinance, it says "commercial and recreational" until they get to "Fines," where it says, "commercial or recreational." She asked if this was an issue.

Mr. DeLoria replied that they were trying to say that their vehicle is just recreational, and not commercial and recreational.

Ms. Price noted that in the other places, it says "and" instead of "or."

Ms. Mallek said there should be consistency.

Mr. DeLoria asked if they wanted it to say, "and/or."

Ms. McKeel said to do whatever won't cause a problem for the police and for people to understand it.

Mr. DeLoria asked if the Board was suggesting that it say "and/or recreational."

The Board agreed.

Ms. Palmer asked for the definition of a "highway."

Mr. DeLoria replied that the definition of a "highway" is the full width of the right of way. He said VDOT owns a right of way, and hypothetically, though it may be 100 feet, the travel portion of the road may only be 50 feet. He said on each side, there is 25 feet. He said this accommodates a shoulder, and that in his neighborhood, it accommodates a yard. He said this is still part of the right of way.

Ms. Palmer said on some of their roads, she is told that landowners own to the middle of the road. She asked if this was not the case, and if she has been told incorrectly over time.

Mr. DeLoria replied that this was not his understanding of a VDOT road.

Mr. Kamptner said there are probably very few roads that will be covered by this particular set of regulations that are subject to the prescriptive easements. He said there are 30-foot right of ways, which dates back to the early 1930s when the State took over what was a patchwork of County roads, turnpikes, and other roads that existed at that time. He said in those prescriptive easements, the property owned by the adjoining properties goes to the center line, and that 15 feet on each side became the prescriptive easement, assuming that the existing road was running along property lines. He said it was 15 feet on each side of the center of the road.

Ms. Price said she was asking this question because when she was on the Service Authority Board, they had to get easements along roads, and there was some rural work (especially along Red Hill) where she remembered this coming up. She said that even though they were almost on the road, they were paying the property owners for the easements as they traveled along the edge of the road because they were told that they owned it.

Mr. Kamptner said with the modern roads in modern subdivisions, the rights of way range between 40-50 feet in width, and so the paved travel way may be 18 feet wide, but there is then curb and gutter and sidewalks, which may occupy the full 50 feet.

Ms. Mallek said her understanding was that a prescriptive easement is to the edge of the asphalt. She said with all the pre-1932 roads (e.g. Clark Road, Brown's Gap Turnpike), it's why it is such a difficulty to get drainage work done because everything has to be negotiated with the property owners. She said at the end of her driveway, it is 16 feet from the center of the road, as there is a 300-year-old road there.

Ms. Palmer asked how the parking regulations apply to these areas. She said they had mentioned some Rural Areas roads that would be affected by this.

Mr. Kamptner replied that the area that is covered by this ordinance were not prescriptive easements. He said there are rights of way that would likely vary from 30-50 feet, and that there may be some roads that are well beyond 50 feet in width and are functioning more as a boulevard.

Ms. Palmer said she was thinking about the intersection discussion and about parking within 15

feet of the intersection. She said this applied to the Rural Areas, so she was envisioning this in Rural Areas where there are intersections that would be hard to see if someone parked on the side. She said she thinks they would actually be on private property.

Ms. Mallek said the police staff spent a lot of time at both ends of Ridge Road, one on Free Union Road and the other on Garth Road, because the runners from Downtown take 15-25 vehicles and park on both sides of the road at the intersections. She said the people who live there cannot get out. She asked if there was a way to also add that people are prohibited from blocking passages of vehicles parking anywhere. She said if a person with a pickup truck can't get through, the Rescue Squad also cannot get through. She said this happens every Saturday at these locations.

Ms. Palmer said this happens at Sugar Hollow as well.

Mr. DeLoria said this may be stopping on a highway, and that there are other regulations that should apply in that case.

Ms. Mallek said they had signs put up, but it does not stop people from doing it.

Mr. DeLoria agreed, but said he didn't know that they had to amend this particular ordinance in order for that to be a violation.

Ms. Palmer said she was trying to go after the intersection issue.

Mr. DeLoria said the ordinance says, "the intersection of property lines at any highway." He said it doesn't just say a "VDOT highway," but it says, "any highway." He said case law defines that there can be a private roadway that is considered to be a highway, as it is where the cars travel. He said that in his view, he thinks it would be covered, and it could certainly be enforced. He said he suspected it would be challenged, and the County would defend it.

Ms. Palmer said as someone who picked up trash on the road that day, as cars parked on her private road and were leaving their trash, she wondered if private roads were included.

Chief Lantz said the police cannot enforce on private roads. He said it has to be a State-dedicated highway for the police to enforce. He said if there is an intersection and a visual where a private road comes into a State-maintained road, the first thing they would do is find out who owns the car and will try to get voluntary compliance, even though it is private property, as it is causing a safety hazard. He said it does have to be a State-maintained highway or an intersection with a State-maintained highway, in order for the police to be able to ticket and take enforcement action.

Mr. DeLoria said everything had been touched upon as far as enforcement, and that the police indicated in all the team meetings that it would be complaint-based. He said their first response will be to educate the neighbors and vehicle owners, which would be followed up by warnings about ticketing. He said the main goal is to educate people and get compliance.

Mr. DeLoria said this takes the discussion to if someone is ticketed, which is the result of a violation. He said when they looked at the ordinance, they saw most of the offenses came with a \$10 fine, which the team was surprised by, thinking that this was less than daily parking fees in certain places, and certainly less than renting a spot. He said the team considered using this as an opportunity to modernize and bring the regulations up to date to create a fines system that would deter violations as opposed to incentivizing paying parking tickets.

Mr. DeLoria said one thing the team looked at as a measure was that the State Code does address parking violations, and the General Assembly has authorized the Virginia Supreme Court to publish a schedule of pre-payable fines. He said the County's fines were generally \$10, and if not paid within 48 hours, it went up to \$20. He said the State generally started with fines around the \$20, but that there was a catch. He said the State charges a processing fee. He said for every offense one can prepay, and it might be \$20 (which is fairly low), but they will add \$51 processing fee on. He said in order to pay a State fine, someone is looking at \$71.

Mr. DeLoria said based on this, the team thought it would be appropriate to generally move the fines up to \$25, and if not paid quickly, they would double to \$50. He said the County does not have a processing fee, however, so in all instances, the fines that the County would impose are less than what someone would pay for a State violation. He said the team thought this was fair, which is why they suggested the scheduled fines.

Mr. DeLoria said the theory was to create a system that deters. He said they were not looking to raise revenues. He said there are not that many violations that result in the payment of fines, so it is not a revenue generator. He said that mainly, they just want to get compliance in those areas and create a better living environment for the residential areas.

Ms. Mallek said the fines have to be big enough to get people's attention. She said even with the example of the signs about illegal parking all over the place, some of the bigger homebuilders would laugh and say that the fines are the cost of doing business.

Ms. McKeel said she would hope that Chief Lantz would give the Board feedback if he finds that the fines are not working, and in that case, would suggest increasing the fines.

Mr. DeLoria said in fire lanes, they tried to go by what the expectation be if they were caught parking in a fire lane, and they thought that this would be more than \$25. He said this fine went up to \$50, and then it doubles to \$100.

Mr. DeLoria said in terms of parking in a handicapped zone, this was not changed. He said there were certain elements that made it difficult to change, but still remained \$100 for a local fine, then doubles to \$200 if unpaid. He said in terms of pre-payable on a State level, it is \$150 pre-payable, but they would then tack on the \$51 processing fee, so the pre-payable there is \$201, which the County still comes below.

Mr. Gallaway asked when Mr. DeLoria talked about the issuance and whether there were paid fines, if this worked for future deterrence, or if there were repeat offenders.

Mr. DeLoria replied that he could not answer that.

Mr. Gallaway said they would hope that the fine would have deterred them, and made them comply after that. He suggested looking into the data to see if there were repeat offenders because the way this was going, he would ask what the escalation is if there is a repeat offender. He said there didn't seem to be any of this built in.

Mr. DeLoria replied there is not.

Ms. Mallek asked if he meant the third of fourth ticket.

Mr. DeLoria replied that this was built in if it was unpaid. He said there can be a repeat offender and just keep paying the ticket. He said for example, they can keep racking up the \$25 fines as long as they pay them.

Ms. McKeel said the team did discuss that.

Mr. Gallaway said he would look at the original issuance and determine of those 137, how many were repeat offenders. He said if a good portion of those are, then the escalation piece might need to be revisited down the road.

Mr. DeLoria said he didn't know if they could break out that data, though he suspected they could.

Mr. Gallaway said if it was a matter of all compliance after one ticket, perhaps they don't have to worry about the escalation.

Ms. McKeel said she appreciated the work that Chief Lantz and his staff, Mr. DeLoria, and Mr. Kamptner did. She said this was so important for the quality of life in the neighborhoods, especially the older ones that are seeing change from being urbanized.

Ms. Mallek said she hoped this would also help zoning matters where there are after-effects of the long-term parking that has to be dealt with.

Ms. McKeel said Chief Lantz indicated that this was hopefully part of making enforcement easier.

Mr. Gallaway opened the public hearing and asked if any members of the public cared to speak on this item. Hearing no comments from the public, he closed the public hearing and brought the matter back to the Board.

Ms. Price **moved** the Board adopt the proposed ordinance, Attachment A, as amended. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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#### ORDINANCE NO. 20-9(1)

AN ORDINANCE TO AMEND ARTICLE I, IN GENERAL, OF CHAPTER 9, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article I, In General, of Chapter 9, Motor Vehicles and Traffic, is hereby amended as follows:

**By Amending:**

Sec. 9-102	General prohibitions.
Sec. 9-118	Removal or immobilization of vehicles with outstanding parking violations— Enforcement of parking regulations; notice of violations; waiver of trial; contesting charges; penalties.

## Article I. In General

### Sec. 9-102 General prohibitions.

A. *Parking or stopping a vehicle in various locations prohibited.* It is unlawful for any person to park or stop a vehicle, except when necessary to avoid traffic or with the directions of a police officer or traffic-control device, in any of the following locations:

1. On any sidewalk;
2. In or in front of any driveway so as to block the use of such driveway to others;
3. Within fifteen (15) feet of any fire hydrant or any mailbox;
4. Any closer to a corner than is indicated by signs or marks upon the road or curb, or within twenty (20) feet from the intersection of curb lines, or, if no curb lines, then within fifteen (15) feet of the intersection of property lines at any highway intersection;
5. Within any bus zone, as indicated by signs or marks upon the road or curb;
6. Within a marked crosswalk;
7. Abreast of another vehicle parallel to a curb (double parking);
8. Within any loading zone, as indicated by signs or marks upon the road or curb;
9. Within any zone indicated by signs or marks upon the road or curb as a no parking zone;
10. At any location for a longer time than is permissible by signs or marks upon the road or curb (overtime parking);
11. In any fire lane marked or indicated as such;
12. On any grass, unless such parking is indicated by sign as permissive;
13. Within fifty (50) feet of the nearest rail of a railroad grade crossing;
14. Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic;
15. Upon any bridge or other elevated structure on a highway or within a tunnel; or
16. At any place where official signs prohibit parking.

B. *Parking commercial vehicles, placing portable or mobile storage containers and dumpsters on designated secondary highways prohibited.* It is unlawful for any person to park any commercial and recreational vehicle, or place any portable or mobile storage container, or dumpster on the state secondary highways in areas zoned for residential use. For the purposes of this subsection, the following terms mean:

1. "Commercial and recreational vehicle" means:
  - a. Any vehicle having a registered gross weight of 16,000 pounds or more, or being more than 25 feet in length, more than eight feet in height including accessories and appurtenances attached to the vehicle, or more than 102 inches in width;
  - b. Any solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, tow truck, and heavy construction equipment, whether located on a highway, truck, trailer, or semitrailer;
  - c. Any vehicle, trailer, or semitrailer in which food or beverages are stored or sold;
  - d. Any trailer or semitrailer used for transporting landscaping, lawn-care, or construction equipment or supplies, regardless of whether the trailer or semitrailer is attached to another vehicle;
  - e. Any vehicle used to transport passengers or property for compensation, including minibuses; limousines; taxicabs; vehicles performing taxicab, common carrier, medical transportation carrier, or passenger carrier services; and Transportation Network Company (TNC) partner vehicles. However, per each residential address, one motor vehicle used to transport passengers for compensation, which has a seating capacity of not more than seven passengers, excluding the driver, and which otherwise is not deemed to be a commercial vehicle under this article may be parked on a state secondary highway in an area zoned for residential use and at a location directly adjacent to the vehicle's registered owner's residential address;

- f. Any watercraft;
- g. Any motor home or camping trailer;
- h. Any school bus or any vehicle previously used as or designed to be used as a school bus;
- i. Any vehicle carrying commercial freight in plain view;
- j. Any trailer or semitrailer, regardless of whether a state safety inspection is required or if it is attached to another vehicle; and
- k. Any vehicle with three or more axles.

2. "Commercial and recreational vehicle" does not mean:
  - a. Any clearly marked privately owned vehicle displaying accessible parking placards or license plates, not for hire, driven by or for the transport of a person with a disability;
  - b. Any rented moving truck or any for-hire moving company vehicle within 48 hours of the move;
  - c. Any vehicle when it is picking up or discharging passengers or when temporarily parked pursuant to the performance of work or service at the work or service location, including any vehicle used in construction, home repair, maintenance, landscaping, and delivery of goods; and
  - d. Any portable or mobile storage container or dumpster parked pursuant to a Virginia Department of Transportation permit.
3. "Areas zoned for residential use" means all areas of the County in the Residential (R-1), Residential (R-2), Residential (R-4), Residential (R-6), Residential (R-10), Residential (R-15), Village Residential (VR), and Planned Residential Development (PRD) zoning districts and the residential areas within the Neighborhood Model (NMD) and Planned Unit Development (PUD) zoning districts (a "residential zoning district"), including any secondary highway abutting one or more of these zoning districts as provided in County Code § 18-1.7(C)(2); provided that if a secondary highway serves as a boundary between a residential zoning district and a non-residential zoning district, only the side of the secondary highway abutting the residential zoning district is considered an area zoned for residential use.

C. *Authority of law enforcement officers in the performance of their lawful duties.* In the performance of their lawful duties, law-enforcement officers may move or cause to be moved motor vehicles to any place they may deem expedient without regard to the provisions of this section.

(Code 1988, § 12-3; Ord. 98-A(1), 8-5-98; Ord. 20-9(1), 3-18-20)

**State law reference-** Va. Code §§ 46.2-1220, 46.2-1222, and 46.2-1305.

**Sec. 9-118 Enforcement of parking regulations; notice of violations; waiver of trial; contesting charges; penalties.**

- A. *Posting written notice of violation.* Police officers and other uniformed personnel designated by the chief of police to enforce the parking provisions of this chapter must post a written notice of violation on the windshield of each vehicle found illegally parked. The notice of violation must state that the recipient of the notice may elect to waive their right to appear and be tried for the offense or offenses indicated in the notice.
- B. *Waiving right to trial; payment.* Persons desiring to waive trial may do so by voluntarily remitting to the office of the director of finance the amount of the fine stipulated for each violation marked on the notice and as provided in the schedule in subsection (E). If the required amount is not received in the office of the director of finance or mailed and postmarked within 48 hours after the notice of violation is issued, or within up to 96 hours if a request for review is timely made pursuant to subsection (D), the amount of the applicable fine is doubled.
- C. *How payment is made.* Whenever the fines are paid by mail, the responsibility for receipt of the payment by the director of finance lies with the *registered* owner of the vehicle parked in violation. The Director of Finance may accept payment of any amount due by any commercially acceptable means, including, but not limited to, checks, credit cards, debit cards, and electronic funds transfers, and may add to any amount due the amount charged to the County for accepting any payment by a means that incurs a charge to the County or the amount negotiated and agreed to in a contract with the County, whichever is less. If a check is returned for insufficient funds, the vehicle owner remains liable for the parking violations, and will be subject to a service charge of \$25.00 for processing the returned check.
- D. *Contesting the charges.* Any recipient of a notice of violation desiring to contest the charges cited in the notice must appear at the office of the director of finance and, on forms provided by the director of finance, file a written request for administrative review and dismissal of the charges. The recipient of the notice also must indicate on the request for review whether a hearing in court is demanded in the

event the request for dismissal is denied. The facts of the request must be reviewed and commented upon by a representative of the director of finance and a representative of the police department, who must recommend whether the request should be approved or denied. Acting on such request and recommendation, the attorney for the commonwealth or his assistant must decide whether the charge should be dismissed. If the request for review is made within 48 hours of the violation, the recipient shall have an additional 48 hours after denial of the request to remit the fine, before the amount thereof is doubled.

E. *Schedule of fines.* The fines or a violation of this section are as follows:

	<u>Fine</u>	<u>Fine if Amount Doubled Pursuant to Subsection (B)</u>
Parking on sidewalk	\$ 25.00	\$ 50.00
Blocking driveway	\$ 25.00	\$ 50.00
Park within 15 feet of fire hydrant or mailbox	\$ 25.00	\$ 50.00
Park within bus zone	\$ 25.00	\$ 50.00
Park in crosswalk	\$ 25.00	\$ 50.00
Double parking	\$ 25.00	\$ 50.00
Parking in fire lane	\$ 50.00	\$100.00
Parking in loading zone	\$ 25.00	\$ 50.00
Parking in prohibited zone	\$ 25.00	\$ 50.00
Overtime parking	\$ 10.00	\$ 20.00
Parking within 50 feet of railroad crossing	\$ 25.00	\$ 50.00
Parking alongside or opposite street obstruction or excavation	\$25.00	\$ 50.00
Parking on bridge	\$25.00	\$ 50.00
Parking where prohibited	\$25.00	\$ 50.00
Parking in handicapped parking space when prohibited	\$100.00	\$200.00
Parking commercial and/or recreational vehicle or container/dumpster in residential zone	\$ 25.00	\$ 50.00

F. *Failure to respond; summons and arrest.* Any vehicle owner who fails to respond to a notice of violation, either by paying the stipulated fines or by filing a request for review or hearing with the director of finance within ten days, is subject to summons and arrest pursuant to Virginia Code § 46.2-941.

(10-11-89; Ord. of 6-9-93; Code 1988, § 12-9.1; Ord. 98-A(1), 8-5-98; Ord. 08-9(1), 12-3-08; Ord. 20-9(1), 3-18-20)

**State law reference**-Va. Code §§ 46.2-1222 and 46.2-1225.

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Agenda Item No. 16. **Public Hearing – SP20190003 Hunters Way Coffee Shop.**

PROJECT: SP20190003 Hunters Way Coffee Shop

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 078000000049A0

LOCATION: 101 Shadwell Heights Rd or 100 Hunters Way, at the intersection of Richmond Rd

PROPOSAL: Request approval for a new coffee shop on a 1.46 acre parcel. The proposed coffee shop would be a maximum of 700sf, have no indoor dining area, and may include a drive-thru.

PETITION: Restaurant (coffee shop) not served by either public water or an approved central water supply under Section 24.2.2.18 of the Zoning Ordinance. No dwelling units proposed.

ZONING: HC Highway Commercial – commercial and service; residential by special use permit (15 units/ acre)

OVERLAY DISTRICT: Entrance corridor

PROFFERS: No

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

POTENTIALLY IN MONTICELLO VIEWSHED: Yes..

The Executive Summary forwarded to the Board states that At its meeting on January 14, 2020, the Planning Commission (PC) conducted a public hearing for the application noted above, and voted to

recommended approval, by a vote of 7:0, of SP201900003 Hunters Way Coffee Shop with conditions. A discussion on the conditions is provided below.

The Planning Commission's staff report, action letter, and minutes are attached (Att.'s A, B, and C).

During the Planning Commission public hearing, discussion between the applicant, Planning Commission, and staff primarily focused on concerns regarding traffic impacts, the intent of recommended conditions (to limit the size and intensity of the new use, traffic, and water usage, so that other by-right uses on the parcel would not be negatively impacted by the additional use), and the provision of dedicated parking spaces to accommodate the walk-up window proposed by the proposed restaurant use. A full discussion on these topics is available in the PC Meeting Minutes.

The Planning Commission unanimously voted to recommend approval of SP201900003 with the following amendments and additions to the conditions recommended by staff in the staff report:

**ORIGINAL CONDITIONS RECOMMENDED BY STAFF:**

1. Coffee shop uses on the parcel will not exceed 700 gross square feet.
2. No indoor seating associated with the coffee shop is permitted.
3. No public restrooms associated with the coffee shop will be provided.

**AMENDMENTS AND ADDITIONS RECOMMENDED BY THE PLANNING COMMISSION:**

- A. That "restaurant" be substituted wherever "coffee shop" was used in the conditions, and
- B. Adding a fourth condition that the applicant should designate walk up parking spots during the Site Development Plan stage. (Note: This recommendation would be to facilitate a walk-up order window.)

In subsequent discussions, Zoning staff concurred with rewording "coffee shop" to "restaurant", but did not recommend the addition of the fourth condition, stating that necessary parking is provided for and required by the zoning ordinance and the designation of parking spaces for the benefit of a particular use is not typically a condition attached to special use permits. Designation of parking spaces is usually left to the property owner's discretion. Zoning staff also found that ample/convenient parking has been demonstrated by the site plan for this property which is currently under review by staff (see Attachment A3 for an illustrative rendering of the proposed site plan).

**REVISED CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION AND STAFF:**

1. Restaurant uses on the parcel will not exceed 700 gross square feet.
2. No indoor seating associated with the restaurant use is permitted.
3. No public restrooms associated with the restaurant use will be provided.

If the Board would prefer to include a condition regarding the designation of parking space(s) for the walk-up order window, staff offers the following condition language for the Board's consideration:

4. If the restaurant use has a walk-up order window, a minimum of one parking space must be designated with signage and/or pavement markings on the Site Development Plan.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP201900003 with Conditions 1-3.

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Ms. Mariah Gleason, Senior Planner, said she would be presenting the Special Use Permit request for the Board's consideration.

Ms. Gleason said the subject parcel is located in the Rural Area, just south and east of Exit 124 off of I-64. She said the parcel lies about 5,000 feet from the Pantops Development Area, as measured along Route 250.

Ms. Gleason said the property is part of a 16-parcel Commercial Industrial District legacy zoning district in the Rural Areas. She said businesses in this development include a daycare, self-storage facility, AmeriGas Propane, and a UPS customer center.

Ms. Gleason said the applicant is requesting to locate a coffee shop on the parcel. She said under the County's ordinance, coffee shops are classified as restaurant uses. She said the proposal states that the coffee shop will be a maximum of 700 square feet, with no interior dining space or public restrooms, and intends to serve customers by a walk-up window as well as a potential drive-thru window. She said if the applicant includes a drive-thru window, that aspect will be evaluated with a site plan amendment and is subject to the additional regulations of Section 5 in the Zoning Ordinance.

Ms. Gleason said this proposal was heard by the Planning Commission on January 14, 2020. She said the Commission recommended approval unanimously and offered revisions to the conditions presented by staff originally. She said the first recommendation was to substitute "restaurant use" wherever the phrase "coffee shop" was used. She said the second recommendation as for an additional condition to designate parking spaces for customers of the walk-up window.

Ms. Gleason said in follow-up conversations, Zoning staff (the County's compliance-enforcement body) concurred with the rewording of "coffee shop" to "restaurant use." She said they did not, however,

recommend the addition of a fourth condition to designate parking spots. She said Zoning staff indicated that this condition was not one that the County typically attaches to Special Use Permits and that instead, they typically allow the property owner to decide if they are going to designate parking spots. She said Zoning also found that ample parking is being provided for in the site plan amendment for the property.

Ms. Gleason said before the Board were the revised conditions for its consideration. She said these conditions are supported by the Planning Commission and County staff and are agreeable to the applicant.

Ms. Gleason said if the Board would like to include a fourth condition, that option was available to them.

Ms. Mallek said she needed reassurance about what slippery slope they might be going on by calling this a "restaurant" in the Rural Area. She said they have had very firm policies over decades that this is not done. She asked Ms. Gleason to help her understand why this was okay without creating the precedent that they will get another Shadwell's out there, for example.

Ms. Gleason replied that the County does not have a definition for "coffee shop" in Section 3 of the Zoning Ordinance. She said it umbrellas under "restaurant use" in the definition, so they have typically been attaching "restaurant use" to a coffee shop, as there is no definition for it as it exists now.

Ms. Gleason said what Ms. Mallek may be referencing is ZTA201800002 that essentially expanded what they were allowed to evaluate a restaurant use on. She said it expanded so that it wasn't just a major amendment but was a Special Use Permit and expanded the criteria that they would evaluate it against. She said it wasn't just water usage, but it was water usage plus traffic, light, sound, and smell. She asked if this was what Ms. Mallek was referring to.

Ms. Mallek said that long before that, people have asked for years about having a restaurant in White Hall, for instance, and are flat out told that it is not going to happen because restaurants do not happen in places where there is not water and sewer. She said she was just trying to make sure they thread the needle right, so they are not revisiting this later. She asked Mr. Kamptner if he could weigh in, as this was a real turnaround in wording, and that she was worried about perception.

Ms. Gleason added that staff did evaluate this against water usage, and that the applicant is under their capacity. She said they evaluated it as 400 gallons per site acre per day, and that this use added to the existing uses and proposed uses, which is a 6-bay auto repair shop and a hardware store. She said the auto repair shop is 3,000 square feet, and the hardware store is anticipated to be 5,000 square feet. She said the coffee shop use would be 700 square feet, which is decidedly less, and that the conditions work to limit the size, scale, and intensity so they are not looking at a full-blown restaurant use.

Ms. Mallek asked if this square footage was the main control for this.

Ms. Gleason replied yes. She said the square footage is the main control in terms of the intensity of the use. She said by eliminating the indoor seating and public restrooms, they were hoping to ratchet it down further and, in that way, address concerns around traffic or how many cars will be parked.

Ms. Mallek said she had no argument with the use, but that the way they are technically describing it is what she worries about.

Mr. Kamptner said the restaurant use is allowed in the HC District by Special Use Permit, even though the property is not in the growth area. He said it is the Rural Area designation that Ms. Mallek was thinking of.

Ms. Mallek agreed this is what triggered her, and that it was the HC District that she needed to think about.

Mr. Gallaway mentioned the Planning Commission recommending the fourth condition. He asked if staff did not recommend that condition.

Ms. Gleason replied that staff essentially found that there would be an enforcement issue with that particular condition. She said the whole condition was about designating parking spots for this use. She said one other advantage to not designating a parking spot was that it would allow those parking spaces to act for any of the uses on the site, versus if that coffee shop was not in use, that those parking spots would also not be in use.

Ms. LaPisto-Kirtley mentioned that this will be a walk-up storefront. She asked if there would be tables, chairs, or benches allowed outside.

Ms. Gleason replied that this was unknown and would be evaluated at the site planning stage. She said currently, there were none proposed.

Ms. Palmer said this was a good question. She asked if the applicant could possibly have an entire patio.

Ms. Gleason replied that she didn't know if they could have a whole patio. She said they would be under the guidelines of the Entrance Corridor, so whatever they propose would need to be evaluated by the ARB. She said by not having public restrooms, this would self-limit.

Ms. LaPisto-Kirtley said this is what bothered her. She said if there are people there to get coffee and there is a table there to sit at, they will have to use the restroom at some point, and there would be no public restroom. She said there is an issue there that needs to be addressed.

Ms. McKeel said there was a disconnect there.

Ms. Gleason said limiting the public restroom was an attempt by staff to limit the water usage on the site.

Ms. LaPisto-Kirtley suggested that perhaps it should be drive-thru only.

Ms. Gleason replied that the drive-thru would be evaluated by the Board as a Special Exception. She said there is a Special Exception on the agenda for May to be associated with this. She said currently, the applicant is only permitted to have a walk-up window until the Special Exception is approved.

Ms. LaPisto-Kirtley asked if the Board were to approve the Special Exception, if they could then make it a drive-thru only.

Ms. McKeel said the concern was perhaps more about putting out the tables and chairs and then needing a restroom. She said it was not so much for her about the drive-thru or walk-up, but having a patio and lounging around that would be a disconnect.

Ms. Mallek said that no seating would be the answer.

Ms. McKeel agreed.

Ms. LaPisto-Kirtley agreed this would solve the problem.

Ms. Gleason replied that it would loop back to what they were trying to solve. She asked if the applicant would like to speak to that.

Mr. Gallaway said they would allow them to address it when they come up.

Ms. Palmer asked if a patio would be addressed at a site plan stage.

Ms. Gleason replied yes.

Ms. Palmer said the applicant wants to have a drive-thru, which makes sense.

Ms. Gleason replied yes, noting that is their business model.

Ms. Palmer said this would limit where they would be able to put a patio.

Ms. Gleason replied yes, adding that it would do so especially because it would be attached to a hardware store. She said the driveway would loop on two sides of it, with a structure on one side and parking on the other side. She said as the site plan is currently proposed, it is quite a constrained site.

Ms. LaPisto-Kirtley said if they eliminate the parking (except for employees), they could have a drive-thru and no seating.

Mr. Gallaway invited the applicant to come forward.

Ms. Kelsey Schlein (planner with Shimp Engineering) said she was joined by Mr. Justin Shimp (project engineer) as well as Mr. Kevin Schulyer (Heartrock Farm, LLC), who is the applicant for the project.

Ms. Schlein said this is a request for a coffee shop on a property that is zoned Highway Commercial within the Rural Areas. She presented the specifics of the request. She said they are requesting, by Special Use Permit, a coffee shop at a maximum of 700 square feet on the site. She said the rest of the building that is shown on the property would be a by-right use, and is proposed for a hardware store/retail use. She said a portion of that entire structure would be designated as the coffee shop.

Ms. Schlein said there was discussion about drive-thru and walk-up, and that the location of the proposed drive-thru (if approved) requires a Special Exception because it is adjacent to Hunters Way, which is a public right of way. She said there is a provision in Section 5 of County Code that prohibits drive-thrus from being located adjacent to a public right of way. She said if the request was approved that evening, this would hopefully be a discussion that comes before the Board sometime in May.

Ms. Schlein presented a slide that she said gave a better feel for how the site would operate with a drive-thru wrapping around to the coffee shop.

Ms. Schlein said in terms of the existing conditions on the site, it is located at the intersection of Hunters Way and Route 250. She said there is an auto body shop user already on the site. She indicated to a portion on the map towards the front that they are calling the "area of redevelopment," which is where the proposed hardware store and the coffee shop use would be located, fronting on Route 250.

Ms. Schlein said the property is subject to ARB review, so there is additional level of review for aesthetic consistency with the adjacent area. She said this project has already gone through preliminary review with the ARB, which is why they are at a point where they can present renderings of what the building is proposed to look like.

Ms. Schlein presented some of the existing conditions, noting that they needed to be updated from last summer. She said some of the former model homes or offices do not exist on the property anymore. She said in context with the Commercial Industrial subdivision, it is near Floor Fashions, UPS, and Bright Eyes Childcare. She said this is a very pocket hub of business in the Rural Areas.

Ms. Schlein presented more site context of the existing conditions on Hunters Way. She provided a view of looking out from the site, onto Route 250.

Ms. Schlein presented the proposed plan view of the site design. She said there was talk about if there would be outdoor seating, and noted that it was a constrained site, especially with all of the users currently on the site and are proposed to be on the site.

Ms. Schlein presented a picture that was taken from the hillside, looking over Route 250. She said not only is the site restrained with the number of users there, but that there was also a hillside there, which was not ideal for outdoor seating and that one could not comfortably sit on a picnic table there.

Ms. Schlein presented the proposed circulation to show how vehicles would navigate the site.

Ms. Schlein presented an elevation from Route 250, noting it had already gone under preliminary review with the ARB. She said if approved that evening, they would go forward with an additional review before the ARB.

Ms. LaPisto-Kirtley asked to see one of the photos again. She said because she knew the area very well, in the front there is a huge slope, and there was no way they could put anything there. She said she knew this because she climbed the slope to put up campaign signs. She said there was a car in the image and that she could see the drive-thru with no problem, but that she was referring to the small area in the front. She asked if this would be the walk-up window.

Ms. Schlein replied yes.

Ms. LaPisto-Kirtley asked Ms. Schlein if it was the applicant's intention to put any tables or chairs there.

Ms. Schlein replied no. She said it was a limited space, and if there was a table put there, it would largely block any pedestrian access to the walk-up window.

Ms. LaPisto-Kirtley asked if part of the proposal would be not to add any kind of outdoor seating.

Ms. Schlein replied that it was not at this time. She said there were other existing users on the site, and if the auto shop wanted to put a picnic table outside for their users, they could.

Ms. LaPisto-Kirtley said she did not have a problem with this because the auto shop has public restrooms. She said the whole issue was around public restrooms.

Ms. Price said looking at the building, her understanding was that the main part of it would be a hardware store, and that this is the ground floor. She asked what the second floor would be for.

Ms. Schlein replied that the second floor is rendered as a 3,000-square-foot footprint with a 5,200-square-foot request. She said it could be storage or in the future, if there is another site plan amendment, it could be an office. She said at this point, it was more about storage, similar to what Martin's Hardware has downstairs.

Ms. Price asked what the two pergola areas were for on the top floor.

Ms. Schlein replied that this is imagined as a place where people can be outside. She said it was not particular to the coffee shop use, but it is part of the proposed building design, as put forth.

Ms. Price said it was very attractive, but if that would be coffee shop use, then they are actually encouraging more people to stay at the coffee shop where the restrooms then become an issue.

Ms. Schlein said there are no signs that say, "seating upstairs," and if it is not affiliated with the restaurant use itself, she didn't think it was encouraging for people to stay there. She said there are many examples of this for retail and office users around town. She said the buildings that front on Route 250 next to Chick-Fil-A are all office, gym, and retail users with nice seating on the second floor for

people who work there. She said there were examples of this around, and that is what the building was modeled after, but it was not the intent for that seating to be specific to the restaurant use.

Ms. Price said using that example, Chick-Fil-A has public restrooms.

Ms. Mallek said they have water and sewer everywhere.

Ms. Schlein said the example was the office building.

Ms. Price said she knew exactly what Ms. Schlein was referring to about the building. She said her point was that if someone goes to Chick-Fil-A and purchases a beverage, there are public restrooms there to use. She said if they go to the coffee shop and purchase a beverage, they don't have public restrooms, but if they go upstairs to the attractive open area, it encourages people to go there. She said going back to the Chick-Fil-A example, those office buildings between Chick-Fil-A and Route 250 have people who are working there and would generally use what is in their building.

Ms. Price said she hasn't gotten a clear sense of the rest of the use of the building. She said when throwing in the coffee shop without the restrooms, this goes back to Ms. LaPisto-Kirtley's comment about there being a disconnect between what's being asked and what's being proposed.

Ms. Schlein said that going back to Ms. Gleason's point about the question about water usage, the limiting of public restrooms and no seating is specifically to mitigate potential water usage and traffic impacts. She said the applicant is agreeable to those conditions, as they believe it achieves the intent of limiting the water usage.

Ms. Price said when looking at the legacy industrial use and the 16 parcels, those would be the only customers who would walk up to the coffee shop. She said if someone is on Route 250, there are no sidewalks and no easy access for walking to a coffee shop. She said it will be the people who work there who would be coming. She said when she was thinking of a one-story hardware store, she didn't see any issues. She said she sees this upstairs area, however, which looks like they are inviting people to get their coffee and go upstairs.

Ms. Schlein said perhaps coming up with a design that is not only aesthetically pleasing for it to go through the ARB, which achieves the intent of the Entrance Corridor guidelines, also achieves the needs of the user.

Mr. Justin Shimp said this was an interesting situation because in going through the ARB process, they encourage design like this. He said this is not actually tied to the Special Use Permit, and that the design could change, though the applicant showed what they thought was the best representation based on what they showed the ARB. He said that space is not necessarily guaranteed to be built if the Special Use Permit is approved.

Mr. Shimp said the question the Board proposed was reasonable. He said the model for the business is a drive-thru model. He said a few people may want to get out of the car and go to the walk-up window, then go on their way. He said he didn't know how to deal with this as the office space, by right, would be entitled to a rooftop deck, if it was so inclined. He said there may be a condition if they are trying to restrict access to that, though it could be difficult to enforce.

Mr. Shimp said he understood the Board's questions, but at the same time, they could have shown this with just one story and not discussed the rooftop, then would have come back and proposed that without the Board ever knowing until it was there, as they were not connected, at least from a zoning standpoint. He acknowledged that the Board was right in that the area was attractive and people could be drawn to it. He said he didn't know how to prohibit that, but was open to suggestions, noting that there was no guarantee that this space would be built on the rooftop anyway.

Ms. LaPisto-Kirtley told Ms. Price she understood her point, but that she thinks if there are office buildings on the top floor, the only people who would go down, walk up, and get coffee are the people who are in the offices or hardware store. She added that those places all have restrooms. She said if they ask for a proffer that a restroom would never be associated with this coffee shop, in the future, it will then prevent it from ever being a restaurant.

Mr. Shimp said he thought this was already a condition. He said there may not be a public restroom associated with this use. He said for example, if someone goes to the coffee shop and would want to use the restroom, they will have to encroach on the office user's or hardware store's space. He said they may not bar someone from doing that, but in theory, they were not in the restaurant space and were walking up to someone else's space they are leasing and paying for. He said people can be good neighbors and allow people to use the restroom, but it would not be allowed to be associated with the restaurant.

Mr. Shimp said with the building permit, for example, they could not show restrooms associated with the coffee shop because it would be in violation of the Special Use Permit conditions.

Ms. LaPisto-Kirtley asked if the drive-thru would also be large enough for the UPS trucks. She said those drivers would be coming down Hunters Way to get their coffee.

Mr. Shimp replied that often, this is where the pull-up spaces come into play, as the canopies for the drive-thrus are often lower than what the trucks can go under.

Mr. Gallaway asked Mr. Kamptner if he needed to make a point.

Mr. Kamptner said Condition 3 was the condition dealing with public restroom use. He said a possible suggested change would be rewording this to read, "Customers of the restaurant may not use any restroom on the property."

Mr. Gallaway said he was baffled by the entire argument. He said there was nothing about the plan that invites people to hang out with their coffee. He said he would not put this in a regulation because if a child has an emergency and needs to use the restroom, now they are violating the ordinance. He said this proprietor is telling people to come and pick their coffee up and leave, unless they are going to buy some hardware supplies. He said the office use is all a separate issue, in his opinion. He said he was baffled that there actually isn't seating available, but that this was not the plan. He said this is for people on the go.

Mr. Gallaway said that while he understands and appreciates the concerns, there is nothing in this design that tells him that this would become an issue. He said people are not going to walk up three flights of stairs to hang out. He said someone can put a sign on the door that stays "Staff Only" and this would take care of all these issues. He said they need to give the business some room to use common sense to execute the plan.

Ms. Mallek said that she has a completely different point of view, this seemed to her to be shoehorning something in that really doesn't belong. She said this was a perfect example of the problems they have with the 400-gallons-per-acre nonsense, anyway, is that it restricts the things that should happen because there is no water and sewer available. She said there is no water and sewer available here, so the kinds of things that would make this an appealing business don't exist because of the lack of the facility. She said she is baffled as well, as she would never go to a place where she couldn't wash her hands.

Mr. Gallaway said he liked the business plan.

Ms. Palmer said many people go through drive-thrus for coffee, and there was nothing wrong with that. She said she was personally fine with the request. She said it was a good space for a drive-thru for coffee, with all the traffic going down the road each morning.

Ms. Mallek said coming into town would be fine, but going east out of this location would be a whole other problem.

Ms. Palmer said there were probably not that many people who would try to do that. She said she remembered that from the Planning Commission minutes, someone made the point that it is closer and more convenient for many people than Starbucks.

Ms. Price said coffee is generally a morning beverage more than evening, so it would capture the clientele heading into town in the morning where it is an easier right turn coming out than it would be in the evening, heading east, where a left turn crosses traffic.

Mr. Gallaway said he thought it was a great idea and location. He added that people waiting on their cars at the auto shop could stop in for coffee there.

Ms. Palmer said the Planning Commission went over this well, and that she was fine with it.

Ms. Price said she was fine with it as well, but the issue of the bathroom was a restriction, and she just wanted to make sure that they didn't leave something unaddressed with that.

Mr. Gallaway said he thought it was addressed and was satisfied with the condition that was already in the request.

Ms. LaPisto-Kirtley said she agreed with Mr. Gallaway that it would be a great coffee shop for people to have seating and come inside, but that this would make it more of a restaurant and because of the water issue, this was why they couldn't do it. She asked if this was correct.

Mr. Gallaway said he would feel differently about the restaurant use and that they probably shouldn't go into that discussion. He said it was clear to him in this application that this use and design of coffee shop was not designed for patrons to hang out.

Ms. LaPisto-Kirtley agreed. She said she thinks it will be an added benefit to the area.

Ms. Price said she believed most of the walk-up traffic would be the people from the 16 businesses in that area.

Mr. Gallaway opened the public hearing and asked if anyone from the public wanted to speak to this item. Hearing none, he closed the public hearing and brought the matter back to the Board.

Mr. Gallaway said to be clear, they were not specifying spaces for the walk-up parking.

Ms. Gleason replied this was correct. She said she had given the Board two options. She said they could take the three conditions, or four conditions.

Mr. Gallaway said he agreed that they didn't want the fourth condition but said it didn't prohibit the applicant from doing it if they chose to do so.

Ms. Gleason said this was correct.

Mr. Gallaway said they could designate their parking the way they want based on how the business is working.

Ms. Gleason said it leaves the ball in the applicant's court.

Ms. Price **moved** to adopt the attached resolution to approve SP201900003, with Conditions 1-3. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

Ms. Price said that because water is such a sensitive issue in this area in the County, she thought it was important that they had the conversation about it. She concurred that it was a good idea and would be a great improvement to that section of the district on Route 250. She said she hoped it was very successful. She said the plan that was shown to the Board looks to be a beautiful addition to the area, and that she wished the applicant luck with their enterprise.

Ms. McKeel said she would make a quick comment that was against what everyone there had said. She said she is becoming very concerned about the number of drive-thrus the Board is approving in a time when they are talking about reducing their carbon footprint. She said they are now starting to see restaurants with two drive-thru lines. She said at some point, she didn't understand how people that say they are environmentalists and want the County to reduce their carbon footprint want to continue to build more drive-thrus.

Ms. McKeel said she understood, and that she uses drive-thrus occasionally herself, but that she was starting to think about this from a different lens. She said she was happy to support the application that evening, but that when the Board has their discussions around climate change, their footprint, and considerations going forward, she thinks this is worthy of at least some discussion.

Ms. Palmer said she would agree with this in many situations. She said she honestly thought that this was a reasonable place with a short area for coffee and for people to run into. She said she was looking at the drive-thrus very individually, and that this was an unusual situation.

Ms. McKeel said she knew what she had just said would not be popular, and that she knows that people want to go through the drive-thru in the morning for their coffee. She said it was worthy of a conversation as to how many of these they want to continue to approve.

Ms. Mallek said this was true especially in places where the whole neighborhood is designed for people on their feet. She said it wouldn't be appropriate in Stonefield, and wouldn't be appropriate in Pantops, where people should get out of their car and go inside.

Ms. McKeel asked if it was appropriate by a childcare center.

Ms. Mallek said absolutely not, with all the idling and exhaust.

Ms. McKeel said she would be looking at this very carefully if she was putting her child there to see the line of traffic and how it impacts the environment. She said perhaps this is overkill, but they talk about not wanting school buses and parents to idle in front of schools. She encouraged the Board to have a discussion at some point about drive-thrus.

Ms. LaPisto-Kirtley said regarding idling cars, if the applicant were to put a canopy there, then that would eliminate any large trucks that would emit more fumes.

Ms. McKeel said that everyone has an SUV or big truck these days and that they are all idling. She said they are starting to see double drive-thru lanes.

Ms. Price said she totally agreed with Ms. McKeel. She said on this route, however, the cars are already there.

Ms. McKeel said she understood, reminding that she voted for it.

Mr. Gallaway said in the meantime, the Board encourages people to use drive-thrus while under the State of Emergency.

Ms. McKeel said this was true, but that there was a balance that they have to somehow hit.

Ms. Palmer agreed it was a balance.

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**RESOLUTION TO APPROVE  
SP 2019-00003 HUNTERS WAY COFFEE SHOP**

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the staff report prepared for SP 2019-00003 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-24.2.2(18) and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2019-00003, subject to the conditions attached hereto.

\* \* \* \* \*

**SP 2019-00003 Hunters Way Coffee Shop Special Use Permit Conditions**

1. Restaurant uses on the parcel will not exceed 700 gross square feet.
2. No indoor seating associated with the restaurant use is permitted.
3. No public restrooms associated with the restaurant use will be provided.

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Agenda Item No. 17. **Public Hearing – Ordinance to Amend County Code Chapter 7, Health and Safety.** To receive comments on its intent to adopt an ordinance to amend Albemarle County Code Chapter 7, Health and Safety, by reorganizing and rewriting the chapter, making violations of Article 1, Noise, with the exception of violations related to construction, demolition, or maintenance activities, punishable as class 3 misdemeanors, designating the Director of the Department of Community Development as the agent for naming roads and numbering structures, and updating the definitions in Article 4, Radioactive Materials, to conform to Virginia Code Section 32.1-227. The subject matter of Chapter 7 is composed of: Article 1, Noise; Article 2, Naming Roads and Numbering Properties; Article 3, Smoking; Article 4, Radioactive Materials (Div. 1, Purpose and Definitions, Div. 2, Disposal and Storage); Article 5, Nuisances (Div. 1, Uncontrolled Vegetation, Div. 2, Stagnant Water, Div. 3, Penalties); and Article 6, Short-Term Rental Registry..

The Executive Summary forwarded to the Board states that the Board has directed the County Attorney's Office to conduct a comprehensive review and recodification of the County Code. Chapter 7 of the County Code regulates noise, smoking, radioactive materials, nuisances, and other issues that impact the health and safety of the County's residents and visitors. The most recent amendment to Chapter 7 was the addition of Article VI regarding short-term rental registry.

The process of recodifying the County Code includes making formatting, style, organizational, and substantive changes. These changes are being addressed at the chapter level before the Board considers adopting a complete, recodified County Code.

The attached proposed ordinance includes the proposed revisions to Article II, Naming of Roads and Numbering of Properties, that the Board reviewed on January 15, 2019 and authorized for public hearing.

Where possible, without changing the underlying substance, staff has included stylistic revisions, eliminating archaic or redundant language, to make the chapter easier to read.

There is no expected budget impact.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

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Mr. Kamptner (County Attorney) said his was an ordinance to amend Chapter 7 of the County Code, which is part of the ongoing effort to update all the chapters in the County Code. He said it had been some time since they had come to the Board with one of these types of ordinances because they went on hiatus around May of 2019 in order for the County Code to go online through a service called Municode, which is where most localities now have their ordinances.

Mr. Kamptner said the chapters highlighted in red were ones that had already come through in this format. He said Chapters 8 and 15 were the two finance-related chapters, which were major chapters that had many substantive changes along with stylistic changes.

Mr. Kamptner said a number of other chapters were being worked on. He said they were holding off on Chapter 9 until the Board's prior action that evening took place. He said Chapters 10 and 11 were being worked on. He said Chapter 13 has been with SWAAC for a while, and that there was a draft ordinance that needs a little more work.

Mr. Kamptner said the Board would be having a work session on parts of the Water Protection Ordinance, coming up in May or June. He said this work session will be about buffers and some other technical changes. He said with the work session with Community Development on Chapter 18, there will be a major effort.

Mr. Kamptner said the process has taken quite a bit longer than originally anticipated. He said it has now been 22 years since the County Code was last updated, and those who venture into prior

versions of the County Code know that there are some parts of the code that dates back to the 1970s and perhaps even the 1960s. He said part of their effort is to update the language, standardize it stylistically and grammatically, simplify and clarify, and eliminate some obsolete provisions that are no longer required by State law or are just unnecessary.

Mr. Kamptner said they would also be incorporating any changes to State law, and in the "Radioactive Materials" article of this chapter, there were some definitions that changed since the last update to that particular division.

Mr. Kamptner presented a slide about what they were finding as they go through the chapters. He said Chapter 4, the Animals chapter, was significantly rewritten because when his office ventured into this chapter, and looking was at State Code, it is a jumbled mess that is very difficult for anyone to figure out what is really required.

Mr. Kamptner said another task they are undertaking is trying to identify which departments are responsible for enforcing particular parts of the code because what they found over time is that different departments will point fingers at each other, and the usual response is that they do not have the staff to do it. He said when appropriate, they are identifying those departments that are responsible for enforcement.

Mr. Kamptner said this chapter is broken into several articles. He said the "Smoking" and "Radioactive Materials" articles were like taking a journey back in time, thinking back to the early days of his career when their small office of six had two chain smokers within very close proximity to this office.

Mr. Kamptner said some of these were new additions. He said the "Nuisances" chapter that deals with tall grass and vegetation and stagnant water were added in the last few years. He said the "Short-Term Rental Registry" was a companion to the homestay regulations and zoning ordinance. He said those were added in the past year. He said the "Naming Roads and Numbering Properties" article has been around for a long time. He said the Board would recall that it approved the manual that is referenced in this article earlier that year. He said this the second part of the two-step effort to bring that article up to date.

Mr. Kamptner said there are a few minor substantive changes throughout the articles. He said the "Noise" article, Section 7-105, they have updated the reference to sound-producing devices. He said the current text referred to a number of different types of sound-producing devices, and this was broadened to a single term.

Mr. Kamptner said at the recommendation of the Commonwealth's Attorney, they reduced the penalty from a Class I to a Class III misdemeanor. He said noise violations are generally of a lower priority for police, and they go to talk to people who are creating noise disturbances, such as loud music at a party. He said it is typically around the third visit when the violator would actually be cited, and that they try to get voluntary compliance before starting the criminal process.

Mr. Kamptner said in Article 2, with "Naming Roads and Numbering Properties," they updated that the designated agent is not the Director of Planning, but is the Director of Community Development. He said the term "addressable structures" is incorporated into that article.

Mr. Kamptner said in Article 4, they did update the definitions to match the State law definitions of various terms. He said they also repealed Section 7-403, which provides that the Board must appoint a Hazardous Materials Coordinator. He said this is a provision that is in State law. He said these are the types of self-executing State statutes that show up once in a while within the County Code for really no reason. He said the Fire Chief has this responsibility.

Mr. Kamptner said, in talking to the Legal Services Coordinator in his office, Ms. Marsha Davis, she is working from home currently and is trying to get the technology to work from home. He said they talked about delaying the effective date of this particular chapter to May 1, which would give her time to work with the ordinance before it is sent to Municode to be posted online. He said this chapter did not have any urgency to it, so his recommendation was for a delayed effective date of May 1, 2020.

Ms. McKeel said she knew that they were currently going in and changing existing chapters, but that at some point, she would like to come back and talk about the grass, weeds, brush, and uncontrolled vegetation exceeding 12 inches in height being prohibited. She said at one point there was an ordinance where if a house was abandoned or not being lived in and asked if this was related.

Mr. Kamptner replied that this was a companion. He said there are some other regulations that are in Chapter 5 of the County Code, which deal with buildings. He said it was set for June to give the Board an update on the revitalization efforts. He said part of that would be having the Building Official come in to talk about these other types of enabling authority that get to that issue.

Ms. McKeel said right now, there is a house in the urban ring that is privately owned, but the person hasn't lived there for years. She said the owner lives somewhere else in the community and has done nothing with the house. She said he has put in 12-inch rulers all across his front yard to prove to staff that he doesn't have to mow the grass. She said the Board needs to get back to that discussion.

Mr. Kamptner said the plan, assuming they would be able to stay on schedule, is to come back in June.

Ms. Palmer recalled that the cutting grass was related to Stonefield, where the field was before they built it and they had high grass that the County could not get them to cut.

Ms. Mallek asked with regards to the noise ordinance, if the hours of operation for construction are set by the State. She said 6:00 a.m. is much too early to begin. She said the feller buncher that worked on her place for 4 weeks was a mile and a half away from her house, and the sound of it starting up at 7:00 a.m. (which is when the forester demanded they start) shot her out of bed each day because it was so loud.

Ms. Mallek said the construction noise is causing tremendous misery for neighborhoods. She said when there is infill construction, there are trucks coming in at 4:00 a.m., backing up, unloading, and beepers running that wake everyone up, even though they don't officially pick up their hammers until 6:00 a.m. She said it is very difficult for anyone to enforce. She said she wanted to have everyone think more about starting at 7:00 a.m. and try to clamp down on this.

Mr. Kamptner replied that he could take a look at that. He said with these hours, generally, they were intended to coincide with the Zoning Ordinance's noise regulations, with the daytime/nighttime standards. He said he could look at those, take the Board's comments, and have various staff who work on these review the times.

Ms. Mallek said along with this is that, off and on over many years, the Board has talked about doing some different decibel levels. She said 60 decibels in the daytime is much too loud, and 55 decibels at nighttime is absurdly too loud. She said it carries for miles. She said she didn't have answers for those right now, but those were things that jumped out at her when she was doing her homework.

Ms. Palmer agreed that beeping trucks at 4:00 a.m. was wrong. She said it is difficult in the summertime (and now, in the spring and fall), however, not to start at 6:00 a.m. because of the heat. She said it is amazing how hot it gets by the afternoon, and that this should be considered.

Ms. Mallek said it was barely light out at 6:00 a.m.

Ms. McKeel said a couple years ago, she had a constituent calling about a burglary happening at 4:00 a.m. in an apartment complex. She said the police went to investigate, and that it was roofers working at 4:00 a.m.

Ms. Price said she had briefly mentioned to Mr. Kamptner in a side conversation that in the listing of the sections, Section 7-304 should say "designated" where it says, "designed no-smoking areas in restaurants." She said she believed there was a typo in the listing, on page 1 of Attachment A.

Ms. Mallek said she thought they did not allow smoking in restaurants.

Ms. Price said it says, "Designed no-smoking," and that the word should read "designated no-smoking." She said she did have some substantive questions.

Ms. Price said in Section 7-208 (page 14 of the attachment), she was very familiar with "shall not" being used, and that "must not" was a bit different. She said perhaps there is no difference in the meaning of it, but it says that certain things "must not be approved, unless... ." She asked if there was a difference in meaning between "must not" and "shall not."

Mr. Kamptner replied that what is happening at the State level is that one of the State commissions looking at statutes is recommending that the word "shall" be changed to "must," in most cases, because "shall," over the years, has taken on various meanings, including "may." He said there are some places where grammatically, it doesn't work, and that may be a matter of being so used to "shall." He said they would see "must" and sometimes "will" being substituted for "shall."

Ms. Price said Section 7-304 (page 18), the text itself says "designated" instead of "designed," regarding no-smoking areas in restaurants. She said it strikes her that it was almost in reverse there in that it says, "Any restaurant having the capacity to seat 75 or more persons shall have a designated no-smoking area," which tells her that if they are 74 or fewer, then there is no requirement to have a no-smoking area. She asked if they were constrained, in that regard.

Mr. Kamptner replied that they were implementing State law there.

Ms. Mallek said when Tim Kaine was Governor, the big deal was passing the bill that banned smoking in restaurants, period. She asked what happened to that.

Ms. LaPisto-Kirtley said it was effective January of 2008, and what happened was that a restaurant or bar could have a separate ventilated area (separate from no-smoking). She said she hasn't seen any in the County, although there had been one on High Street, and even they did away with it.

Ms. Mallek said they were going backwards with this ordinance, which is what she didn't like.

Ms. LaPisto-Kirtley expressed that the way she read it caused her alarm.

Ms. McKeel said the restaurants found that business went up when people weren't smoking.

Ms. Price said the ordinance was backwards.

Ms. LaPisto-Kirtley said it was State Code.

Ms. McKeel said Mr. Kamptner was mirroring State Code.

Ms. LaPisto-Kirtley asked to double-check the State Code.

Ms. Price said she came close to getting a master's degree in Environmental Law, when she got her LLM in International and Comparative Law, and that she did not feel qualified to make comment on the Radioactive Materials section.

Ms. Mallek agreed.

Ms. Price recognized that there are legitimate radioactive materials in hospitals and other such locations, but she honestly did not feel competent to address, for example, on page 24, the maximum incinerated per day activities, and had to rely either on State Code or scientific experts to tell them whether or not this is good or bad in that part of the ordinance.

Ms. Palmer asked Mr. Kamptner who had developed the section on radioactive materials.

Mr. Gallaway asked if the County was following State Code on that.

Mr. Kamptner replied yes.

Ms. Price said they were relying on the State to have done it right.

Ms. LaPisto-Kirtley asked if on page 14, Section 7-206, "Numbers to be Displayed," it was referring to individual homes as well as commercial properties, or if only referred to commercial properties. She said the "owner or person responsible for each addressable structure must display the assigned number in a manner that is easily readable." She asked if this referred to homes, also.

Mr. Kamptner replied that it was for both residential and commercial.

Ms. LaPisto-Kirtley said when she was campaigning, she ran into many homes in the Rural Area where she couldn't find an address. She said there was one with a split driveway with a piece of wood that pointed to the house number. She said if it was during the evening, no one would ever be able to see that. She said she was very happy to see this in the ordinance.

Ms. Mallek said she hoped it would have an impact. She said when she was going door to door, she wished that people would consider getting a blue sign so that first responders would know how to find them. She said the general response was, "They'll see the smoke."

Ms. Palmer said the first time she went door to door, there was a sheet of paper they could give people as to what the ordinance was, or what they were supposed to do, and who they could contact. She said she was trying to remember what that sheet said, but that she had handed them out to many people.

Ms. Mallek said fire companies had them with the order form on one side, and rules on the other side.

Ms. LaPisto-Kirtley asked about homes where there are many junk cars around the house that are rusting. She asked if these were covered.

Mr. Kamptner replied that this was not covered in this Chapter but was covered in the Zoning Ordinance as well as Chapter 9.

Ms. LaPisto-Kirtley asked if they would be reviewing Chapter 9, or if it was set in place with enough enforcement.

Mr. Kamptner replied they are doing what they can under the State enabling authority. He said likely 80% of the zoning enforcement actions that are taken involve inoperable vehicles in the yard.

Ms. McKeel said this would be worthy of a discussion when discussing the blight ordinance.

Ms. Palmer said with the noise ordinance, it was problematic in the Rural Areas. She said as someone who has had a large house being built very close to her house for several months, they may be about half a mile away, but are at the same elevation. She said she hears beeps rattles of the machines every morning, as soon as it is light out. She said she didn't know what the solution is, and that it was everywhere (not just in the urban area).

Ms. Price asked Mr. Kamptner if he was able to figure out something about smoking in restaurants.

Mr. Kamptner replied that there is a general prohibition with a number of exceptions. He

recommended that the Board adopt everything in the ordinance except for Section 7-304 so that he could go back and look at all the sources. He said he was not finding the focus on the 75 seats, though he knows he saw it in the State law somewhere.

Ms. Mallek asked if they should hold off on other possible changes in the noise ordinance hours, or if they could come back and modify those later.

Mr. Kamptner replied that this should probably be done in tandem with zoning. He said the Compliance Officer is looking at both this and the zoning side, and that this would involve both zoning and police.

Mr. Gallaway opened the public hearing and asked if anyone from the public cared to speak to this item. Hearing none, he closed the public hearing and brought the matter before the Board.

Ms. Price **moved** that the Board adopt the proposed ordinance (Attachment A) to the Executive Summary (except Section 7-304) with a delayed effective date of May 1, 2020. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price  
NAYS: None

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### ORDINANCE NO. 20-7(1)

#### AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 7, Health and Safety, is hereby reordained and amended as follows:

##### **By Amending, Renaming, and Renumbering:**

##### ARTICLE #1. NOISE

- 7-100 Purpose and intent.
- 7-101 Administration and enforcement.
- 7-102 Applicability.
- 7-103 Definitions.
- 7-104 General sound levels prohibited ~~prohibition~~.
- 7-105 Prohibited acts enumerated.
- 7-106 Exempt sounds.
- 7-107 Complaints of noise.
- 7-108 Violation and penalty.

##### ARTICLE #2. NAMING OF ROADS AND NUMBERING OF PROPERTIES

- 7-200 Purpose and intent.
- 7-201 Designation of agent.
- 7-202 Manual ~~to be developed and adopted~~.
- 7-203 Maps ~~to be developed and maintained~~.
- 7-204 Responsibility for placing and maintaining road signs.
- 7-205 Content of road signs.
- 7-206 Numbers to be displayed.
- 7-207 Responsibility for cost of signs and numbering.
- 7-208 Site plan, subdivision plat, and building permit requirements.
- 7-209 Official address.
- 7-210 Violation and penalty.

##### ARTICLE #3. SMOKING

- 7-300 Declaration of findings and policy.
- 7-301 Definitions.
- 7-302 Smoking prohibited in certain public places.
- 7-303 ~~Regulation of s~~Smoking in certain private places of employment.
- 7-304 Designated no-smoking areas in restaurants.
- 7-305 Exemptions.
- 7-306 Designated smoking areas generally.
- 7-307 Posting of signs.
- 7-308 Enforcement.
- 7-309 Violations.

##### ARTICLE #4. RADIOACTIVE MATERIALS

###### DIVISION 1. IN GENERAL PURPOSE AND DEFINITIONS

- 7-400 Purpose of chapter.
- 7-401 Definitions.
- 7-402 Medical diagnosis and therapy.

## DIVISION 2. DISPOSAL AND STORAGE

- 7-4043 ~~Incineration—Prohibited in disposal of certain substances~~ Disposal by incineration of certain by-product materials is prohibited.
- 7-4054 ~~Incineration—When permitted; manner of disposal~~ Disposal by incineration; when permitted; manner of disposal.

## DIVISION 3. STORAGE

- 7-4067 ~~Storage p~~ Prohibited; exception.

## ARTICLE V5. NUISANCES

### DIVISION 1. UNCONTROLLED VEGETATION

- 7-501 Definitions.
- 7-502 Grass, weeds, brush, and other uncontrolled vegetation exceeding 12 inches in height is prohibited.
- 7-503 Exemptions.
- 7-504 ~~Enforcement~~ Cutting uncontrolled vegetation; notice to owner; collecting costs.

### DIVISION 2. STAGNANT WATER

- 7-505 Definitions.
- 7-5067 ~~Removal of~~ Removing stagnant water; notice to owner; collecting costs.

### DIVISION 3. PENALTIES

- 7-5078 Lien against property.
- 7-5089 Civil Ppenalty.
- 7-50910 Criminal Ppenalty.

## ARTICLE V46. SHORT-TERM RENTAL REGISTRY

- 7-601 Definitions.
- 7-602 Registration.
- 7-603 Penalties.
- 7-604 Registry aAdministration.

### By Adding:

- 7-506 Stagnant water is a public nuisance and is prohibited.

### By Repealing:

- 7-310 Severability.
- 7-403 Hazardous materials coordinator.

## CHAPTER 7

## HEALTH AND SAFETY

### ARTICLE 1. NOISE

#### Sec. 7-100 Purpose.

The purpose of this article is to establish reasonable time, place, and manner regulations pertaining to excessive or unwanted sound. Through content-neutral regulations, this article strikes an appropriate balance between the rights of individuals to engage in activities that create or disseminate sounds at reasonable levels, and the right of the public to a peaceful and healthful environment. It is not the purpose of this article to interfere unduly with the rights of free speech or the exercise of religion and, further, it is not the purpose of this article to implement these regulations in a manner that is based on the content of the sound. In establishing these regulations, the Board of Supervisors finds the following:

- A. *Threat to the public health, safety and welfare posed by excessive or unwanted sound.* Inadequately controlled sound presents a growing danger to the public health, safety, and welfare. Studies have found that these dangers include hearing impairment, interference with spoken communication, sleep disturbances, cardiovascular disturbances, disturbances in mental health, impaired task performance, and unwanted emotional responses. These effects can lead to, among other things, a wide range of physical problems such as hearing disabilities, increased blood pressure, increased heart rates,

abnormal heart rhythms and fatigue, mental health problems such as depression, anxiety, nervousness, stress, and emotional instability, an increased risk of accidents and errors in task performance, and negative effects on learning, reading attention, work performance, school performance, and interpersonal relationships.

- B. *Persons particularly vulnerable to excessive or unwanted sound.* Studies have found that the elderly, medical patients, infants, and children are particularly vulnerable to excessive or unwanted sound.
- C. *Public safety danger posed by excessive or unwanted sound created by or emanating from motor vehicles.* Excessive or unwanted sound created by, or emanating from, motor vehicles interferes with the safe operation of other motor vehicles.
- D. *Effects of increases in sound pressure levels.* Studies have characterized the human reaction to increases in sound pressure levels over ambient levels, as measured in decibels (dB), as "intrusive" for increases of five to 10 decibels, "very noticeable" for increases of 10 to 15 decibels, "objectionable" for increases of 15 to 20 decibels, and "very objectionable to intolerable" for increases of 20 or more decibels.
- E. *Right of public to be free from an environment of excessive or unwanted sound.* The public has a right to and should be free from an environment of excessive or unwanted sound, and the Board has a significant governmental interest in providing an environment free of excessive or unwanted sound.

(§ 12.1-1, 9-10-80, § 1; Code 1988, § 12.1-1; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-101 Administration and enforcement.**

The Chief of Police is hereby designated the agent of the Board of Supervisors for administering and enforcing this article. The Chief of Police may be assisted in enforcing this article by employees of the Department of Community Development and other officers and employees of the County.

(§ 12.1-3, 9-10-80, § 3; 11-14-84; Code 1988, § 12.1-3; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-102 Applicability.**

This article applies to sound produced within the County, regardless of whether the complainant or the receiving property is within or without the County, that is not subject to the noise regulations in County Code Chapter 18.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 13-7(2), 9-4-13; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-103 Definitions.**

The following definitions apply to this article unless the context requires a different meaning:

"Agricultural activity" means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities.

"Audible" means a sound that can be detected by a person using his or her unaided hearing faculties, provided that a sound is determined to be audible even if specific words or phrases cannot be discerned. Sound is audible within a building pursuant to County Code § 7-105 if it is audible at least four feet from the wall nearest the sound source, with the doors and windows of the dwelling unit or applicable room of the complainant's building closed and, where audibility is determined from a dwelling unit or hotel room, the dwelling unit or hotel room is located on a different parcel than the parcel on which the sound source is located.

"Dwelling unit" means a single unit designed to provide complete and independent living facilities for one or more persons and having permanent provisions for sleeping and sanitation.

"Emergency operation" means any emergency service provided by any police, sheriff, fire, or fire and rescue department, any volunteer fire company, any volunteer rescue squad, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

"Hospital" means any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is the provision of diagnosis, treatment, and medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known under various names such

as children's hospitals, sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

"Hotel" means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including but not limited to facilities known under various names such as hotels, motels, travel lodges, tourist homes, or hostels.

"Hotel room" means a room within a hotel designed for sleeping.

"Mixed-use site" means a single unified development on one or more units or pieces of real property on which both commercial and residential uses exist.

"Motorcycle" means every motor vehicle that is designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour.

"Motor vehicle" means every vehicle that is self-propelled or designed for self-propulsion and includes, but is not limited to, any device defined in Virginia Code § 46.2-100 as an "electric personal assistive mobility device," "electric power-assisted bicycle," "golf cart," "moped," "motorized skateboard or scooter" or "utility vehicle," but does not include a device moved by human power or used exclusively on stationary rails or tracks that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space is considered a part of a motor vehicle.

"Multi-family dwelling unit" means a structure composed of two or more dwelling units including, but not limited to, apartments, condominiums, townhouses, and duplexes.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is to provide, on a continuing basis, nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known under various names such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities, and nursing or nursing care facilities.

"Off-road vehicle" means every vehicle that is: (i) an all-terrain vehicle, which is a three-wheeled or four-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, and which is intended for off-road use by an individual rider on various types of unpaved terrain; (ii) a go-cart, which is a four-wheeled vehicle that has a low center of gravity and is typically used in racing or riding on relatively level surfaces; (iii) an off-road motorcycle, which is a motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground; and (iv) a motorcycle-like device commonly known as a trail-bike or mini-bike. The term "off-road vehicle" does not include: (i) a farm utility vehicle, which is a motor vehicle that is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle; or (ii) a utility vehicle, which is a motor vehicle that is designed and used as a general maintenance, security or other similar service vehicle.

"Outdoor" means either outside a structure, or inside a structure that has open windows, doors, or other openings that allow the activity inside the structure to be visible or audible outside the structure.

"Parcel" means, as appropriate when the term is applied in conjunction with a reference to a property line, either: (i) a separate unit or piece of real property; (ii) any area within a multi-family dwelling unit that is beyond the vertical and horizontal boundaries of the dwelling unit of the complainant; or (iii) any area within a mixed-use site that is beyond the interface between the portion of the site owned or occupied by the complainant.

"Person" means any natural person, association, partnership, corporation, or other legal entity.

"Place of public entertainment" means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall, dance hall, restaurant, or other place of entertainment open to the public, regardless of whether the payment of money or other consideration is required for admission, but does not include a music festival authorized by a special use permit under County Code Chapter 18.

"Produce" or any derivation of the word, means to produce or reproduce, to allow to produce or reproduce, to create or allow to be created, or to operate or allow to be operated.

"Property line" means either: (i) an imaginary line along the ground surface, and its vertical extension, that separates one unit or piece of real property from another, where the unit or piece is under different ownership; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-family dwelling unit building; or (iii) on a mixed-use site, the interface between the portions of the parcel on which different categories of activity are being performed.

"Public property" means real property owned by a governmental entity including, but not limited to, any public street as defined in this section.

"School" means: (i) a public school subject to Virginia Code Title 22.1; (ii) a private school serving children in one or more grades between kindergarten and grade 12; (iii) a school for students with disabilities as

that term is defined in Virginia Code § 22.1-319; (iv) a child day center as that term is defined in Virginia Code § 63.2-100; (v) the University of Virginia; and (vi) Piedmont Virginia Community College.

“Sound” means the sensation perceived by the sense of hearing.

“Sound source” means any act or device that emits sound.

“Sport shooting range” means an area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

“Street” means: (i) a public right-of-way that is part of the primary or secondary system of state highways, or is classified as a highway in the interstate system; or (ii) a privately owned and maintained travelway for motor vehicles serving two or more single family detached dwelling units that are located on two or more separate units or pieces of land, one or more multi-family dwelling units, a mixed-use site, or a site used for commercial or industrial purposes.

The meaning of any sound-related term not defined herein shall be obtained from the most recent version of the American Standard Acoustical Terminology, if the term is defined therein.

(§ 12.1-2, 9-10-80, § 2; 6-10-81; Code 1988, § 12.1-2; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 13-7(2), 9-4-11; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-104 General sound levels prohibited.**

It is unlawful for any person to produce sound that causes at least a 15 dBA increase in the sound level above the ambient sound level, as determined pursuant to County Code § 18-4.18. Any person who commits a specific prohibited act delineated in County Code § 7-105 may, in lieu of being charged with a violation of County Code § 7-105, be charged with a violation of this section if the sound produced is a violation of this section.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-105 Specific acts prohibited.**

It is unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

- A. *Motor vehicle or motorcycle operation.* The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and either:
  1. *On a street or on public property.* The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of 100 feet or more from the motor vehicle or motorcycle; or
  2. *On private property.* The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.
- B. *Sound producing or reproducing devices.* The sound is produced by any device intended primarily for the production or reproduction of sound and either:
  1. *Device within or on a motor vehicle on a street or on public property.* The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of 100 feet or more from the motor vehicle;
  2. *Device within or on a motor vehicle on private property.* The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;
  3. *Device within a place of public entertainment.* The device is located within a place of public entertainment, and the sound is audible for a duration of five continuous minutes or more, without an interruption of the sound for 30 or more consecutive seconds during the five minute period, within any one hour period: (i) from a distance of 100 feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. any day and 7:00 a.m. the following day from inside a dwelling unit or hotel room;

4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;
5. *Device producing outdoor amplified music or serving as an outdoor public address system.* The device is located to produce outdoor amplified music, to serve as an outdoor public address system, or both, including any such device used in conjunction with an agricultural activity, and the sound is not otherwise regulated under subsections (B)(1) through (4) or exempt pursuant to County Code § 7-106, and the sound is audible from inside a dwelling unit or hotel room; or
6. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, a dwelling unit, or is not producing a sound subject to subsection (B)(5), and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.

C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under County Code chapter 18, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. any day and 7:00 a.m. the following day from inside a dwelling unit or hotel room.

D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home, or court (hereinafter, collectively referred to as "institutions"), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home, or court and either:

1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session; or
2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.

E. *Construction, demolition, or maintenance activities.* Either of the following:

1. Sound produced by construction, demolition, or maintenance activities between the hours of 10:00 p.m. any day and 7:00 a.m. the following day, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.
2. Sound produced by construction, demolition, or maintenance activities related to a public facility, a public use, or a public improvement between the hours of 10:00 p.m. any day and 7:00 a.m. the following day, but which is produced by a contractor of a governmental entity, or a subcontractor of such a contractor, either off-site or outside of the project limits when the project limits are established in writing by the governmental entity, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. any day and 6:00 a.m. the following day or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. any day and 6:00 a.m. the following day within a residential zoning district established pursuant to County Code Chapter 18, and between the hours of 10:00 p.m. any day and 5:00 a.m. the following day within any non-residential zoning district established pursuant to County Code Chapter 18, including any mixed-use site, and the sound is audible: (i) from a distance of 100 feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.

H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing, and snow blowing between the hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established pursuant to County Code Chapter 18, and between the hours of 10:00 p.m. any day and 6:00 a.m. the following day within any non-residential zoning district established pursuant to County Code Chapter 18, including any mixed-use site, and the sound is audible: (i) from a distance of 100 feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 13-7(2), 9-4-13; Ord. 16-7(1), 5-4-16; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-106 Exempt sounds.**

The following sounds are not prohibited by this article:

- A. *Agricultural activities.* Sound produced by an agricultural activity.

- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which are subject to the animal noise regulations in County Code Chapter 4.
- C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.
- D. *Construction, demolition, or maintenance activities.* The following sounds:
  - 1. Sound produced by construction, demolition, or maintenance activities, except as provided in County Code § 7-105(E).
  - 2. Sound produced by construction, demolition, or maintenance activities related to a public facility, a public use, or a public improvement, where the sound is produced on-site or within the project limits established in writing by the governmental entity.
- E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision, or imminent danger, or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a gun club, shooting range, shooting preserve, or target, trap or skeet range; provided that this sound is otherwise subject to the noise regulations in County Code Chapter 18.
- G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers, and dishwashers, provided that the appliances are in good repair.
- H. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system if the sound is outdoor amplified music at a farm winery subject to the farm winery regulations in County Code § 18-5.1.25(e) or is sound produced in conjunction with an outdoor music festival authorized by special use permit pursuant to County Code Chapter 18.
- I. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks, or other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to County Code Chapter 6.
- J. *Person's voice.* Sound produced by a person's voice, except as provided in County Code § 7-105(B).
- K. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression; provided that the sound is not prohibited by County Code § 7-105.
- L. *Public facilities, public uses, and public improvements.* Sound produced by the operation of a public facility, public use, or public improvement, including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility, or non-public use.
- M. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities.
- N. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities, except as provided in County Code § 7-105(F).
- O. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in County Code § 7-105(G).
- P. *Telephones.* Normal sound produced by landline and wireless telephones.
- Q. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads, and other means of public transit, and sound produced by motor vehicles and motorcycles, except as provided in County Code § 7-105(A).
- R. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.
- S. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as provided in County Code § 7-105(H).

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-107 Complaints.**

No person shall be charged with violating County Code §§ 7-104 or 7-105 unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of a police officer, the police officer is authorized to initiate all necessary proceedings.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

**Sec. 7-108 Violation and penalty.**

A violation of this article by any person is punishable as a class 3 misdemeanor, provided that a violation of County Code § 7-105(E) by any person is punishable as a class 4 misdemeanor. Persons violating this article include, but are not limited to: (i) any person operating or controlling a sound source that is creating the violation; and (ii) any owner, tenant, or resident physically present on the parcel where the sound creating the violation is but the sound source cannot be determined.

(§ 12.1-8, 9-10-80, § 8; Code 1988, § 12.1-8; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 16-7(1), 5-4-16; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-1200.

## ARTICLE 2. NAMING ROADS AND NUMBERING PROPERTIES

**Sec. 7-200 Purpose**

The purpose of this article is as follows:

- A. *Efficiency and uniformity.* In order to provide for more efficient delivery of emergency and other services and to provide for uniformity in road naming and assigning of property numbers, this system for naming roads and numbering properties within the County is established.
- B. *All roads named, all addressable structures numbered.* It is intended by this article that all roads within the County which serve or are designed to serve three or more addressable structures will be named; and that all addressable structures within the County will be assigned property numbers.
- C. *“Road” defined.* For purposes of this article, the term “road” means any public street or private road.

(§ 16.01-1, 7-8-92; 10-13-93; Code 1988, § 16.01-1; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-201 Designation of agent.**

The Director of the Department of Community Development is hereby designated the agent under Virginia Code § 15.2-2019 for the purpose of assigning road names and structure addresses, and for developing and maintaining a manual, and any associated maps, as provided in County Code §§ 7-202 and 7-203.

(§ 16.01-2, 7-8-92; 10-13-93; Code 1988, § 16.01-2; Ord. A(1), 8-5-98; Ord. 09-7(1), 7-1-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-202 Manual.**

- A. *Contents of the manual.* The agent shall develop a manual prescribing: (i) a system for naming roads and numbering addressable structures within the County; (ii) the design of road signs; (iii) standards for site preparation for those signs; and (iv) standards for maintaining those signs.
- B. *Manual subject to approval by the Board; amendments.* The manual is subject to approval by the Board of Supervisors. Any amendments to the manual must also be approved by the Board.
- C. *Procedures and standards are mandatory.* Compliance with the procedures and standards in the manual are mandatory upon its approval by the Board of Supervisors.

(§ 16.01-3, 7-8-92; 10-13-93; Code 1988, § 16.01-3; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-203 Maps.**

The agent shall prepare and maintain current maps showing all roads which are named pursuant to this article, the names of the roads, and the numbers of the addressable structures.

(§ 16.01-4, 7-8-92; 10-13-93; Code 1988, § 16.01-4; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-204 Responsibility for placing and maintaining road signs.**

The responsibility for placing and maintaining road signs required by this article is as follows:

- A. *County Engineer.* The County Engineer is responsible for placing signs at each intersection and at other locations deemed necessary by the agent on:
  1. Each public street or private road which serves or is designed to serve three or more addressable structures which is not approved as a part of a subdivision or site plan;
  2. Each road funded by the county or the Virginia Department of Transportation; and
  3. Each existing road serving more than two parcels but not more than two addressable structures, but not until the road serves three addressable structures; provided that if a subdivision or site plan is approved which would be served by the road, then the subdivider or developer is responsible for placing the signs pursuant to subsection (B).
- B. *Subdivider or developer.* The subdivider or developer is responsible for placing signs at each intersection and at other locations deemed necessary by the agent on:
  1. Each road approved as part of a subdivision plat or site plan;
  2. Each existing road in an existing subdivision or development which is bonded for future acceptance into the secondary State highway system; and
  3. Each existing road for which placing signs becomes the responsibility of the subdivider or developer, as provided in subsection (A)(3).
- C. *Maintenance.* The subdivider or developer must maintain signs it is required to place until the roads are taken into the secondary State highway system, or are taken over for maintenance by the homeowners as required pursuant to a private road maintenance agreement. Thereafter, the signs on roads in the secondary State highway system must be maintained by the County except where a special installation has been allowed under the manual.

(§§ 16.01-1, 16.01-5, 7-8-92; 10-13-93; Code 1988, §§ 16.01-1, 16.01-5; Ord. 98-A(1), 8-5-98; Ord. 02-7(1), 1-9-02; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-205 Content of road signs.**

Each road sign placed pursuant to this article must display the name of the road or roads, and any other information the agent deems necessary, including, but not limited to, secondary or other road numbers prescribed by the Virginia Department of Transportation.

(Chap. 16.01, § 16.01-5, 7-8-92; 10-13-93; Code 1988, § 16.01-5; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-206 Numbers to be displayed.**

The owner or other person responsible for each addressable structure must display the assigned number in a manner that is easily readable in accordance with the manual within 30 days after the address effective date as established by the United States Postal Service. The County will not issue a certificate of occupancy to an addressable structure built after the United States Postal Service's established address effective date which is served by a named road until the number is displayed in accordance with this article.

(§ 16.01-6, 7-8-92; 10-13-93; Code 1988, § 16.01-6; Ord. 98-A(1), 6-17-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-207 Responsibility for cost of signs and numbering.**

- A. *When the County pays for signs.* The County will pay the cost to fabricate and place each sign it is required to install pursuant to County Code § 7-204(A).
- B. *When the subdivider or developer pays for signs.* The subdivider or developer must pay the cost to fabricate and place each sign it is required to install pursuant to County Code § 7-204(B).
- C. *The owner pays for numbers.* The owner of each addressable structure must pay the cost to fabricate and place each set of numbers for a structure.

(§ 16.01-1, 7-8-92; 10-13-93; Code 1988, § 16.01-1; Ord. 98-A(1), 6-17-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-208 Site plan, subdivision plat, and building permit requirements.**

A final subdivision plat or final site plan which shows any road required to be named must not be approved by the County unless the subdivision plat or site plan displays on its face the approved name of each road. A building permit must not be issued by the County for any structure within the area shown on a subdivision plat or site plan until road signs have been installed by the subdivider or developer.

(§ 16.01-7, 7-8-92; 10-13-93; Code 1988, § 16.01-7; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-209 Official address.**

Each road name approved and each structure number assigned for a property pursuant to this article is the official address of the property for all purposes.

(§ 16.01-8, 7-8-92; 10-13-93; Code 1988, § 16.01-8; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2019.

**Sec. 7-210 Violation and penalty.**

A willful violation of this article by any person is punishable as a class 1 misdemeanor. In addition to the penalty specified above, the County Executive may seek any other lawful remedy, including injunctive relief, to correct or abate a violation of this article.

(Ord. of 7-8-92; Ord. of 10-13-93; Code 1988, § 16.01-9; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law references**-Va. Code §§ 15.2-1429, 15.2-2019.

### ARTICLE 3. SMOKING

**Sec. 7-300 Declaration of findings and policy.**

The Board of Supervisors finds and declares that exposure to environmental tobacco smoke is a serious hazard to the public health, welfare, peace, and safety and the quality of life; that a substantial body of scientific and medical evidence exists which documents this hazard including, but not limited to, the 1986 Report of the Surgeon General entitled "The Health Consequences of Involuntary Smoking"; that both smokers and non-smokers have individual rights which are important to preserve; and that it is the object of this article to help minimize the health hazards of smoking, particularly as they exist in certain public places and places of employment, while simultaneously recognizing the sometimes competing interests of smokers and non-smokers as well as the burdens hereby imposed on persons in management and control of the places regulated.

(6-7-89; Code 1988, § 16.1-2; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2820, *et seq.*

**Sec. 7-301 Definitions.**

The following definitions apply to this article unless the context requires a different meaning:

"Bar or lounge area" means an area or a room used primarily for the sale of alcoholic beverages for consumption by patrons on the premises and in which the sale of food is merely incidental to the sale of alcoholic beverages. Although a restaurant may contain a bar, the word "bar" does not encompass an entire restaurant or any dining area.

“Child care facility” means any facility which is a “child day center” or a “family day home” as defined by Virginia Code § 63.2-100.

“Food store” means any supermarket or grocery store which is designed and arranged to display food products and which has as its primary business purpose the sale of food products to consumers for consumption off the premises, and not for resale.

“Health care facility” means any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions, including, but not limited to, hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of any physician, dentist, chiropractor, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

“Public meeting” means any meeting or assembly held by a County public body, or any County committee, department, or office in a building that is open to the public.

“Public place” means an enclosed area available for use by or accessible to the general public during the normal course of business conducted by either private or public entities.

“Shared work area” means any enclosed area on the premises of a place of employment: (i) that is a private work area in which two or more employees are assigned to work for most of their work day; (ii) where such employees must share common work spaces, equipment or facilities; and (iii) where each such employee is aware of or readily available to observe the activities of others taking place in his or her work area.

“Smoking or to smoke” means the act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind or lighting a cigar, cigarette or pipe of any kind.

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

(6-7-89; Code 1988, § 16.1-3; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2820.

**Sec. 7-302 Smoking prohibited in certain public places.**

Except as otherwise provided in this article, it is unlawful for any person to smoke in any of the following public places:

- A. *Elevators*. In an elevator, regardless of capacity, except in those elevators in single-family dwellings.
- B. *Health care facilities*. In any health care facility, regardless of capacity, but with the exception of private patient rooms designed for only one patient.
- C. *Public meetings*. In any public meeting attended by more than two persons.
- D. *Theaters*. In any theater, except smoking by performers as part of the production.
- E. *Cultural facilities*. In any art gallery, library, museum or similar cultural facility, supported in whole or in part with public funds.
- F. *County buildings*. In the County office building and any other public building that is wholly or partially owned or leased by the County, is located within and is a part of the corporate limits of the County and is under the direct and exclusive management of the County Executive's Office.
- G. *Restaurants*. In the designated no-smoking area of any restaurant that is subject to the provisions of County Code § 7-304.
- H. *Schools and child care facilities*. In any elementary or secondary school, or child care facility, whether public or private.
  - I. *County owned or leased vehicles for public transportation*. In any vehicles owned or leased by the County and used regularly for public transportation, including, but not limited to, transit buses and school buses.
  - J. *Food stores*. In any food store.
  - K. *Retail stores*. In any retail store.
  - L. *Financial institutions*. In any bank or savings and loan.
  - M. *Shopping malls*. In any enclosed shopping mall.

(6-7-89; Code 1988, § 16.1-4; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code §§ 15.2-2829 through 15.2-2831.

**Sec. 7-303 Smoking in certain private places of employment.**

- A. *Smoke-free work areas in shared work areas.* Any employer who owns and operates a business within the County and who employs five or more employees must provide, to the extent reasonably practicable, smoke-free work areas for non-smoking employees who work in a shared work area or space that are entered by the general public in the normal course of business or use of the premises.
- B. *Smoking prohibited in shared work areas; exception.* Unless each and every employee in a particular shared work area consents in writing, smoking is prohibited in the shared work areas of an employer subject to this section.
- C. *Designated smoking areas.* Nothing herein prevents an employer subject to this section from establishing lawfully designated smoking areas outside of shared work areas and in accord with County Code § 7-307; provided, that employers may not designate restrooms and lunchrooms in buildings they own or manage as smoking areas, unless separate restrooms and lunchrooms are furnished for smokers and non-smokers.

(6-7-89; Code 1988, § 16.1-4; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code §§ 15.2-2827, 15.2-2831(2).

**Sec. 7-304 Designated no-smoking areas in restaurants.**

- A. Any restaurant having the capacity to seat seventy-five or more persons shall have a designated no-smoking area comprised of at least twenty percent of the seating capacity of such restaurant. The designated no-smoking area shall be located in a separate room, if one is available in the restaurant, or, if no separate room is available, it shall be located in a compact and contiguous area as far removed from areas where smoking is permitted, and closest to the best source of ventilation, as is reasonably possible under applicable building code and fire regulations. In determining whether the designed twenty percent non-smoking area is of sufficient size to comply with this chapter, seats in any room or area which is closed for business at the time of determination shall not be counted.
- B. In determining whether a restaurant is subject to the provisions of paragraph (A) of this section, the following shall not be included:
  1. Seats in the bar or lounge area of a restaurant;
  2. Seats in any separate room of a restaurant which is used exclusively for private functions; and
  3. Seats located out-of-doors.

(6-7-89; Code 1988, § 16.1-7; Ord. 98-A(1), 8-5-98)

**State law reference**-Va. Code § 15.2-2825(A).

**Sec. 7-305 Exemptions.**

The prohibitions of this article do not apply to the following areas:

- A. *Designated smoking areas.* Lawfully designated smoking areas which comply with County Code § 7-306.
- B. *Theater lobbies.* Theater lobbies, provided that the lobby is physically separated from the spectator area and a separate lobby is provided for smokers and non-smokers.
- C. *Non-shared work areas.* Office or work areas which are not shared work areas and which are not entered by the public in the normal course of business or use of the premises.
- D. *Tobacco stores.* Tobacco stores that sell tobacco and smoking implements.
- E. *Enclosed public buildings.* Areas within enclosed public buildings which are being used as private dwelling units or are occupied by tenants who are leasing space from the County not subject to any express prohibitions in this article.
- F. *Courthouses.* Courthouses owned or leased by the County.
- G. *Health care facilities treating addictions or psychiatric disorders or illnesses.* Health care facilities or portions thereof which engage primarily in the treatment of patients suffering from alcohol and other chemical dependency or abuse, or psychiatric disorders or illnesses when implementation of the smoking prohibitions contained in this chapter would, in the written opinion of attending physicians, produce a significant risk of worsening a patient's mental health.

H. *Public buildings of other public entities.* Buildings owned or leased by the City of Charlottesville, the Commonwealth of Virginia (including the University of Virginia), and the federal government and its agencies.

(6-7-89; Code 1988, § 16.1-6; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-306 Designated smoking areas generally.**

The owner or person in charge of any building, structure, space, place, or area in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted; provided, that:

- A. *Smoking rooms or areas must be separate.* Rooms or areas in which smoking is permitted and which are so designated must be separate, to the extent reasonably practicable, from those rooms or areas entered by the public in the normal course of use of the particular business or institution.
- B. *Ventilation and barriers.* In designated smoking areas, ventilation systems and existing physical barriers shall be used, when reasonably practicable, to minimize the toxic effect of smoke in adjacent non-smoking areas.
- C. *Size of designated smoking area may not defeat purpose of article.* Designated smoking areas must not be so large in number or area in any one building that the fundamental purposes of this article are defeated.

(6-7-89; Code 1988, § 16.1-8; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2827.

**Sec. 7-307 Posting signs.**

- A. *Posting signs in buildings; content.* Any person who owns, manages, or otherwise controls any building or area in which smoking is regulated by this article must post in an appropriate place in a clear, conspicuous, and sufficient manner "Smoking Permitted" signs or "No Smoking" signs (or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). The text on these signs must be at least one inch in height, and the international symbol must have a circle of at least four inches in diameter.
- B. *Signs in restaurants; location and content.* Every restaurant regulated by this article must post at or near its entrance a sign stating that a non-smoking section is available, and whether it is physically separated by a wall from the smoking section (*i.e.*, "partitioned" or "nonpartitioned").
- C. *Optional content.* "No Smoking" signs may, but are not required to, contain language that violation of the no smoking prohibition is punishable by a fine up to \$100.00.
- D. *Signs in small restaurants not otherwise subject to this article.* Any restaurants having the capacity to seat fewer than 75 persons and are, therefore, not otherwise subject to this article, must post signs at or near their entrances that adequately inform the public of what type of non-smoking or smoking policy is preferred and enforced by management within the restaurant.

(6-7-89; Code 1988, § 16.1-9; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code §§ 15.2-2825(B), 15.2-2826(B).

**Sec. 7-308 Enforcement.**

- A. *Duty to enforce.* This article is enforced by the Thomas Jefferson Health District or any other department or person designated by the County Executive.
- B. *Citizen complaint may initiate enforcement.* Any citizen who desires to register a complaint under this article may initiate enforcement with the Thomas Jefferson Health District.

(6-7-89; Code 1988, § 16.1-10; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-309 Violations.**

A violation of this article by any person is punishable as a class 4 misdemeanor. Each day that this article is violated is a separate offense.

(6-7-89; Code 1988, § 16.1-11; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-2833.

**ARTICLE 4. RADIOACTIVE MATERIALS**

**DIVISION 1. PURPOSE AND DEFINITIONS**

**Sec. 7-400 Purpose.**

The purpose of this article is to promote the public health, safety, and welfare of the people of the County and to conserve its land, water, air, and natural and historical resources.

This article is directed at the disposal of radioactive materials and in particular the disposal of biologically active radioactive materials. It establishes certain standards for protection against radiation hazards to ensure that every reasonable effort is made to maintain radiation exposures and release of radioactive material into the environment as low as is reasonably achievable. The term "as low as is reasonably achievable" means as low as is reasonably achievable taking into account the state of technology and knowledge of the long-term effects of radioactive substances, and the economics of improvements in relation to the benefits to the public health, safety, and welfare, the human error factor and other societal and socio-economic considerations, and in relation to the use of ionizing radiation in the public interest.

(Code 1988, § 15.1-1; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-401 Definitions.**

The following definitions apply to this article unless the context requires a different meaning:

"By-product material" means: (i) any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; (ii) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily of its source material content; (iii) any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; (iv) any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; and (v) any discrete source of naturally occurring radioactive material (NORM), other than source material that the Nuclear Regulatory Commission (NRC), in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security, that is extracted, or converted after extraction, for use for a commercial, medical, or research activity.

"Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, department of the State other than the Department of Health, political subdivision of the State, any other state or political subdivision or department thereof, and any legal successor, representative, agent, or department of the foregoing, but not including federal government agencies.

"Property" means real property within the County.

"Radioactive material" means any material that emits ionizing radiation spontaneously.

"Source material" means uranium or thorium, or any combination thereof, in any physical or chemical form; or ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

"Special nuclear material" means: (i) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States Nuclear Regulatory Commission or any successor thereto has determined to be such but does not include source material; or (ii) any material artificially enriched by any of the foregoing but not including source material.

(Code 1988, § 15.1-1; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference-Va. Code § 32.1-227.**

**Sec. 7-402 Medical diagnosis and therapy.**

This article shall not be interpreted to limit the intentional exposure of patients to radioactive material for the purpose of medical diagnosis or medical therapy.

(Code 1988, § 15.1-3; Ord. 98-A(1), 8-5-98; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**DIVISION 2. DISPOSAL**

**Sec. 7-403 Disposal by incineration of certain by-product materials is prohibited.**

No person may use any property for disposing by incineration by-product material required to be licensed by the United States Nuclear Regulatory Commission and having a half life greater than 12.0 years with atomic numbers between 3 and 84, inclusive. By-product materials having a half life greater than 12.0 years with atomic numbers between 3 and 84, inclusive, includes: Carbon-14, Cesium-135, Cesium-137, Chlorine-36, Europium-152, Holmium-166, Hydrogen-3, Iodine-129, Nickel-59, Nickel-63, Niobium-93m, Platinum-193, Samarium-151, Strontium-90, Technetium-97, Technetium-99 and Zirconium-93, as listed in Appendix C to 10 C.F.R. Part 20.

(§ 15.1-4, Code 1988; § 7-404, Ord. 98-A(1), 8-5-98; § 7-403, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-404 Disposal by incineration; when permitted; manner of disposal.**

A. *When disposal by incineration permitted; maximum levels.* No person may use any property for disposing by incineration by-product material required to be licensed by the United States Nuclear Regulatory Commission and having a half life less than 12.0 years in such a manner that the gaseous effluent from incineration exceeds the most restrictive value (soluble or insoluble) of the limits specified for air in Appendix B, Table 2 to 10 C.F.R. Part 20. Further, the maximum activity level for the following single radionuclides to be burned per day must not exceed:

Radionuclide (Microcuries)	Maximum Activity to be Incinerated per Day
Phosphorous-32	35
Sulfur-35	150
Calcium-45	15
Iodine-125	1
Iodine-131	1
Thallium-201	500
Any By-product Material listed in 10 C.F.R. 20, Appendix B, having a half- life less than 12.0 years	$MPC_a^* \times 10^{10} m1$ (most restrictive of soluble or insoluble)*

If more than one radionuclide is in a single burn, the maximum activity of each radionuclide to be burned shall be calculated by the "sum of the ratios" method described in "Note to Appendix B" of 10 C.F.R. Part 20.

- B. *Record of materials incinerated required.* Any person authorized by this article to dispose of by-product material by incineration must keep a running record of all materials incinerated. The records must include: (i) radionuclides present; (ii) total activity of each radionuclide; and (iii) the result of using the "sum of ratio" method described in "Note to Appendix B" of 10 C.F.R. Part 20. These records must be provided each month to the County Fire Chief.
- C. *Ash must be disposed outside of the County.* Any person authorized by this article to dispose of by-product material by incineration shall treat the ash from the burn of one or more radionuclides as if it contained all of the radioactive material initially present and must dispose of the ash outside the County.

(§ 15.1-5, Code 1988; § 7-405, Ord. 98-A(1), 8-5-98; § 7-404, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-405 Storage prohibited; exception.**

- A. *Storing material is prohibited.* Except as provided in subsection (B), no person may use any property as a temporary or permanent disposal site for storing, by burial or otherwise, any by-product material or special nuclear material required to be licensed by the United States Nuclear Regulatory Commission.
- B. *When storing material is permitted.* Any person having used such radioactive material within the County or the City of Charlottesville for medical, educational, or research purposes and having a license from the United States Nuclear Regulatory Commission to receive, possess, use, or transfer those materials temporarily may store the radioactive materials within the County.

(§ 15.1-6, Code 1988; § 7-406, Ord. 98-A(1), 8-5-98; § 7-405, Ord. 20-7(1), 3-18-20, effective 5-1-20)

## ARTICLE 5. NUISANCES

## **DIVISION 1. UNCONTROLLED VEGETATION**

## Sec. 7-501 Definitions.

The following definitions apply to this division unless the context requires a different meaning:

“Developed” means any real property where improvements have been made to change it from its natural state.

“Improvements” means permanent changes or additions to real property that enhance its value or utility or adapt it for new or further purposes.

“Natural landscaping” means a managed area specifically set aside by a land owner for conservation purposes, using native plants, which aims to blend residential or commercial property into the natural surroundings.

“Owner,” as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or a part of the building or land.

"Property" means real property within the County.

"Undeveloped" means any real property that remains unimproved.

"Vacant" means any property, with or without improvements, that is not occupied.

(Ord. 09-7(2), 9-2-09; Ord. 15-7(1), 5-6-15; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-502 Grass, weeds, brush, and other uncontrolled vegetation exceeding 12 inches in height is prohibited.**

- A. *Uncontrolled vegetation exceeding 12 inches in height is prohibited.* It is unlawful for any owner of property to allow uncontrolled vegetation to exceed 12 inches in height. Therefore, except as provided in County Code § 7-503, the owner of any vacant developed or undeveloped property, including property upon which buildings or other improvements are located, must not permit any grass, weeds, brush, or other uncontrolled vegetation in excess of 12 inches in height to remain thereon, where the vegetation is located:
  1. *Developed property.* On any vacant developed property.
  2. *Undeveloped property.* On that portion of any undeveloped property that is within 75 feet of any public right-of-way or developed property under separate ownership.
- B. *Disposing vegetation.* Upon remedying any unlawful condition pursuant to subsection (A), the owner must dispose of the vegetation in a lawful manner that eliminates any potential fire hazard.

(Ord. 09-7(2), 9-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-901(A)(3).

**Sec. 7-503 Exemptions.**

This division does not apply in:

- A. The corporate limits of the Town of Scottsville.
- B. The Monticello Historic zoning district.
- C. The Rural Areas zoning district.
- D. Areas used for pastures, that are under cultivation, are forested, or are within utility transmission easements.
- E. Areas where the vegetative growth is regulated under State or federal laws or programs.
- F. Any stream buffer required by the County Code or which is protected under a permanent conservation or open-space easement.
- G. Areas landscaped pursuant to an approved plan of natural landscaping, provided that the natural landscaping: (i) does not encroach within a minimum of five feet from any developed areas, roads, or buildings; and (ii) includes and maintains at least 80 percent native plants by area coverage; and further provided that the approved plan includes a plan to identify and manage native plant material as well as a plan to manage and eliminate noxious weeds.
- H. Property designated through an approved zoning or subdivision plat as open space, green space, conservation area, or preservation area and that is intended to remain in its natural state.
- I. Public park lands
- J. Stormwater management facilities such as detention ponds.

(Ord. 09-7(2), 9-2-09; Ord. 15-7(1), 5-6-15; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**Sec. 7-504 Cutting uncontrolled vegetation; notice to owner; collecting costs.**

- A. *Notice of violation to the owner.* If the County Executive determines by reports, inspections, or otherwise, that a condition violating this division exists, he must provide written notice to the owner of the property which the violation exists to cut or cause to be cut the grass, weeds, brush, or other uncontrolled vegetation within a reasonable time as stated in the notice. The notice must be delivered by hand or mailed to the last known address of the owner.
- B. *Failure by the owner to timely abate the violation; County cutting uncontrolled vegetation.* If the owner fails to cut the grass, weeds, brush, or other uncontrolled vegetation within the time stated in the notice, the County Executive may cause them to be cut. The County's costs and expenses, including

an administrative handling charge of \$100.00, shall be billed to the owner, and if not paid, must be added to and collected in the same manner as the real estate tax on the property.

C. *Collection.* The County Executive shall certify the costs and expenses to the Director of Finance, who must collect the amount. If the amount remains unpaid for a period of 60 days, then the Director of Finance must certify the charges as being unpaid to the Clerk of the Circuit Court of the County, who shall maintain a record book of these delinquent costs and expenses in the records of the Clerk's office.

(Ord. 09-7(2), 9-2-09; Ord. 20-7(1), 3-18-20, effective 5-1-20)

## DIVISION 2. STAGNANT WATER

### **Sec. 7-505 Definitions.**

The following definitions apply to this division unless the context requires a different meaning:

“Container” means any man-made vessel with the capability to retain one inch depth of water or more, including, but not limited to, buckets, pails, tires, gutters, tarpaulins, and portable or storable swimming pools. The term “container” does not include rain barrels or any depression, whether natural or man-made, in the surface of the ground.

“Hot tub” means any man-made container designed to hold water in which one or more persons bathe or soak, and includes spas and whirlpools.

“Property” means real property within the County.

“Stagnant water” means any accumulation of water, one inch of depth or more, remaining for at least 10 consecutive days between May 1 and October 31 in any swimming pool, hot tub, or container, provided that water is not deemed to be stagnant if it is: (i) fully enclosed in a building, house, or other structure; (ii) moving by artificial or natural means; or (iii) chemically treated or filtered so as to prevent the growth of mosquito larvae.

“Swimming pool” means any container or tank, whether constructed in ground or placed above ground, designed for one or more persons to swim.

(Ord. 15-7(1), 5-6-15; Ord. 20-7(1), 3-18-20, effective 5-1-20; Ord. 20-7(1), 3-18-20, effective 5-1-20)

### **Sec. 7-506 Stagnant water is a public nuisance and is prohibited.**

A. *Stagnant water is a public nuisance.* Stagnant water in swimming pools, hot tubs, and other containers on private property is a public nuisance that endangers the health or safety of the residents of the County.

B. *Stagnant water is prohibited.* It is unlawful for any owner or occupant of any property in the County to allow any stagnant water to remain or accumulate in any swimming pool, hot tub, or any other container thereon.

(§ 7-506, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference-**Va. Code § 15.2-901(A).

### **Sec. 7-507 Removing stagnant water; notice to owner; collecting costs.**

A. *Notice of violation to the owner or occupant.* If the County Executive determines by reports, inspections, or otherwise, that a condition violating this division exists, he must provide written notice to the owner or occupant of the property on which the violation exists to remove the stagnant water within a reasonable time as stated in the notice. The notice must be delivered by hand or mailed to the last known address of the owner or, if to the occupant, to the address of the property on which the stagnant water exists.

B. *Failure by the owner or occupant to timely abate the violation; County removing stagnant water.* If the owner or occupant fails to remove the stagnant water within the time stated in the notice, the County Executive may cause the stagnant water to be removed. The County's costs of removal shall be billed to the owner, and if not paid, must be added to and collected in the same manner as the real estate tax on the property.

C. *Collection.* The County Executive shall certify the costs and expenses to the Director of Finance, who must collect the amount. If the amount remains unpaid for a period of 60 days, then the Director of Finance must certify the charges as being unpaid to the Clerk of the Circuit Court of the County, who shall maintain a record book of these delinquent costs and expenses in the records of the Clerk's office.

(§ 7-506, Ord. 15-7(1), 5-6-15; § 7-507, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference-**Va. Code § 15.2-901(A).

## DIVISION 3. PENALTIES

### Sec. 7-508 Lien against property.

- A. *Lien against property established.* Every charge authorized by this article with which the owner has been assessed and which remains unpaid constitutes a lien against the property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (Virginia Code § 58.1-3940 *et seq.*) and 4 (Virginia Code § 58.1-3965 *et seq.*) of Chapter 39 of Title 58.1 of the Virginia Code.
- B. *Waiving any lien; limitation.* The County may waive any liens in order to facilitate the sale of the property. A lien may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner.
- C. *Liens remain a personal obligation of the owner.* All liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(§ 7-505, Ord. 09-7(2), 9-2-09; § 7-507, Ord. 15-7(1), 5-6-15; § 7-508, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-901(B).

### Sec. 7-509 Civil penalty.

Violations of this article are subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months after the first violation is \$200.00. Each business day during which the same violation is found to have existed constitutes a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12 month period.

(§ 7-506, Ord. 09-7(2), 9-2-09; § 7-508, Ord. 15-7(1), 5-6-15; § 7-509, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-901(C).

### Sec. 7-510 Criminal penalty.

If three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24 month period, each subsequent violation is a class 3 misdemeanor. Classifying each subsequent violations as a criminal offense precludes the imposition of civil penalties for the same violation.

(§ 7-507, Ord. 09-7(2), 9-2-09; § 7-509, Ord. 15-7(1), 5-6-15; § 7-510, Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-901(D).

## ARTICLE 6. SHORT-TERM RENTAL REGISTRY

### Sec. 7-601 Definitions.

The following definitions apply to this article unless the context requires a different meaning:

“Operator” means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, license, or any other possessory capacity.

“Short-term rental” means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. A “homestay,” as defined and regulated in County Code Chapter 18, is a short-term rental.

(§ 7-601; Ord. 19-7(1), 8-7-19; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-983.

### Sec. 7-602 Registration.

- A. *Annual registration.* Each operator must register annually with the County’s Department of Community Development, and provide at least the operator’s complete name and the address of each property in the County offered for short-term rental by the operator.
- B. *Annual fee.* A fee of \$27.00 shall be charged for each registration to cover the actual costs of establishing and maintaining the registry.

C. *Exemptions from registration.* Registration is not required if the operator is exempted from registration under Virginia Code § 15.2-983(B)(2).

(§ 7-602; Ord. 19-7(1), 8-7-19)

**State law reference**-Va. Code § 15.2-983.

**Sec. 7-603 Penalties.**

A. *Nonregistration penalty.* Any operator required to register who offers for short-term rental a property that is not registered with the County is subject to a penalty of \$500.00 per violation. Each day that an unregistered property is offered for short-term rental constitutes a separate violation. Unless and until an operator pays the penalty and registers the property, the operator may not continue to offer the property for short-term rental. Upon repeated violations of this Article pertaining to the same property the operator shall be prohibited from registering and offering that property for short-term rental.

B. *Multiple violations.* An operator required to register shall be prohibited from offering a specific property for short-term rental upon more than three violations of applicable State laws or any County ordinances or regulations, as they relate to the short-term rental.

(§ 7-603; Ord. 19-7(1), 8-7-19)

**State law reference**-Va. Code § 15.2-983.

**Sec. 7-604 Registry administration.**

The Department of Community Development shall administer and enforce the short-term rental registry program, and its responsibilities include, but are not limited to, receiving registrations, maintaining a registry, collecting fees, creating forms, and imposing penalties.

(§ 7-604; Ord. 19-7(1), 8-7-19; Ord. 20-7(1), 3-18-20, effective 5-1-20)

**State law reference**-Va. Code § 15.2-983.

**This ordinance shall be effective on and after May 1, 2020.**

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Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda.

There were none.

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Agenda Item No. 19. From the County Executive: Report on Matters Not Listed on the Agenda.

There was none.

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Agenda Item No. 20. Adjourn.

At 8:46 p.m., the Board adjourned their meeting to April 1, 2020 at 1:00 p.m. in Lane Auditorium. He noted this was the current plan, and with everything happening with COVID-19, this could change.

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Chair

Approved by Board
Date 10/21/2020
Initials CKB