

ORDINANCE NO. 23-14(1)

AN ORDINANCE TO AMEND CHAPTER 14, SUBDIVISION OF LAND 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 14, Subdivision of Land is hereby reordained and amended as follows:

By Amending:

Sec. 14-203 Fees

Sec. 14-435 Agreement and Surety

Sec. 14-441 Dam break inundation zones; prerequisite to development

**Chapter 14. Subdivision of Land
Article II. Administration and Procedure
Division 1. Administration**

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Sec. 14-203 - Fees.

Upon the submittal of a plat or other application, each subdivider must pay any applicable fees provided in County Code Chapter 1, Article 5.

(§ 3, 8-28-74; 11-10-76; 3-2-77; 12-14-77; 12-1-82; 4-17-85; 6-7-89; 12-11-91; § 18-43, 9-5-96; § 14-203, Ord. 98-A(1), 8-5-98; Ord. 99-14(1), 6-16-99; Ord. 02-14(2), 7-3-02; Ord. 04-14(1), adopted 12-8-04, effective 2-8-05; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(1), 5-13-09, effective 10-1-09; Ord. 11-14(1), 6-1-11; Ord. 13-14(1), 12-4-13, effective 1-1-14; Ord. 15-14(1), adopted 10-14-15, effective 11-1-15; Ord. 21-14(1), 4-21-21, effective 7-1-21; Ord. 23-14(1), 12-6-23)

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

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Sec. 14-435 - Agreement and surety.

Any subdivider who does not complete all required improvements as provided in this chapter must, prior to approval of a final plat, enter into an agreement with the county to complete the construction and installation of all improvements required by this chapter 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 subdivider 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 (C). 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 subdivider 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 and bonding fees required by 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 subdivider 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.

E. Surety will not be required for a private street authorized under section 14-232(B)(1), 14-232(B)(2), 14-233(A)(2) or 14-233(B)(2).

(§ 3, 8-28-74; 12-15-82; § 18-19, 9-5-96; § 14-413, Ord. 98-A(1), 8-5-98; § 14-435, Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 13-14(1), 12-4-13, effective 1-1-14; Ord. 23-14(1), 12-6-23)

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Sec. 14-441 - 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 subdivider's plan of development would change the spillway design flood standards of the impounding structure, before any development within a dam break inundation zone:

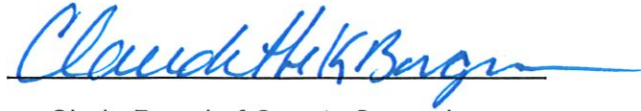
A. *Payment for portion of necessary upgrades.* The subdivider must pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the subdivision, together with an administrative fee as provided in County Code Chapter 1, Article 5. Any payments must be made 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 subdivision.; or

B. *Redesign the subdivision.* The subdivider must amend the plat so that it does not alter the spillway design flood standard required of the impounding structure.

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

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

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>	___