

ORDINANCE NO. 23-18(3)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING 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 18, Zoning is hereby reordained and amended as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 4.15.5 Permanent signs for which a sign permit is required; signs exempt from obtaining a sign permit
- Sec. 30.6.6 Submittal, review and action on application; preliminary review
- Sec. 30.6.7 Submittal, review and action on application; final review
- Sec. 32.3.4 Fees
- Sec. 32.8.2 Agreement and surety
- Sec. 32.8.6 Dam break inundation zones; prerequisite to development
- Sec. 33.4 Uniform Requirements for Owner Initiation of Zoning Map Amendments and Special Use Permits
- Sec. 34.3 Appeals of orders, requirements, decisions, and determinations to the board of zoning appeals
- Sec. 34.4 Variances
- Sec. 34.6 Interpreting a district map
- Sec. 35.1 Fees

By Removing:

- Sec. 35.2 Calculation of fees in special circumstances
- Sec. 35.3 Mode and timing for paying fees
- Sec. 35.4 Fee refunds
- Sec. 35.5 Pre-existing use fee waiver

Chapter 18. Zoning Article I. General Provisions

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Sec. 3.1 - Definitions

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Building permit. "Building permit" means a permit issued by the building official under the Building Code-that is subject to the fees stated in County Code Chapter 1, Article 5.

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Chapter 18. Zoning Article II. Basic Regulations

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Sec. 4.15.5 – Permanent signs for which a sign permit is required; signs exempt from obtaining a sign permit.

Each permanent sign is subject to the following:

a. *Signs required to obtain sign permit.* Except for those signs identified in subsection (b), a sign permit must be obtained for each sign prior to its erection, alteration, replacement, or relocation to ensure that it complies with any applicable requirements of this section 4.15, as provided herein:

1. *Application.* An application for a sign permit must be submitted to the department of community development, together with payment of the fee required for the application pursuant to County Code Chapter 1, Article 5. A complete application consists of the following:

- a. A fully completed application form, provided to the applicant by the zoning administrator;
- b. A schematic legibly drawn to scale and sufficiently detailed showing the proposed location and dimensions of the sign; and
- c. Any plans, specifications and details pertaining to, among other things, the sign materials, the methods of illumination, methods of support, components, and the condition and age of the sign, as determined by the zoning administrator to be necessary for the review of the application.

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Chapter 18. Zoning
Article III. District Regulations

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Sec. 30.6.6 - Submittal, review and action on application; preliminary review.

Applications for preliminary review under section 30.6 are subject to the following:

a. *Applications.* An application for preliminary review must contain a completed county-provided application form and supplemental information required by the director of planning (the "application"). The application may be filed with the department of community development by the owner, the owner's agent, or a contract purchaser with the owner's written consent (the "applicant"). Eight collated copies of the application and all other information required by the application form for a preliminary review must be filed. The application must be accompanied by the fee required by County Code Chapter 1, Article 5, at the time of its filing.

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Sec. 30.6.7 – Submittal, review and action on application; final review.

Applications for final review under section 30.6 are subject to the following:

a. *Applications.* An application for final review must contain a completed county-provided application form and supplemental information required by the director of planning (the "application"). The application may be filed by the owner, the owner's agent, or a contract purchaser with the owner's written consent (the "applicant"), with the department of community development. Eight collated copies of the application and all other information required by the application form for a final review must be filed. The application must be accompanied by the fee required by County Code Chapter 1, Article 5 at the time of its filing.

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Chapter 18. Zoning
Article IV. Procedure

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Sec. 32.3.4 - Fees.

The developer must pay the applicable fees as provided in County Code Chapter 1, Article 5.

(§ 32.3.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.9, 5-5-82; § 32.6.6, 12-10-80; Ord. 23-18(3), 12-6-23)

State Law reference— Va. Code § 15.2-2241 (9).

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Sec. 32.8.2 – Agreement and surety.

Any developer who does not complete all required improvements as provided in section 32.8.1 must, prior to approval of a final site plan, enter into an agreement with the county to complete the construction and installation of all improvements required by section 32.7 within a period of time agreed to by the parties, and must provide a surety to guarantee the completion of the improvements, as follows:

- a. *Form of the agreement.* The agreement accompanying the surety must be on a form prepared by the county attorney and any proposed amendment to the agreement is subject to review and approval by the county attorney.
- b. *Type of surety permitted and amount.* The developer must furnish to the agent a certified check, official check, bond with surety, letter of credit, or collaterally assign funds in a manner satisfactory to the county attorney (collectively, the "surety instrument"), in an amount sufficient for and conditioned upon the completion of the construction and installation of the improvements, as determined under subsection (b). Any proposed surety instrument is subject to review and approval as to form and substance by the county engineer and the county attorney.
- c. *Estimate.* The developer must submit a request for an estimate of the surety amount to the county engineer. The county engineer will prepare a cost estimate of all improvements, based upon unit prices for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs, including inspection fees provided in County Code Chapter 1, Article 5, inflation, and potential damage to existing streets or utilities, which may not exceed ten percent of the estimated construction costs.
- d. *Use of surety.* The county may make use of monies guaranteed by the surety instrument if either: (i) the developer fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the county engineer, in his discretion, determines that any of the improvements have not been completed in a timely manner and the completion of the improvements is deemed necessary to protect the public health, safety or general welfare. The county's use of the monies guaranteed by the surety instrument will not terminate the agreement accompanying the surety instrument.

(§ 32.8.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.7, 5-1-87; § 32.5.2, 12-10-80; Ord. 23-18(3), 12-6-23)

State Law reference— Va. Code §§ 15.2-2241 (5), 15.2-2241 (9), 15.2-2255.

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Sec. 32.8.6 — Dam break inundation zones; prerequisite to development.

Following the completion of the engineering studies in accordance with Virginia Code § 15.2-2243.1 (A) and the determination by the Virginia Department of Conservation and Recreation that the developer's plan of development would change the spillway design flood standards of the impounding structure, before any development within a dam break inundation zone:

- a. *Payment for portion of necessary upgrades.* The developer must pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development, together with an administrative fee as provided in County Code Chapter 1, Article 5. Any payments must be made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority pursuant to Virginia Code § 10.1-603.19:1. "Necessary upgrades" do not include costs associated with routine operation, maintenance, and repair, nor do they include repairs or upgrades to the impounding structure not made necessary by the proposed development; or
- b. *Redesign the development.* The developer must amend the site plan so that it does not alter the spillway design flood standards required of the impounding structure.

(Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 23-18(3), 12-6-23)

State Law reference— Va. Code §§ 10.1-606.3, 15.2-2243.1.

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Sec. 33.4 – Uniform Requirements for Owner Initiation of Zoning Map Amendments and Special Use Permits.

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H. *When an application is determined to be complete; effect.*

1. When the Agent determines that the applicant has submitted all required information, the Agent will determine the application to be complete. On that date (or ten days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application), the application is deemed referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to subsection (O), except as provided in subsection (H)(3).

2. *Notification of Applicant.* The Agent will notify the applicant by letter or by e-mail when the application has been determined to be complete.

- a. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment will be provided to each owner subject to the same proffers, as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.

- b. *Notice to owner of application for special use permit filed by easement holder or electric cooperative when application determined to be complete.* Within ten days after an application for a special use permit filed by an easement holder is determined to be complete, written notice of the proposed special use permit will be provided to each owner of the property for which the special use permit is sought, as required by Virginia Code § 15.2-2204(H).

c. *Notice of completed applications to holders of open-space or conservation easements.* For zoning map amendments or special use permits pertaining to a parcel subject to an open-space easement or a conservation easement, the Agent will provide written notice within ten days after the application is determined to be complete to each holder of the open-space easement, other than the County, or the conservation easement. The notice will be sent by first class mail. The notice will inform the recipient that the application has been filed and describe the nature of the application. An action on an application will not be invalidated solely because of a failure to timely mail this notice.

3. *Paying fees.* The applicant must pay the fees required in County Code Chapter 1, Article 5 when the application is determined to be complete or if the Agent fails to make a timely determination on the completeness of the application. The application will not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors does not begin, until the applicant pays the fees. An application is void if the applicant fails to pay the fees either (a) within ten days of the notice that the application is determined to be complete or (b) within 20 days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection (O) only after the required fees have been paid.

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Sec. 34.3 - Appeals of orders, requirements, decisions, and determinations to the board of zoning appeals.

An appeal from any order, requirement, decision or determination made by an administrative officer, and an appeal from any decision of the zoning administrator, in the administration or enforcement of Virginia Code §§ 15.2-2280 through 15.2-2316.2 and this chapter (collectively, a "decision"), exclusive of any decision made under section 32, will be considered by the board of zoning appeals (the "board") as follows:

- a. *Standing to appeal.* An appeal to the board may be taken by any person aggrieved or by any county officer, department, board or bureau affected by any decision of the zoning administrator or an administrative officer.
- b. *Time in which to appeal decision.* Any appeal shall be received by the zoning administrator and the board within 30 days after the date of the decision; provided that any appeal of a notice of violation involving temporary or seasonal commercial uses, parking commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations, shall be received by the zoning administrator and the board within ten days after the date of the decision. The date of the decision shall be the date of the letter or written notice, provided that the time in which to appeal an order or a notice of violation shall not commence unless and until the recipient is provided the notice required by section 36.2(d).
- c. *Form of the appeal.* Any appeal shall be in writing and shall state the grounds for the appeal.
- d. *Where appeal must be submitted.* An appeal must be submitted to the zoning administrator and to the board. An appeal received by the county's department of community development is deemed to have been received by both the zoning administrator and the board.

- e. Payment of fees. The submitted appeal must be accompanied by the applicable fee required in County Code Chapter 1, Article 5. An appeal is not deemed to have been received until the required fee is paid.

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Sec. 34.4 - Variances.

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- e. *Payment of fees.* When an application is determined to be complete, the applicant must pay the fee required in County Code Chapter 1, Article 5 before the application is further processed.

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Sec. 34.5 – Special use permits.

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- e. *Payment of fees.* When an application is determined to be complete, the applicant must pay the fee required in County Code Chapter 1, Article 5 before the application is further processed.

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Sec. 34.6 – Interpreting a district map.

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- e. *Payment of fees.* When an application is determined to be complete, the applicant must pay the fee required in County Code Chapter 1, Article 5 before the application is further processed.

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Sec. 35.1 - Fees.

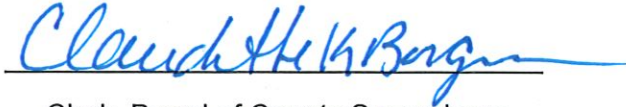
Each applicant must pay any applicable fees provided in County Code Chapter 1, Article 5, provided that neither the county nor the county school board is required to pay any fee if it is the applicant.

(§ 35.1: Amended 5- 5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; Ord. 10-18(7) , adopted 8-4-10, effective 1-1-11; Ord. 11-18(1) , 1-12-11; Ord. 11-18(7) , 6-1-11; Ord. 12-18(6) , 10-3-12, effective 1-1-13; Ord. 12-18(7) , 12-5-12, effective 4-1-13; Ord. 13-18(7) , 12-4-13, effective 1-1-14; Ord. 14-18(1) , 3-5-14; Ord. 14-18(2) , 3-5-14; Ord. 15-18(8) , adopted 10-14-15, effective 11-1-15; Ord. 16-18(4) , 4-6-16; Ord. 18-18(5) , 11-7-18; Ord 19-18(3), 6-5-19; Ord. 19-18(6) , 8-7-19; Ord. 21-18(2) , 4-21-21, effective 7-1-21; Ord. 23-18(3), 12-6-23)

State Law reference— Va. Code §§ 15.2-2286 (A)(6), 15.2-2241 (9), 15.2-2243.1.

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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 six to zero, as recorded below, at a regular meeting held on December 6, 2023.



Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Andrews	<u>Y</u>	___
Mr. Gallaway	<u>Y</u>	___
Ms. LaPisto-Kirtley	<u>Y</u>	___
Ms. Mallek	<u>Y</u>	___
Ms. McKeel	<u>Y</u>	___
Ms. Price	<u>Y</u>	___