

ACTIONS
Board of Supervisors Meeting of March 18, 2020

March 19, 2020

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 5:00 p.m. by the Chair Mr. Gallaway. All BOS members were present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris. 		Link to video
<p>2. Closed Meeting.</p> <ul style="list-style-type: none"> At 5:01 p.m., the Board went into 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: <ol style="list-style-type: none"> The continuity of County Government during the COVID-19 disaster. The public's access to and use of the County Courthouse Grounds. Under Subsection (19), to discuss plans related to the safety of persons using the County facilities during the COVID-19 disaster. 		
<p>3. Certified Closed Meeting.</p> <ul style="list-style-type: none"> At 6:05 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
<p>Non-Agenda: Resolution Consenting to the County Executive Issuing an Amended Declaration of Local Emergency.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Executive and County Attorney's office. (Attachment 1)</p> <p><u>County Executive:</u> Provide Clerk with executed copy of Amended Declaration of Local Emergency. (Attachment 2)</p>	
<p>4. Call Back to Order.</p> <p>At 6:08 p.m., the Chair the meeting back to order.</p>		
<p>7. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED final agenda. 		
<p>8. Brief Announcements by Board Members.</p> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Encouraged safe health practices and patronage of area businesses. Thanked the County Attorney and his staff their service. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Thanked County staff for their agility and hard work as the nation is navigating through the COVID-19 public health disaster. <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> Encouraged the reading of the recently recognized Same Page 2020 book: "Brown Girl Dreaming" by Jacqueline Woodson. 		
<p>9. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>John Hall</u>, resident of the City of Charlottesville, spoke on the Coronavirus and his interest in second chance program at Biscuit Run Park. 		

10.2	Procurement of a Construction Management Contract for Courts Complex Project. <ul style="list-style-type: none"> • ADOPTED Resolution. 	<u>Clerk:</u> Forward copy of signed resolution to FES and County Attorney's office. (Attachment 3)
10.3	Authorization to Schedule a Public Hearing for Ordinance to Amend County Code Chapter 5, Building Regulation Fees. <ul style="list-style-type: none"> • SET public hearing. 	<u>Clerk:</u> Schedule on agenda and advertise in Daily Progress.
10.4	B201903268ATWR Special Exception for Proposed Antenna Array at an Existing Wireless Facility (529 Woodchuck Lane). <ul style="list-style-type: none"> • ADOPTED the Resolution approving the special exception with conditions. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4)
11.	HS202000005 Homestay Special Exception (Smith). <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve the special exception with condition contained therein. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 5)
12.	HS202000012 Homestay Special Exception (Pape). <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve the special exception with the conditions contained therein. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 6)
13.	HS202000003 Homestay Special Exception (Bahn – Hatton Ferry Hideaway). <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve the special exception with the condition contained therein. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 7)
14.	<u>Pb. Hrg: FY 20 Budget Amendment and Appropriations.</u> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve appropriation #2020053 for local government and school projects. 	<u>Clerk:</u> Forward copy of signed resolution to OMB and County Attorney's office. (Attachment 8)
15.	<u>Pb. Hrg: Ordinance to Amend Parking Provisions in County Code Chapter 9, Motor Vehicles.</u> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Ordinance as amended. 	<u>Clerk:</u> Forward copy of signed ordinance to Police Department and County Attorney's office. (Attachment 9)
16.	<u>Pb. Hrg: SP201900003 Hunters Way Coffee Shop.</u> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Resolution to approve SP201900003 with conditions 1-3. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)
17.	<u>Pb. Hrg: Ordinance to Amend County Code Chapter 7, Health and Safety.</u> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Ordinance, as amended, with a delayed effective date of May 1, 2020. 	<u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office. (Attachment 11)
18.	From the Board: Committee Reports and Matters Not Listed on the Agenda. <ul style="list-style-type: none"> • There were none. 	
19.	From the County Executive: Report on Matters Not Listed on the Agenda. <ul style="list-style-type: none"> • There were none. 	
20.	Adjourn to April 1, 2020, 5:00 p.m., electronic meeting pursuant to Ordinance No. 20-E(2). <ul style="list-style-type: none"> • The meeting was adjourned at 8:46 p.m. 	

ckb/tom

Attachment 1 – Resolution Consenting to the County Executive Issuing an Amended Declaration of Local Emergency

Attachment 2 – Amended Declaration of Local Emergency

Attachment 3 – Resolution to Approve Procurement of Contract for Courts Complex Project Using Construction Management Procedures

Attachment 4 – Resolution to Approve Special Exception for B2020-03268A TWR

Attachment 5 – Resolution to Approve Special Exception for HS2020-00005 Smith Homestay
Attachment 6 – Resolution to Approve Special Exception for HS2020-00012 Pape Homestay
Attachment 7 – Resolution to Approve Special Exception for HS2020-00003 Hatton Ferry Hideaway Homestay
Attachment 8 – Resolution to Approve Additional FY 2020 Appropriations
Attachment 9 – Ordinance No. 20-9(1)
Attachment 10 – Resolution to Approve SP 2019-00003 Hunters Way Coffee Shop
Attachment 11 – Ordinance No. 20-7(1)

**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.

* * * * *

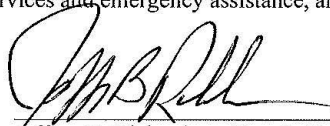
**AMENDED DECLARATION OF LOCAL EMERGENCY
(COVID-19 Virus)
(Virginia Code § 44-146.21)**

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 ⁸⁰⁰ p.m. and supersedes the Declaration of Local Emergency issued by me on March 12, 2020. *Am JR*

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

**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.

**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.

**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.

**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.

**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.

**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.

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
charges; penalties.

trial; contesting

Chapter 9. Motor Vehicles and Traffic**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.

**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.

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 ~~5~~. 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 ~~4~~6. 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 services; (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).

(§ 12.1-7, 9-10-80, § 7; Code 1988, § 12.1-7; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09; Ord. 13-7(1), 5-8-13; 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. 7-107 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 (most restrictive of soluble or insoluble)* $MPC_a * X 10^{10} m1$

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.