

<p style="text-align: center;"><b>ACTIONS</b>  <b>Board of Supervisors Meeting of January 6, 2021</b></p>		
		January 7, 2021
<u><b>AGENDA ITEM/ACTION</b></u>	<u><b>ASSIGNMENT</b></u>	<u><b>VIDEO</b></u>
1. Call to Order. <ul style="list-style-type: none"> <li>Meeting was called to order at 1:04 p.m. by the County Executive, Mr. Richardson. All BOS members were present. Also present were Greg Kamptner, Claudette Borgersen and Travis Morris.</li> </ul>		
4. Election of Chairman. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ELECTED</b> Ned Gallaway as Chair for Calendar Year 2021.</li> </ul>		
5. Election of Vice-Chairman. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ELECTED</b> Donna Price as Vice-Chair for Calendar Year 2021.</li> </ul>		
6. Appointment of Clerk and Senior Deputy Clerk. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>APPOINTED</b> Claudette Borgersen as Clerk and Travis Morris as Senior Deputy Clerk for Calendar Year 2021.</li> </ul>		
7. Board 2021 Calendar - Set Meeting Times, Dates and Places for Calendar Year 2021. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>SET</b> the meeting times, dates and places for Calendar Year 2021 as follows: first Wednesday of the month at 1pm, and the third Wednesday of the month at 1pm, with said meetings to be held in the County Office Building on McIntire Road; and <b>SET</b> the meeting dates for January 2022 as January 5 at 1pm, and January 19 at 1pm.</li> </ul>	<u>Clerk:</u> Advertise in The Daily Progress and post notice on the exterior door of the main County office Building entrance.	
8. Adoption of Rules of Procedures. <ol style="list-style-type: none"> <li>Rules of Procedure. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> the Board Rules of Procedures.</li> </ul> </li> <li>Adoption of Policies. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> the Board Policies.</li> </ul> </li> <li>Review of Board of Supervisors Operating Guidelines. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> Board Operating Guidelines.</li> </ul> </li> </ol>	<u>Clerk:</u> Forward copy to Board members, County Attorney and Community Development. (Attachment 1)  (Attachment 2)  (Attachment 3)	
9. Adoption of Final Agenda. <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> the final agenda as amended.</li> </ul>		
10. Brief Announcements by Board Members. <u>Ann Mallek:</u> <ul style="list-style-type: none"> <li>Expressed pride in the work by the County leadership to provide services during the COVID-19 pandemic.</li> <li>Expressed her 2021 priorities to include finalizing the Housing Policy, funding infrastructure in growth areas, recognizing the interconnections in our Climate Action Policy, erosion protection standards, solidifying the definition of bonified agriculture and standards, modification of access</li> </ul>		

[Link to video](#)

<p>to the land use program, and ways to solve the agriculture to development transition.</p> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> <li>• Reflected on 2020 and the consequences of the pandemic. Encouraged community members to be vigilant.</li> <li>• Expressed that her priorities are expanding broadband, focusing on equity for community members, and expanding convenience centers.</li> </ul> <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> <li>• Expressed appreciation for the work done by county staff and the Community Advisory Committee.</li> <li>• Announced that Century Link is installing fiber in the Watts Passage area.</li> <li>• Expressed that a focus for her for the coming year is education.</li> </ul> <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> <li>• Commented that she will be sporadically exiting and enter the meeting due to a medical condition.</li> <li>• Acknowledged the work by County staff to keep community members safe during the pandemic.</li> </ul> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>• Expressed special thanks to employees that are in the field working with community members during the pandemic, especially first responders.</li> </ul> <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> <li>• Expressed appreciation for staff during the pandemic.</li> <li>• Read excerpts from a letter submitted by a resident regarding exemplary work by Office Walsh, an animal control officer.</li> <li>• Budget approaching quickly.</li> <li>• Expressed thanks to the Community Development staff and the Albemarle County Police Department and trucks parking at Hollymead Town Center.</li> </ul>		
<p>11. Proclamations and Recognitions:</p> <p>a. Proclamation Honoring Martin Luther King, Jr. Day.</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> proclamation and presented to Meghan Faulker.</li> </ul>	<p>(Attachment 4)</p>	
<p>12. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• <u>Gary Grant</u>, Rio District, commented on the recruitment of the recent appointment to the Library Board.</li> <li>• <u>Neil Williamson</u>, President of the Free Enterprise Forum, commented on item #13.3.</li> </ul>		
<p>13.1 FY 2021 Appropriations.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, Resolution to approve appropriations #2021046, #2021047, #2021048, #2021049, and #2021050 for local government projects and programs.</li> </ul>	<p>Clerk: Forward copy of signed resolution to OMB and County Attorney's office. (Attachment 5)</p>	

13.2	<p>Personnel Policies P-61 and P-66 Amendments.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, Resolution to amend personnel policies §P-61 and §P-66 as set forth by staff.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Human Resources and County Attorney's office. (Attachment 6)</p>	
13.3	<p>Department of Community Development (CDD) Fees Update.</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> resolution of Intent to amend the Community Development Department Fees in the Zoning Ordinance; and</li> <li>• <b>DIRECTED</b>, staff to schedule a public hearing to consider the adoption of the proposed ordinances.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office; and schedule on future agenda and advertise in Daily Progress. (Attachment 7)</p> <p><u>Community Development:</u> Proceed as directed and notify Clerk when ready to schedule.</p>	
13.4	<p>SE202000009 Southwood Phase 1.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, Resolution to approve the special exception request, subject to the condition contained therein.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 8)</p>	
13.5	<p>SE202000018 R.A. Yancey – Special Exception.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, Resolution to approve the requested amendment to the special exceptions.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)</p>	
14.	<p>SE202000016 Homestay Special Exception (Evelyn Tickle Kitchin).</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolution to approve the special exception with the conditions contained therein.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)</p>	
15.	<p>SE202000015 Homestay Special Exception (Susan Pierce).</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolution to approve the special exception with the conditions contained therein.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 11)</p>	
16.	<p>Recommended Revisions to the County's Financial Management Policies.</p> <ul style="list-style-type: none"> <li>• By a vote of 5:0:1 (Palmer absent), <b>ADOPTED</b> the revised Financial Management Policies and the County's Investment Policy Document as set forth by staff.</li> </ul>	<p><u>Clerk:</u></p>	
	<p><b>Recess.</b> The Board recessed at 3:03 p.m., and reconvened at 3:21 p.m.</p>		
17.	<p><b>Presentation:</b> Transportation Planning Quarterly Report.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>		
18.	<p><b>Presentation:</b> Virginia Department of Transportation (VDOT) Quarterly Report.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>		
19.	<p>Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 5:00 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:</li> <li>• Under Subsection (1): <ol style="list-style-type: none"> <li>1. To discuss and consider appointments of Supervisors as members or liaisons to various County authorities, boards, and other public bodies, including the Charlottesville-Albemarle Convention and Visitors' Bureau Executive Committee, the Economic</li> </ol> </li> </ul>		

<p>Development Authority, and the Metropolitan Planning Organization; and</p> <p>2. To discuss and consider appointments of citizens to various County authorities, boards, and other public bodies, including the Economic Development Authority, the Planning Commission, the Board of Equalization, the Fire Prevention and Building Code Board of Appeals, and multiple committees and advisory committees.</p>		
<p>20. Certified Closed Meeting.</p> <ul style="list-style-type: none"> <li>At 6:02 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> </ul>		
<p>21. Boards and Commissions.</p> <p>a. Board Member Committee Appointments.</p> <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> <li>Audit Committee with said term to expire December 31, 2021.</li> <li>Darden Towe Memorial Park Committee with said term to expire December 31, 2021.</li> <li>High Growth Coalition with said term to expire December 31, 2021.</li> <li>Metropolitan Planning Organization (MPO) with said term to expire December 31, 2022.</li> <li>Places 29 (Rio) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>Regional Housing Partnership with said term to expire December 31, 2021.</li> </ul> <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> <li>Capital Improvement Plan (CIP) Committee with said term to expire December 31, 2021.</li> <li>Climate Change Steering Committee with said term to expire December 31, 2021.</li> <li>Darden Towe Memorial Park Committee with said term to expire December 31, 2021.</li> <li>Pantops Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>Places 29 (North) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>Regional Transit Partnership with said term to expire December 31, 2021.</li> <li>Rivanna River Corridor Project Steering Committee with said term to expire December 31, 2021.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Agricultural and Forestal Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>Charlottesville-Albemarle Convention and Visitor's Bureau (Executive Committee), with said term to expire December 31, 2021</li> <li>Crozet Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> </ul>		



<ul style="list-style-type: none"> <li>• High Growth Coalition with said term to expire December 31, 2021.</li> <li>• Historic Preservation Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>• Piedmont Workforce Network Council (designee in absence of Chair) with said term to expire December 31, 2021.</li> <li>• Rivanna River Basin Commission with said term to expire December 31, 2023.</li> <li>• Workforce Investment Board, Board Liaison, with said term to expire December 31, 2021.</li> </ul> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>• Charlottesville-Albemarle Convention and Visitor's Bureau (Executive Committee), with said term to expire December 31, 2021.</li> <li>• Economic Development Authority, Board Liaison, with said term to expire December 31, 2021.</li> <li>• Jail Authority, with said term to expire December 31, 2023.</li> <li>• Places 29 (Hydraulic) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>• Police Department Citizens Advisory Committee, Board liaison, with said term to expire December 31, 2021.</li> <li>• Regional Housing Partnership - Designee for Executive Committee with said term to expire December 31, 2021.</li> <li>• Regional Transit Partnership with said term to expire December 31, 2021.</li> </ul> <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> <li>• 5<sup>th</sup> and Avon Community Advisory Committee with said term to expire December 31, 2021.</li> <li>• Acquisitions of Conservation Easement (ACE) Committee with said term to expire December 31, 2021.</li> <li>• Audit Committee with said term to expire December 31, 2021.</li> <li>• Biscuit Run Steering Committee with said term to expire December 31, 2021.</li> <li>• Climate Change Steering Committee with said term to expire December 31, 2021.</li> <li>• Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire December 31, 2021.</li> </ul> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> <li>• 5<sup>th</sup> and Avon Community Advisory Committee with said term to expire December 31, 2021.</li> <li>• Biscuit Run Steering Committee with said term to expire December 31, 2021.</li> <li>• Capital Improvement Plan (CIP) Advisory Committee with said term to expire December 31, 2021.</li> <li>• Hazardous Materials Local Emergency Planning Committee with said term to expire December 31, 2021.</li> </ul>		
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<ul style="list-style-type: none"> <li>• Rivanna River Corridor Project Steering Committee with said term to expire December 31, 2021.</li> <li>• Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire December 31, 2021.</li> <li>• Village of Rivanna Community Advisory Council, Board Liaison, with said term to expire December 31, 2021.</li> </ul> <p>b. Vacancies and Appointments:</p> <ul style="list-style-type: none"> <li>• <b>REAPPOINTED</b> Mr. Roger Ray and Mr. Ross Stevens to the Acquisition of Conservation Easement (ACE) Appraisal Review Committee, with said terms to expire December 31, 2021.</li> <li>• <b>REAPPOINTED</b> Mr. George Hodson to the Charlottesville-Albemarle Convention and Visitors Bureau Executive Committee with said term to expire September 30, 2022.</li> <li>• <b>REAPPOINTED</b> Mr. Anthony Arsali as the Rivanna District representative, and Ms. Karen Pape as the Jack Jouett District representative to the Equalization Board, with said terms to expire December 31, 2021.</li> <li>• <b>APPOINTED</b> Mr. Brian L. Mason to the Pantops Community Advisory Committee with said term to expire June 30, 2022.</li> <li>• <b>REAPPOINTED</b> Mr. Brian D. MacMillan to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2022.</li> <li>• <b>REAPPOINTED</b> Mr. Luis Carrazana to the Planning Commission as the University of Virginia's representative, with said term to expire December 31, 2021.</li> </ul>	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
<p>22. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• There were none.</li> </ul>		
<p>23. <b><u>Pb. Hrg.: 20-03(1) – Agricultural and Forestal Districts.</u></b></p> <p>a. <b><u>AFD 2020-01 Batesville AFD – District Review.</u></b></p> <p>b. <b><u>AFD 2020-02 High Mowing AFD – District Review.</u></b></p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> ordinance to continue the Batesville and High Mowing AFDs.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 13)</p>	
<p>24. <b><u>Pb. Hrg.: B. F. Yancey Community Food Pantry lease for a portion of the Yancey School Community Center.</u></b></p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> resolution approving a lease with the B. F. Yancey Community Food Pantry for a portion of the Yancey School Community Center and authorizing the County Executive to execute a lease in a form acceptable to the County Attorney.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Facilities and Environmental Services and County Attorney's office. (Attachment 14)</p> <p><u>County Attorney:</u> Provide Clerk with copy of fully execute lease agreement. (Attachment 15)</p>	
<p>25. <b><u>Pb. Hrg.: SP2020-14 1680 Seminole Trail Auto Dealership Outdoor Sales, Storage and Display.</u></b></p>	<p><u>Clerk:</u> Forward copy of signed resolution to Community</p>	

	<ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution approving the special use permit for outdoor sales, storage and display, subject to the conditions attached thereto.</li> </ul>	Development and County Attorney's office. (Attachment 16)	
26.	<b><u>Pb. Hrg.: Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19.</u></b> <ul style="list-style-type: none"> <li>By a vote of 5:0, <b>ADOPTED</b> ordinance.</li> </ul>	Clerk: Forward copy of signed ordinance to County Attorney's office. (Attachment 17)	
27.	<b><u>Pb. Hrg.: An Ordinance to Amend County Code Chapter 6, Fire Protection.</u></b> <ul style="list-style-type: none"> <li>By a vote of 5:0, <b>ADOPTED</b> ordinance.</li> </ul>	Clerk: Forward copy of signed ordinance to Fire/Rescue and County Attorney's office. (Attachment 18)	
28.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p>a. Scheduling Homestays with 125' setbacks on the consent agenda.</p> <ul style="list-style-type: none"> <li>By a vote of 5:0 <b>APPROVED</b> the process by which Homestay applications, where the only question relates to the 125' setback, and provided that the buffer requirement is either met and will be maintained or will be planted, that county staff be permitted, with communication to the supervisor of the magisterial district of record, to place those on the consent agenda rather than on the action agenda.</li> </ul> <p>b. Letter of Support for Policy which Expands Access to Low and Zero Emissions Vehicles.</p> <ul style="list-style-type: none"> <li>By a vote of 5:0 <b>APPROVED</b> sending a letter Supporting policy which expands access to low and zero emissions vehicles to members of the General Assembly.</li> </ul> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> <li>Reminded community members that the words they say matter.</li> </ul> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>Reminded community members to stay vigilant in their efforts to slow the spread of COVID-19.</li> </ul>	Clerk: Schedule Homestay application on the agenda as directed.	
29.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>Announced that the Blue Ridge Health Department would be providing an update to the Board at the January 20, 2021 meeting.</li> <li>Commented on the vaccine administration framework plan.</li> </ul>		
30.	<p>Adjourn to January 20, 2021, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).</p> <ul style="list-style-type: none"> <li>The meeting was adjourned at 7:22 p.m.</li> </ul>		

ckb/tom

Attachment 1 – Albemarle County Board of Supervisors Rules of Procedure - Adopted January 4, 2021  
Attachment 2 – Albemarle County Board of Supervisors Policies - Adopted January 4, 2021  
Attachment 3 – Albemarle County Board of Supervisors Operating Guidelines for High Quality Governance  
Attachment 4 – Proclamation Celebrating Martin Luther King, Jr. Day  
Attachment 5 – Resolution to Approve Additional FY 2021 Appropriations  
Attachment 6 – Resolution – Personnel Policies  
Attachment 7 – Resolution of Intent  
Attachment 8 – Resolution to Approve SE202000009 Southwood Phase I

Attachment 9 – Resolution to Approve Amendment to Special Exceptions for R.A. Yancey Lumber Corporation:  
Special Exception Request  
Attachment 10 – Resolution to Approve Special Exception for SE2020-00016 Evelyn Tickle Kitchin Homestay  
Attachment 11 – Resolution to Approve Special Exception for SE2020-00015 Susan Pierce Homestay  
Attachment 12 –  
Attachment 13 – Ordinance No. 21-3(1)  
Attachment 14 – Resolution to Approve A Lease Agreement Between the County of Albemarle and the B.F. Yancey  
Community Food Pantry  
Attachment 15 – Proposed Lease Agreement (B.F. Yancey Community Food Pantry)  
Attachment 16 – Resolution to Approve SP 202000014 1680 Seminole Trail Outdoor Sales, Storage, and Display  
Attachment 17 – Ordinance No. 21-A(1)  
Attachment 18 – Ordinance No. 21-6(1)

**ATTACHMENT 1**

**Albemarle County  
Board of Supervisors**

**Rules of Procedure for Virtual and Hybrid  
Meetings**

**Adopted January 6, 2021**

**Rules of Procedure  
of the  
Albemarle County Board of Supervisors  
for Virtual and Hybrid Meetings**

**1. Introduction**

- A. **Purpose.** The purpose of these Rules of Procedure (the “Rules”) is to facilitate the timely, efficient, and orderly conduct of public meetings and decision-making, and they are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors (the “Board”).
- B. **Rules Do Not Create Substantive Rights in Others.** The Rules do not create substantive rights in third parties or participants in matters before the Board.
- C. **Compliance with These Rules.** The Rules that are parliamentary in nature are procedural, and not jurisdictional, and the failure of the Board to strictly comply with them does not invalidate any action of the Board. The Rules that implement the requirements of State law are jurisdictional only to the extent that Virginia law makes them so.
- D. **Applicability.** These Rules apply to all virtual and hybrid meetings of the Board, as those meetings are defined in these Rules, while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect. Any Board meeting at which the Supervisors and all of the participants are physically assembled is to be conducted pursuant to the Board’s Rules of Procedure adopted January 8, 2020, or as they may be amended.
- E. **Definitions.** The following definitions apply to the administration of these Rules:
  - 1. **Hybrid Meeting.** A “hybrid meeting” is a meeting where persons may either physically attend the meeting or connect to the meeting by electronic communication means.
  - 2. **Present.** A person is “present” at a meeting when physically attending on the date, and at the time and place identified for the meeting, or is connected to the meeting by electronic communication means.
  - 3. **Virtual Meeting.** A “virtual meeting” is a meeting where persons are connected to the meeting by electronic communication means.

**2. Supervisors**

- A. **Equal Status.** Except for the additional responsibilities of the Chair provided in Rule 3(A), all Supervisors have equal rights, responsibilities, and authority.
- B. **Decorum.** Each Supervisor will act in a collegial manner and will cooperate and assist in preserving the decorum and order of the meetings.

**3. Officers and Their Terms of Office**

- A. **Chair.** When present, the Chair presides at all Board meetings during the year for which elected. The Chair has a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423) The Chair also is the head official for all of the Board’s official functions and for ceremonial purposes.
- B. **Vice-Chair.** If the Chair is absent from a Board meeting, the Vice-Chair, if present, presides at the meeting. The Vice-Chair also discharges the duties of the Chair during the Chair’s absence or disability. (Virginia Code § 15.2-1422)
- C. **Acting Chair in Absence of Chair and Vice-Chair.** If the Chair and Vice Chair are absent from any meeting, a present Supervisor must be chosen to act as Chair.

- D. **Term of Office.** The Chair and Vice-Chair shall be elected for one-year terms, but either or both may be re-elected for one or more additional terms. (Virginia Code § 15.2-1422)
- E. **References to the Chair.** All references in these Rules to the *Chair* include the Vice-Chair or any other Supervisor when the Vice-Chair or the other Supervisors is acting as the Chair.

#### 4. **Meetings**

- A. **Annual Meeting.** The *Annual Meeting* is the first meeting in January held after the newly elected Supervisors qualify for the office by taking the oath and meeting any other requirements of State law, and the first meeting held in January of each succeeding year. At the Annual Meeting, the Board:
  - 1. **Elect Officers.** Elects a Chair and a Vice-Chair.
  - 2. **Designate Clerks.** Designates a Clerk of the Board ("Clerk") and one or more Deputy Clerks who serve at the pleasure of the Board, and who have the duties stated in Virginia Code § 15.2-1539 and any additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)
  - 3. **Establish Schedule for Regular Meetings.** Establishes the days, times, places (if applicable), and how the public may access and participate in the meeting for regular meetings of the Board for that year. (Virginia Code § 15.2-1416) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413 governs how the public may access and participate in the meeting if the public is not physically attending.
  - 4. **Adopt Rules and Policies.** Adopts Rules of Procedure and Policies that will apply in the calendar year, subject to amendment under Rule 12.
- B. **Regular Meetings.** *Regular Meetings* are those meetings established at the *Annual Meeting* to occur on specified days and at specified times and places, with instructions for how the public may connect to the meeting by electronic communication means.
  - 1. **Regular Meeting Falling on a Holiday.** If any day established as a Regular Meeting day falls on a legal holiday, the meeting scheduled for that day will be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)
  - 2. **Adjourning a Regular Meeting.** Without further public notice, the Board may adjourn a Regular Meeting from day to day, from time to time, or from place to place, but not beyond the time fixed for the next Regular Meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).
  - 3. **Continuing a Regular Meeting When Weather or Other Conditions Create a Hazard.** If the Chair finds and declares that weather or other conditions are hazardous for Supervisors to physically attend a Regular Meeting, prevent one or more Supervisors from being present at a meeting, or prevent a reasonably significant portion of the public from being present at a meeting considering, among other things, the items on the agenda, the meeting must be continued to the next Regular Meeting date. The Chair's finding, and the continuation of the meeting, must be communicated by the Chair or the Clerk to the other Supervisors and to the general news media as promptly as possible. All hearings and other matters previously advertised will be conducted at the continued meeting and no further advertisement is required. (Virginia Code § 15.2-1416)
  - 4. **Establishing a Different Day, Time, Place, and Instructions.** After the Annual Meeting, the Board may establish for Regular Meetings different days, times, places, and instructions for how the public may connect to the meeting by electronic communication means by adopting a resolution to that effect. (Virginia Code § 15.2-1416)

- C. **Special Meetings.** A *Special Meeting* is a meeting that is not a Regular Meeting. The Board may hold Special Meetings as it deems necessary at times and places that it deems convenient. (Virginia Code § 15.2-1417) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413 governs how the public may connect to the meeting by electronic communication means.
1. **Calling and Requesting a Special Meeting.** A Special Meeting may be called by the Chair or requested by two or more Supervisors. The call or request must be made to the Clerk and shall specify the matters to be considered at the meeting. (Virginia Code § 15.2-1418)
  2. **Duty of Clerk to Provide Notice; When Notice May Be Waived.** Upon receipt of a call or request, the Clerk, after consultation with the Chair, must immediately notify each Supervisor, the County Executive, and the County Attorney about the Special Meeting. The notice must be in writing and be delivered to each Supervisor, the County Executive, and the County Attorney at their place of residence or business. Notice will be provided by email to each Supervisor's County email address. The notice may be waived if all Supervisors are present at the Special Meeting or if all Supervisors sign a waiver for the notice. (Virginia Code § 15.2-1418) An email from the Supervisor to the Clerk waiving notice satisfies this requirement. The Clerk must also notify the general news media about the Special Meeting.
  3. **Contents of the Notice Provided by the Clerk.** The notice provided by the Clerk must state the date, time, place (if applicable) of the meeting, provide instructions for how the public may connect to the meeting by electronic communication means, and specify the matters to be considered.
  4. **Matters That May Be Considered.** Only those matters specified in the notice may be considered at a Special Meeting unless all Supervisors are present. (Virginia Code § 15.2-1418)
  5. **Adjourning a Special Meeting.** A Special Meeting may be adjourned from time to time as the Board finds necessary and convenient to complete the business of those matters identified in the notice of the Special Meeting. (Virginia Code § 15.2-1417) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

## 5. **Order of Business for Regular Meetings**

- A. **Establishing the Agenda.** The Clerk must establish the agenda for all Regular Meetings in consultation with the County Executive and the Chair. The County Executive and the Clerk will then review the agenda with the Chair and the Vice Chair before the meeting. The Clerk sets the order of business as provided in Rule 5(B), provided that the Clerk may modify the order of business to facilitate the business of the Board. The draft agenda must be provided to the Board at least six days before the Regular Meeting date.
1. **Resolutions Proposed by Supervisors.** Resolutions may be proposed by a Supervisor requesting the Board to take a position on an issue of importance to the Board.
    - a. **Initial Notice by Supervisor.** A Supervisor requesting the Board to adopt a resolution should give notice of the intent to request action on the resolution on a specified meeting date and submit a draft of the proposed resolution.
    - b. **When Request Must be Made.** The request must be made at least seven days before the meeting at which the resolution may be considered.
    - c. **Distributing the Draft Resolution to Supervisors for Comments.** The Clerk will distribute the draft resolution with background information, if available, to all Supervisors. Any Supervisor may submit proposed changes to the proposed resolution to the Clerk in a redline format. The Clerk must forward all comments received from any Supervisor to the Board.
    - d. **Preparing the Resolution.** The Supervisor requesting the resolution will then coordinate with the Clerk to prepare a resolution for consideration by the Board.
    - e. **Adding the Resolution to the Agenda.** The Clerk then polls the Supervisors to determine if a majority of the Supervisors supports adding the resolution to the agenda for consideration. If a



majority of the Supervisors indicates support for considering the resolution, the resolution will be added to the proposed final agenda. If all Supervisors indicate support for the resolution, the resolution may be placed on the proposed consent agenda unless any Supervisor requests otherwise.

**2. Other Items Proposed To Be Added to the Clerk's Draft Agenda.**

- a. **By Supervisors.** Any Supervisor may propose to add items, other than resolutions subject to Rule 5(A)(1), to the Clerk's draft agenda for action if notice of that item has been given in writing or by email to all Supervisors, the Clerk, and the County Executive by 5:00 p.m. two days before the date of the meeting or upon the unanimous consent of all Supervisors present at the meeting. Any item that has been timely proposed and properly noticed will be added to the end of the agenda for discussion or action unless a majority of the Supervisors present agrees to consider the item earlier on the agenda.
- b. **By the County Executive.** The County Executive may add items to the Clerk's draft agenda for action by 5:00 p.m. two days before the date of the meeting if the item requires consideration and action by the Board at its next meeting. In an emergency, the County Executive may add an item at any time with the consent of the Chair and the Vice Chair. When the County Executive adds an item to the agenda, he must provide information about the item to all Supervisors as soon as practicable and prior to the meeting.

**3. Proclamations and Recognitions Proposed by Residents.** A request by a resident to place a proclamation or recognition on the agenda must be made as follows:

- a. **When Request Must be Made.** The request must be made at least four weeks in advance of the Board meeting date.
- b. **Request Made to the Clerk.** The resident must submit the request to advance a proclamation or recognition to the Clerk. If the request is made to a Supervisor, the person making the request will be directed to make the request to the Clerk. The Clerk will advise the person making the request of the process and submittal requirements.
- c. **Review of the Request for Completeness and Distribution.** Upon submittal of the request, the Clerk will review the submittal for completeness and forward it to the Supervisors for review.
- d. **Adding the Proclamation or Recognition to the Agenda; Informing the Requester.** The Clerk shall poll Supervisors to determine whether a majority of the Supervisors supports adding the proclamation or recognition to the agenda. The Clerk will advise the person requesting the proclamation or recognition whether the proclamation or recognition will be considered by the Board.

**4. Public Hearings for Zoning Map Amendments; Prerequisites.** Public hearings for zoning map amendments are subject to the following rules in order for the item to be placed on the agenda and heard by the Board:

- a. **Public Hearing Should Not Be Advertised Until Final Documents Are Received.** The Board's preference is that a public hearing for a zoning map amendment should not be advertised until all of the final documents for a zoning application have been received by the County and are available for public review. To satisfy this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County so that they are received no later than two business days before the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks' advance notice of the deadline.
- b. **Effect of Failure to Timely Receive Final Documents.** If the County does not timely receive the required final documents, the public hearing must not be advertised and the matter shall not be placed on the agenda. If the matter is not advertised, a new public hearing date will be scheduled.

- c. **Receipt of Final Signed Proffers.** Final signed proffers must be received by the County no later than nine calendar days before the date of the advertised public hearing. This Rule is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Supervisors at the public hearing.

- 5. **Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request.** Zoning map amendments advertised for public hearing must be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as provided in County Code § 18-33.52 *et seq.*

- B. **Order of Business at Regular Meetings.** At Regular Meetings of the Board, the order of business will be generally as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of the Final Agenda.
5. Brief Announcements by Supervisors.
6. Proclamations and Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
8. Consent Agenda.
9. General Business.
10. Closed Meeting.
11. Certify Closed Meeting.
12. Actions Resulting from Closed Meeting.
13. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
14. General Business, Including Public Hearings.
15. From the Board: Committee Reports and Matters Not Listed on the Agenda.
16. From the County Executive: Report on Matters Not Listed on the Agenda.
17. Adjourn.

- C. **Closed Meetings.** A *Closed Meeting* is a meeting of the Supervisors that is not open to the public when authorized by the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). A Closed Meeting may be held at any point on the agenda, as necessary. Generally, a Closed Meeting will be scheduled either at the midpoint of the agenda or at the end of the agenda prior to adjournment. The Clerk must promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting.

## 6. **Rules Applicable to the Items of Business on the Agenda**

- A. **Adoption of the Final Agenda.** *Adoption of the Final Agenda* is the first order of business for a Regular Meeting of the Board. The Board may modify the order of business as part of its adoption of the Final Agenda. Any changes to the Consent Agenda, including removing an item from the Consent Agenda for discussion and separate action, should be made when the Final Agenda is adopted. The Final Agenda must be adopted by a majority vote of the Supervisors present and voting. No item for action not included on the Final Agenda may be considered at that meeting.
- B. **Brief Announcements by Supervisors.** *Brief Announcements by Supervisors* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.
- C. **Proclamations and Recognitions.** *Proclamations* are ceremonial documents or recognitions adopted by the Board to draw public awareness to a day, week, or month to recognize events, arts and cultural

celebrations, or special occasions. *Recognitions* are ceremonial acknowledgements by the Board of a person for service or achievement.

- D. **From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.** *From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board* (“Matters from the Public”) allows any member of the public to speak on any topic of public interest that is not on the Final Agenda for a public hearing at that meeting, any matter that was previously considered by the Board, and any matter pending before the Board that is not on that days’ Board agenda. The following rules apply:

1. **Number of Speakers.** Up to 10 persons may speak during each Matters from the Public session. The 10 speakers are determined on a first-come, first-served basis, with those persons signing up to speak before the meeting having priority.
2. **Time.** Each speaker may speak for up to three minutes.
3. **Place.** Each speaker may speak using electronic communication means or, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
4. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker may speak at only one Matters from the Public session at each meeting, must address only the Board, and must not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the Matters from the Public session at which the speaker plans to speak.

- E. **Consent Agenda.** The *Consent Agenda* is for items for action that do not require discussion or comment and are anticipated to have the unanimous approval of the Board, and for items provided for the Board's information.

1. **Questions to Staff.** Supervisors should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item before the Board meeting.
2. **Discussion and Comment.** There should be either no discussion or comment or only a brief discussion or comment on Consent Agenda items at the meeting except as provided in Rule 6(E)(3).
3. **Removing an Item from the Consent Agenda.** Any Supervisor may remove an item from the Consent Agenda at the time the Final Agenda is being considered for adoption. Any item removed from the Consent Agenda should be moved to a specific time or to the end of the meeting agenda for further discussion or action. However, an item removed from the Consent Agenda requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
4. **Effect of Approval of the Consent Agenda.** A successful motion to approve the Consent Agenda approves those Consent Agenda items identified for action and accepts Consent Agenda items identified for information.

- F. **General Business.** *General Business* includes public hearings, work sessions, appointments, and other actions, discussions, and presentations.

1. **Public Hearings.** The Board may not decide any item before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the public hearing or consideration of the item. The procedures for receiving a presentation from the applicant and comments from members of the public are at the discretion of the Board provided that they satisfy all minimum legal requirements. However, unless otherwise decided by a majority of the Supervisors present during a particular public hearing, the following rules apply:
  - a. **Time.** The applicant is permitted up to 10 minutes to present its application. Following the applicant's presentation, any member of the public is permitted to speak once for up to three minutes on the

item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.

- b. **Place.** The applicant and each member of the public presenting and speaking may speak using electronic communication means and, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
- c. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker must address only the Board, speak to issues that are relevant to the item for which the public hearing is being held, and not engage in speech or other behavior that actually disrupts the meeting. The applicant and its representatives may include a visual or audio presentation. Any other speaker may also include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the time scheduled for the public hearing.

2. **Public Hearings; Zoning Map Amendments; Applicant's Documents Not Available During Advertisement Period.** If the public hearing is held without the applicant's final documents being available for review throughout the advertisement period due to the late submittal of documents, or because substantial revisions or amendments are made to the submitted documents after the public hearing has been advertised, it is the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application. In deciding whether to defer action or to deny the application, the Board must consider whether deferral or denial would be in the public interest or would forward the purposes of this policy.

3. **Action Items on Deferred Matters Not Listed on the Agenda for Public Hearing When Public Hearing Previously Held.** On any matter before the Board for action that is not listed on the agenda for public hearing and was previously deferred after the close of a public hearing, the following rules apply:

- a. **Time.** The applicant is permitted up to seven minutes to present its application and any member of the public is permitted to speak once for up to two minutes on the item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.
- b. **Place and Manner.** The place and manner rules in Rule 6(F)(1)(b) and (c) apply.

G. **From the Board: Committee Reports and Matters Not Listed on the Agenda.** *From the Board: Committee Reports and Matters Not Listed on the Agenda* is limited to matters that are not substantial enough to be considered as agenda items to be added to the Final Agenda. Reports include routine committee reports and information updates by Supervisors. Any matters discussed during this part of the agenda may not be acted upon by the Board at that meeting.

H. **Report from the County Executive.** The *Report from the County Executive* is a report on matters that the County Executive deems should be brought to the Board's attention and provide updates, if necessary, to the monthly County Executive's Report.

## 7. **Quorum**

A. **Establishing a Quorum.** A quorum for any meeting of the Board is a majority of the members of the Board present, except as provided in Rule 7(B)(2). (Virginia Code § 15.2-1415; Continuity of Government Ordinance)

B. **Quorum Required to Act; Exceptions.** The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415; Continuity of Government Ordinance) There are two exceptions:

- 1. **Quorum Not Established; Adjournment.** If a quorum is not established, the only action the Supervisors present may take is to adjourn the meeting.
- 2. **Quorum Not Established or Lost Because of a Conflict of Interests; Special Rule.** If a quorum cannot be established or is lost because one or more Supervisors are disqualified from participating in an item because of a conflict of interests under the State and Local Government Conflict of Interests Act

(Virginia Code § 2.2-3100 *et seq.*), the remaining Supervisors are a quorum and they may conduct the business of the Board.

C. **Loss of Quorum During Meeting.** If a quorum was established but during a meeting the quorum is lost, the only action the Supervisors present may take is to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415; Continuity of Government Ordinance)

D. **Quorum Required to Adjourn Meeting to Future Day and Time.** A majority of the Supervisors present at the time and place established for any regular or special meeting is a quorum for the purpose of adjourning the meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

8. **Remote Electronic Participation**

A Supervisor may participate in a meeting through electronic communication means while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect and the ordinance, or State law, or a combination thereof, allow Supervisors to participate in a meeting through electronic communication means.

9. **Conducting the Business of the Board**

A. **Enable Efficient and Effective Conduct of Business.** Meetings will be conducted in a manner that allows the Board to efficiently and effectively conduct its business, without actual disruptions.

B. **Minimizing Disruptions.** To minimize actual disruptions at meetings:

1. **Speakers.** Members of the public who are speaking to the Board must comply with Rules 6(D) and 6(F)(1), as applicable. Members of the public invited to speak to the Board during any agenda item other than Matters from the Public or during a public hearing must comply with Rule 6(D).
2. **Persons Physically Attending the Meeting.** Any person physically attending a meeting must comply with the following:
  - a. **Sounds.** Persons may not clap or make sounds in support of or in opposition to any matter during the meeting, except to applaud during the Proclamations and Recognitions portion of the meeting. Instead of making sounds, persons who are not speaking at the podium or other location provided for the meeting are encouraged to raise their hands to indicate their support or opposition to any item during the meeting. Cell phones and other electronic devices shall be muted.
  - b. **Other Behavior.** Persons may not act, make sounds, or both, that actually disrupt the Board meeting.
  - c. **Signs.** Signs are permitted in the meeting room so long as they are not attached to any stick or pole and do not obstruct the view of persons physically attending the meeting.

C. **Guidelines Stated on the Final Agenda.** The Guidelines stated on the Final Agenda apply during each Board meeting. The Board may amend the Guidelines from time to time without amending these Rules provided that the Guidelines are consistent with these Rules.

D. **Chair May Maintain Order.** The Chair is to maintain order of the meeting, including the following:

1. **Controlling Disruptive Behavior of Persons Physically Attending the Meeting.** The Chair may ask any person physically attending a meeting whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may order the removal of that person from the meeting.
2. **Controlling Disruptive Behavior of Persons Participating Through Electronic Communication Means.** The Chair may ask any person participating in a meeting through electronic communication means whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the

conduct. If the conduct continues, the Chair may ask the Clerk to silence the audio and video of that person.

## **10. Motion and Voting Procedures**

- A. Action by Motion Followed by a Vote.** Except as provided in Rules 10(B)(2) and 11(D), any action by the Board must be initiated by a motion properly made by a Supervisor and followed by a vote, as provided below:
1. **Motion Must Be Seconded; Exception.** Each action by the Board must be initiated by a motion that is seconded; provided that a second is not required if debate immediately follows the motion. Any motion that is neither seconded nor immediately followed by debate may not be further considered.
  2. **Voting and Recording the Vote.** The vote on any motion must be by a voice vote. The Clerk must record the name of each Supervisor voting and how each Supervisor voted on the motion.
  3. **Required Vote, Generally Required Vote for Specific Items.** Each action by the Board must be made by the affirmative vote of *a majority of the Supervisors present and voting* on the motion; provided that an affirmative vote of a *majority of all elected Supervisors* of the Board shall be required to approve an ordinance or resolution:
    - a. **Appropriations.** Appropriating money exceeding the sum of \$500.
    - b. **Taxes.** Imposing taxes.
    - c. **Borrowing.** Authorizing money to be borrowed. (Article VII, § 7, Virginia Constitution; Virginia Code §§ 15.2-1420, 15.2-1427, 15.2-1428)
  4. **Tie Vote.** A tie vote defeats the motion voted upon. A tie vote on a motion to approve is deemed a denial of the item being proposed for approval. A tie vote on a motion to deny is not deemed an approval of the item being proposed for denial, and another motion may be made.
  5. **Abstention.** Any Supervisor who will abstain from voting on any motion must declare the abstention before the vote is taken and state the grounds for abstaining. The abstention must be recorded by the Clerk.
- B. Motion and Vote Required to Act; Exception.** The Board acts on matters as follows:
1. **Motion and Vote Required.** Any action by the Board to adopt an ordinance or a resolution, and any other action when a motion is required by law or by these Rules, must be made by a motion followed by a vote.
  2. **Motion and Vote Not Required; Unanimous Consent.** On any item in which the Board is not adopting an ordinance or a resolution, or for which a motion and a recorded vote is not otherwise required by law, the Board may make a decision by unanimous consent. This procedure is appropriate, for example, to provide direction to County staff on an item.
- C. Other Motions.**
1. **Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Supervisor. Upon a proper second, the motion to amend must be discussed and voted on by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both Supervisors making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
  2. **Motion to Call the Question.** The discussion of any motion may be terminated by any Supervisor making a *motion to call the question*. Upon a proper second, the Chair must call for a vote on the motion

to call the question without debate on the motion itself, and the motion takes precedence over any other item. If the motion is approved, the Chair must immediately call for a vote on the original motion under consideration.

3. **Motion to Reconsider.** Any decision made by the Board may be reconsidered if a *motion to reconsider* is made at the same meeting or an adjourned meeting held on the same day at which the item was decided. The motion to reconsider may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, is to place the item for discussion in the exact position it occupied before it was voted upon.
4. **Motion to Rescind.** Any decision made by the Board, except for decisions on zoning map amendments, special use permits, special exceptions, and ordinances, may be rescinded by a majority vote of all elected Supervisors. The *motion to rescind* may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Decisions on zoning map amendments, special use permits, special exceptions, and ordinances may be rescinded or repealed only upon meeting all of the legal requirements necessary for taking action on the items as if it was a new item before the Board for consideration; otherwise, decisions on zoning map amendments, special use permits, special exceptions, and ordinances are eligible for reconsideration as provided in Rule 10(C)(3).

## 11. **Other Rules: Robert's Rules of Order Procedure in Small Boards**

Procedural rules that are not addressed by these Rules are governed by *Robert's Rules of Order Procedure in Small Boards*, which provide:

- A. **Not Required to Obtain the Floor.** Supervisors are not required to obtain the floor before making motions or speaking, which they can do while seated.
- B. **No Limitation on the Number of Times a Supervisor May Speak.** There is no limitation on the number of times a Supervisor may speak to a question, and motions to call the question or to limit debate generally should not be entertained.
- C. **Informal Discussion.** Informal discussion of a subject is permitted while no motion is pending.
- D. **Chair; Putting the Question to a Vote.** The Chair need not rise while putting questions to vote.
- E. **Chair; Speaking During Discussion.** The Chair may speak in discussion without rising or leaving the chair, and, subject to rule or custom of the Board (which should be uniformly followed regardless of how many Supervisors are present), the Chair usually may make motions and usually votes on all questions.

## 12. **Amending the Rules of Procedure**

These Rules may be amended only as follows:

- A. **Rules Eligible for Amendment.** Any Rule may be amended.
- B. **Procedure to Amend.** The Board may amend any Rule by any of the following procedures:
  1. **Notice Followed by Action at Next Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting, followed by a majority vote of the Supervisors present and voting to amend the Rules at the next Regular Meeting-
  2. **Notice Followed by Action at Later Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting and requests that the proposed amendment be considered at a meeting other than the next Regular Meeting; at the same meeting, a majority of the Supervisors present and voting establish the later Regular Meeting date at which the proposed amendment will be considered; followed by a majority vote of the Supervisors present and voting to amend the Rules at the Regular Meeting.

3. **By Supermajority Vote.** A proposed motion to amend is added to the Final Agenda at any Regular Meeting; at the same meeting, five or more Supervisors vote to amend the Rules. This procedure should be used only to make minor technical amendments deemed to be necessary to allow the Board to efficiently and effectively conduct its business.
- C. **Motion.** The motion to amend a Rule may be made by any Supervisor. Upon a proper second, the motion must be discussed and voted on. In deciding whether and how to amend a Rule, the Board shall consider that Rules 3, 4, 6(D), 6(F)(1)(a) through (c), 7, 8, 9(B), 10(A)(3), and 10(B)(1) address statutory or constitutional requirements.
- D. **Limitation on the Effect of an Amendment.** The Board's approval of a motion to amend one or more Rules does not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

### 13. **Suspending the Rules of Procedure**

These Rules may be suspended only as follows:

- A. **Rules Eligible to be Suspended.** Rules 1, 2, 5, 6, 9(A), 10 (except for Rules 10(A)(3) and 10(B)(1)), 11, and 12 may be suspended.
- B. **Procedure to Suspend, Generally.** Any Rule eligible for suspension may be suspended by a majority plus one vote of the Supervisors present and voting. The motion to suspend a Rule may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to suspend a Rule, if approved, is to make that Rule inapplicable to the item before the Board.
- C. **Suspending Rules Pertaining to Motions When There is Uncertainty as to Status or Effect.** If one or more motions have been made on an item, and there is uncertainty as to the status or effect of any pending motions or how the Board is to proceed at that point, the Board may, by a majority vote of the Supervisors present and voting, suspend the Rules in Rule 10 for the sole purpose of canceling any pending motions and to permit a new motion to be made. The motion to suspend a Rule pertaining to any pending motions may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on.
- D. **Limitation on Effect of Suspended Rules.** The Board's approval of a motion to suspend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

\* \* \* \* \*

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014; 1-7-2015; 1-6-2016; 1-4-2017; 2-8-2017; 1-3-2018; 3-20-2019; 01-08-2020; 9-2-2020; 12-2-2020; 1-6-21).



**Albemarle County  
Board of Supervisors**

**Policies**

**Adopted January 6, 2021**

**Policies of the  
Albemarle County Board of Supervisors**

**1. Travel Reimbursement**

Supervisors will be reimbursed travel expenses pursuant to uniform standards and procedures that will allow Supervisors to travel for official County business purposes consistent with the prudent use of County funds as follows:

- A. Routine Travel Expenses.** Supervisors may be reimbursed for the following routine travel expenses at the County's authorized car mileage reimbursement rate, provided there are available funds:
1. **Mileage to Attend Board and Committee Meetings.** Mileage for travel by personal vehicle or other travel costs to scheduled Board meetings and Board committee meetings for committees to which a Supervisor is appointed, from home or work, if a work day, which is not part of routine personal travel. Travel to use the Board's County Office Building office between other personal travel or meetings, is not eligible for reimbursement.
  2. **Mileage to Attend Matters within the Board's Responsibilities.** Mileage for travel by personal vehicle or other travel costs to events reasonably necessary to prepare for matters within the Board's responsibilities (e.g., site visits, informational meetings, local ceremonies to which the Supervisor was invited or is related to a matter for which the Board or the County has an interest) which is not part of routine personal travel.
  3. **Mileage to Attend Parades and Other Community Gatherings.** Parades and other community gatherings, that are not campaign events, to discuss County business.
- B. Educational Conference Travel Expenses.** Supervisors may be reimbursed for the following educational conference travel expenses, provided there are available funds:
1. **Regional, Statewide, and National Meetings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending regional, statewide or national meetings at which the Supervisor represents the County, as approved by the Board.
  2. **Legislative or Congressional Hearings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending legislative or congressional hearings relating to official County business.
- C. Matters for Which Supervisors will not be Reimbursed.** Supervisors will not be reimbursed for the following travel expenses:
1. **Political Events.** Travel to events which are political in nature (*i.e.*, campaigning or partisan events).
  2. **Personal Expenses.** Personal expenses incurred during travel.
  3. **Travel Not Part of Duties.** Other travel which is not part of the statutory governmental duties of the Board of Supervisors that are not provided for in Subsections (C)(1) or (C)(2).
- D. Implementation.** This policy will be applied and overseen in the following manner:
1. **Reimbursement Requests.** Reimbursement requests shall be made in writing on forms provided by the Clerk of the Board (the "Clerk") and shall itemize the date, number of miles of travel, and purpose of the meeting. Mileage for use of a personal vehicle shall be reimbursed at the County's authorized car mileage reimbursement rate. Other reimbursements shall be for the amount of costs expended and shall be documented by receipts for actual amounts paid.
  2. **Clerk Review.** The Clerk, or his/her designee, will review all travel reimbursement requests and the

Director of Finance will approve all travel reimbursement requests prior to reimbursement. No payment will be made for incomplete submissions or information.

3. **Exhaustion of Funds.** When all allocated funds for Board reimbursements have been expended, there will be no further reimbursement for that fiscal year unless the Board appropriates additional funding.

## 2. **Supervisors Appointed to Boards, Committees, and Commissions**

The Board appoints its members to a variety of boards, committees, and commissions to represent the interests of the Board on those bodies. It is important that the Board have confidence that its policies and positions are being reflected in that representation.

- A. **Voting Representatives.** Supervisors who are appointed to boards, committees, and commissions are required to vote on matters that come before those bodies in a manner which is consistent with the policies and positions of the Board as reflected in previously adopted resolutions or official actions of the Board on those matters.
- B. **Liaison Representatives.** Supervisors who are appointed to boards, committees, and commissions as liaisons are to act as a resource for the board, committee, or commission and are to report to the Board on the activities of the board, committee, or commission.
- C. **Alternates.** Supervisors may serve as alternates for the Board-appointed voting representatives or liaison representatives when the representative is unable to attend a meeting. The organizational documents for the board, committee, or commission must allow alternates to be appointed. Any alternate must be appointed by the Board to serve as an alternate for the particular board, committee, or commission.

## 3. **Boards, Commissions, and Committees**

### A. **Review and Creation of Boards, Commissions, and Committees are as Follows:**

1. **Annual Report.** By October 1 of each year, all boards, commissions, and committees shall submit a report to the Board covering the prior fiscal year (July 1 to June 30) that includes the key activities that support their mission and a summary of their activities and the attendance of each appointee.
2. **Annual Evaluation.** On an annual basis, the list of active boards, commissions, and committees will be evaluated and purged of all bodies not required by Federal, State, County or other regulations, which have not met at least once during the prior 12-month period.
3. **Combining Functions and Activities.** Whenever possible and appropriate, the functions and activities of boards and commissions will be combined, rather than encouraging the creation of new bodies.
4. **Short-Term Task Forces and Ad Hoc Committees.** Any newly created task force or ad hoc committee which is intended to serve for a limited duration may be comprised of magisterial or at-large members at the discretion of the Board. The appointment process shall follow that adopted in Section 3(B) for other magisterial and/or at-large positions.

### B. **Appointments to Boards, Commissions, and Committees**

1. **Appointments, Generally.** All appointments to boards, commissions, and committees based upon magisterial district boundaries will be made by the Board. The Board will consider and/or interview candidates recommended by the Supervisor of that district.
2. **Compilation of List of Expired Terms and Vacancies.** Prior to the first regular Board meeting each month, the Clerk will provide the Board a list of expired terms and vacancies that will occur within the next 60 days. The Board will then advise the Clerk which vacancies to advertise.

3. **Advertising Positions.** When the Board advises the Clerk which vacancies to advertise, the Clerk shall, in collaboration with the County's Director of Communications and Community Engagement, distribute notice of the vacancy on any board, commission, or committee through available and appropriate media in order to reach as many citizens as possible. The advertisement shall provide a brief description of the duties and functions of the board, commission, or committee, the length of term of the appointment, the frequency of meetings, the minimum qualifications necessary to fill the position, and the Board's expectations for appointees to attend meetings and to participate in other activities of the board, commission, or committee. An explanation of the appointment process for both magisterial and at-large appointments will also be sent to all applicants.
4. **Application Content.** The application form shall request information in the following areas: (i) the name of the board, commission, or committee to which the applicant seeks to be appointed; (ii) the name, address, and other contact information of the applicant; (iii) employment; (iv) County resident status and resident history; (v) family relationship (natural or legal offspring, parent, grandparent, spouse, or sibling) to any County Supervisor or other officer, employee, or appointee; (vi) education; (vii) offices or memberships in civic, not-for-profit, and similar organizations; (viii) activities and interests; (ix) reasons for seeking to serve on the board, commission, or committee; and (x) how the applicant learned about the vacancy.
5. **Application Period.** All interested applicants will have a minimum of 30 days from the date of the first notice to complete and return to the Clerk a detailed application, with the understanding that the application may be released to the public, if requested. No applications will be accepted if they are received or, if the application is mailed through the United States Postal Service, postmarked after the advertised application deadline, however, the Board, at its discretion, may extend the deadline.
6. **Distribution of Applications.** After the application deadline has passed, the Clerk will distribute all applications received to the Supervisors before the Board meeting at which the applications will be considered. For magisterial appointments, the Clerk will forward applications as they are received to the Supervisor of that district who will then recommend his or her appointment.
7. **Interviews; Appointments Without Interviews.** From the pool of qualified candidates, the Board, in its discretion, may make an appointment without conducting an interview, or may select applicants to interview for the vacant positions. The Clerk will then schedule interviews with applicants to be held on the day of a regular or special Board meeting.
8. **Appointments Within 90 Days.** The Board will make all reasonable efforts to interview selected applicants and make appointments within 90 days after the application deadline. For Board-designated agency appointments to boards, commissions, and committees, the Clerk shall ask the agency to recommend a person for appointment by the Board.
9. **Vacancies Filled as They Occur; Exception.** All vacancies will be filled as they occur, except that vacancies occurring on a Community Advisory Council will be filled on an annual basis at the time regular terms expire unless there are more than three vacancies on that Council at the same time and more than three months remaining from the annual appointment date.
10. **Appointees Required to File Real Estate Disclosure Form.** As a condition of assuming office, all citizen members of boards, commissions, and committees shall file a real estate disclosure form as set forth in the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*) and thereafter shall file the form annually on or before February 1.
11. **Termination of Appointment for Excessive Absences.** If a member of a board, commission, or committee does not attend and participate in at least 75 percent of that body's meetings, the Chair of the body may request the Board to terminate the appointment, if permitted by applicable law, and refill it during the next scheduled advertising period. If permitted by applicable law, the Board may establish different attendance requirements and procedures to terminate an appointment for excessive absences for a particular board, commission, or committee.

**12. Appointees to Advisory Bodies Serve at the Pleasure of the Board.** Any person appointed by the Board to an advisory board, commission, or committee serves solely at the pleasure of the Board.

**4. Supervisors Serving Without Remuneration on the Board of Trustees of Not-for-Profit Entities**

- A. State Law.** The State and Local Government Conflict of Interests Act (the “Act”) recognizes that a system of representative government depends in part upon: (i) Supervisors representing fully the public in the legislative process; and (ii) the County’s citizens maintaining the highest trust in the Board of Supervisors. The Act establishes rules designed to assure that the judgment of any Supervisor is free of inappropriate conflicts of interest. Under the Act, a Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity, where neither the Supervisor’s nor his or her immediate family has a personal interest in the not-for-profit entity, is not required to disclose or disqualify themselves from participating in any transaction related to the not-for-profit entity.
- B. Board Policy.** A Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity must disclose that fact at each meeting of the Board of Supervisors at which a matter pertaining to the not-for-profit entity is considered or acted upon. The disclosure must be made at the beginning of the Board meeting at which the matter will be considered or acted upon.

**ALBEMARLE COUNTY BOARD OF SUPERVISORS  
OPERATING GUIDELINES FOR HIGH QUALITY  
GOVERNANCE  
JANUARY 8, 2020**

**The Board commits to using the following guidelines to ensure high quality governance:**

1. The County's strategic priorities will guide the work of the Board and staff and will be supported by a thoughtful priority setting process and cycle.
2. We will honor the expressed will of the majority and respect the concerns of the minority.
3. We ensure that policy decisions and directions to the County Executive are communicated by the entire Board.
  - Where this is unclear, the County Executive will seek clarification from the Board.
  - No single member of the Board can provide direction on policy implementation to the County Executive.
4. Board Members do not want their interactions with and requests to staff members to negatively impact staff productivity.
  - Staff members should use judgment and explain the resources that would be required to respond to Board requests.
  - If a policy issue is going to affect workload or a policy decision, it should come through the County Executive's office.
5. When a Board Member sends a communication to a staff member, it should be copied to the department director and the appropriate member of the County Executive's Office. Urgent matters will be clearly labeled in the subject line.
6. To assure maximum productivity, the Board should focus on policy-making work and the staff should focus on day- to day operational work and provide progress reports.
7. We are responsible for our districts, the entire County, and the region; therefore, we should give our best efforts to work for the benefit of all.
8. When a Board Member has a concern regarding staff performance, we go directly to the County Executive in a timely manner so that it can be addressed.

**Proclamation Celebrating Martin Luther King, Jr. Day**

- WHEREAS,** Dr. Martin Luther King, Jr. devoted his life to the expansion of civil rights and public service to all Americans – such as his heroic leadership in the 1955 Montgomery Bus Boycott, the 1957 Southern Christian Leadership Conference, the 1963 March on Washington, and the Selma to Montgomery marches in 1965; and
- WHEREAS,** Dr. King sacrificed his life for equality, justice, and freedom for all and challenged all Americans to help build a more perfect union and live up to the purpose and potential of our nation; and,
- WHEREAS,** we have yet to realize Dr. King's dream as Black, Indigenous, and other people of color continue to face systemic inequities and deep disparities across different aspects of our society—from health outcomes to economic advancement to interactions with our criminal justice system; and,
- WHEREAS,** Albemarle County has invested in creating a more equitable and inclusive society by centering Community as an organizational value which states that “we expect diversity, equity, and inclusion to be integrated into how we live our mission” to serve all members of our community; and,
- NOW, THEREFORE, BE IT RESOLVED,** that we, the Albemarle County Board of Supervisors, do hereby honor and celebrate January 18, 2021 as Martin Luther King, Jr. Day and urge our employees and residents to work towards his vision for a more equitable society for everyone in our community.

Signed this 6th day of January, 2021

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2021 APPROPRIATIONS**

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

- 1) That Appropriations #2021046; #2021047; #2021048; #2021049 and #2021050 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.



**RESOLUTION**

**WHEREAS**, the Board of Supervisors has adopted County of Albemarle Personnel Policies pursuant to Albemarle County Code Section 2-901; and

**WHEREAS**, the Board desires to amend Section P-61, Staff Schedules, Time Tracking, and Compensation Policy, and Section P-66, Coverage Due to Inclement Weather or Emergency.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors of Albemarle County, Virginia, hereby approves amending the County's Personnel Policies as described hereinabove, and as set forth on the attached document, attached hereto and incorporated herein.

\* \* \* \* \*

COUNTY OF ALBEMARLE  
PERSONNEL POLICY

§P-61      STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION POLICY

The County has established the following procedures to compensate employees fairly and in accordance with federal, state, and local laws for all time worked. The County approves the annual staffing plan through the budget process each fiscal year. Staffing allocations are made for each department that determine the number and type of positions for employee payroll. These policies and procedures establish guidelines and expectations for employees and supervisors.

**I.      Staff Schedules**

**A.      Classified Staff**

The supervisor of every classified employee shall determine the employee's work schedule in accordance with the base weekly hours for that position and the needs of the department. Department heads/designees may require that employees work additional time or alternative schedules to meet the needs of the department. Whenever possible, supervisors shall give advance notice as soon as the work schedule change is determined so that the employees are able to arrange their personal schedules.

**II.     Alternative Schedules**

**A.      Guidelines:** Department heads/designees may permit alternative work schedules for staff provided that the following conditions are met:

1.      The department is open to the public on all days other than posted holidays and emergency closings;
2.      Employees work the requisite number of hours for their positions; and
3.      All applicable personnel policies are followed.

**B.      Flex Time:** Non-exempt employees are paid based upon hours worked or leave taken during the workweek or work period. In lieu of taking leave, a supervisor may allow an employee to work an alternative schedule in a given workweek or work period as long as all base weekly hours are accounted for within the workweek or work period. Exempt employees may work alternative schedules with supervisor approval.

**III.    Overtime and Compensatory Time Leave Compensation**

Non-exempt employees are entitled to overtime pay or compensatory time leave in accordance with the Fair Labor Standards Act (FLSA) for hours worked in excess of their maximum allowable hours at one and one-half (1.5) times their regular rates of pay. The following regulation establishes the general guidelines and procedures the County will follow regarding overtime and compensatory time leave requirements of the FLSA and applicable state law. If any conflict arises between this policy and the

FLSA or state law, the requirements of the FLSA and/or state law will govern. §P-61

## PERSONNEL POLICY

### PROCEEDURE FOR STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION

#### I. Overview and Key Terms

- A. **Base Weekly Hours.** Each regular employee has a designated number of official hours per workweek or work period that have been set for the position. While an employee's actual daily work schedule may vary, the employee's base weekly hours remain the same. For example, an employee with 40 base weekly hours may work five (5) eight (8)-hour shifts or may work four (4) 10-hour shifts.
- B. **Full-Day Increments.** Full-day increments refers to the entire scheduled day and not a "day of leave" as defined in Policy § 86 Leave Program.
- C. **Exempt Employees.** Employees in certain positions are exempt from overtime pay requirements and compensatory time leave eligibility if the positions satisfy the criteria for the exemptions defined under the FLSA. Positions will be designated as exempt or non-exempt by the Department of Human Resources and approved by the County Executive/designee.
- D. **Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements.
- E. **Hours Worked.**
  1. **General.** Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive either overtime pay or compensatory time leave for their excess hours worked. Paid or unpaid time off during which the employee is absent from service for the County shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Such absences include, but are not limited to, holiday, sick, annual, and compensatory time leave; leaves of absence; meal breaks; and building closures.
  2. **Breaks.** FLSA does not require rest breaks or meal breaks. However, supervisors should allow employees time to attend to health and hygiene needs. Supervisors may designate specific times for rest and meal breaks. Department heads may establish department-wide standards to ensure efficient operations and service. Non-exempt employee rest breaks longer than 20 minutes are not compensable as time worked as long as no work is performed and the employee is free to leave his/her post. Non-exempt employee meal breaks 30 minutes or longer are not compensable as time worked as long as the employee is completely relieved from duty and free to leave his/her post.

# PERSONNEL POLICY

3. Travel Time. When non-exempt employees are required to work outside of County facilities, the hours involved in the actual travel, as well as the hours working, shall be considered time worked. Employees shall report this time to their supervisors, using procedures established for that purpose. Ordinary travel/commute between an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources.
- F. Leaving Premises During the Workday. Departments may establish their own sign-out/notification procedures for employees leaving the premises during the workday.
- G. Maximum Allowable Hours. A non-exempt employee must be compensated for overtime once the employee has exceeded the maximum allowable hours. Maximum allowable hours for employees are as follows:

7(k) exempt <sup>1</sup> Sworn Law-Enforcement	171 hours within the 28-day work period
7(k) exempt Uniformed Fire Rescue	212 hours within the 28-day work period
All Other Employees	40 hours within the workweek
- H. Non-exempt Employees. Employees who are subject to the FLSA's overtime and compensatory time leave requirements are considered non-exempt.
- I. Overtime. This is time that non-exempt employees physically work in excess of the maximum allowable hours per workweek or work period, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). The County must compensate an eligible employee for time worked in excess of the maximum allowable hours by making monetary payment at one and one-half (1.5) times the employee's regular rate of pay for each hour or portion thereof worked or by granting compensatory time leave at the rate of one and one-half (1.5) times for each hour or portion thereof worked.
- J. Pay by Exception. Albemarle County operates on a "pay by exception" system. Each regular employee has a designated number of hours per fiscal year the employee has been allocated as part of the organization staffing plan. These annual hours are divided equally into the number of established pay cycles. The payroll system will pay this amount automatically unless the employee and supervisor submit adjustments to the base weekly hours such as overtime or leave without pay.

<sup>1</sup> "7(k) exempt" refers to 29 U.S.C. § 207(k), which provides public agencies a partial exemption to overtime compensation requirements for employees engaged in fire protection or law enforcement activities.

## PERSONNEL POLICY

- K. **Premium Pay.** This refers to additional compensation, exclusive of overtime, non-exempt employees may receive as an incentive for specific types of work, i.e., shift differentials.
  - L. **Regular Schedule.** All regular employees have a designated schedule each workweek or work period based upon the base weekly hours. Changes to a non-exempt employee's regular schedule that impact the base weekly hours may cause changes to the employee's pay, such as overtime or leave without pay.
  - M. **Straight Time.** A non-exempt employee's non-overtime hours worked, compensated at the employee's hourly rate.
  - N. **Work Schedules.** The department head/designee is responsible for establishing employee work schedules, including allowances for breaks and meal periods.
  - O. **Workweek and Work Period.** The County Executive has established the official workweek as seven (7) days, extending from Saturday at 12:01 a.m. to Friday at 12 midnight. The work period for 7(k) exempt law-enforcement and fire rescue employees is a 28-day period. The beginning and ending time for the 28-day work period under section 207(k) of the Fair Labor Standards Act shall be determined by the appropriate department head.
- II. **Tracking Time and Pay Adjustments**
- A. **Non-exempt Employees**
    - 1. **Time Recording.** Non-exempt employees are paid for time worked on an hourly (or portion thereof) basis. All non-exempt employees must complete and submit, in a timely manner, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County policy.
    - 2. **Increments.** Rounding rules up or down to the quarter-hour will be established for County-wide consistency. Departments may set reasonable expectations for adherence to work schedules. An employee may be counseled or disciplined for tardiness; however, pay will follow the rounding rules.
    - 3. **Reductions in Pay.** In the County's pay by exception system, when an employee misses work in the workweek or work period and has insufficient leave to make up the variance from the base weekly hours, the non-exempt employee will be docked pay for that workweek or work period in 15-minute increments. Employees may also be docked pay for disciplinary purposes in accordance with County policy.

## PERSONNEL POLICY

**B. Exempt Employees**

1. Time Recording. Exempt employees are expected to follow established procedures and policies for exempt employee time tracking and leave submission. Failure to do so may result in disciplinary action in accordance with County policy.
2. Increments. Exempt employees are compensated on a salary basis. The salary may be calculated on a daily or weekly basis depending on the position. However, exempt employees are not paid based upon physical time worked.
3. Reductions in Pay.
  - a. Exempt employees may be docked pay in accordance with FLSA, FMLA, Workers' Compensation laws, and other applicable laws. Generally, pay may be docked for partial weeks worked during the first and last weeks of employment and situations where a benefits-eligible employee has insufficient leave accrued or chooses to take leave without pay. Pay must be docked in full-day increments, excluding exceptions permitted under law. Benefits-ineligible employees may not be docked pay when work is performed in the workweek or work period, unless permitted by law. Supervisors may require any exempt employees to make up missed work in another workweek or work period.
  - b. Discipline. Any exempt employee may be docked pay in full-day increments for disciplinary purposes in accordance with County policy.

**III. Overtime Pay and Compensatory Time Leave****A. Eligibility to Earn Overtime Pay/Compensatory Time Leave**

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt regular employees of the County who work in excess of 40 hours within a workweek or the maximum allowable hours within one 28-day work period are eligible to receive overtime pay and/or compensatory time leave. Temporary employees are not eligible to receive compensatory time leave, but are eligible to receive overtime pay.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory leave time. However, this does not preclude department heads from using their discretion to grant time off to exempt employees in recognition of time worked beyond normal work schedules.

## PERSONNEL POLICY

**B. Calculation of Overtime/Compensatory Time Leave**

All non-exempt employees are to be compensated for overtime hours worked. This compensation may be monetary or through the accrual of compensatory time leave. Time is calculated based on the entire workweek or work period and not on a daily basis. Overtime is not earned until the maximum allowable hours have been physically worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Calculation of overtime/compensatory time leave shall be as follows.

1. Fire Rescue Employees. Fire Rescue employees who are 7(k) exempt and work over 212 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
2. Sworn Law-Enforcement Employees. Sworn law-enforcement employees who are 7(k) exempt and work over 171 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
3. All Other Employees. All other non-exempt employees who physically work over 40 hours within the workweek are to be paid overtime pay.
4. Compensatory Time Leave. A non-exempt regular employee may be compensated at the rate of one and one-half (1.5) hours of compensatory time leave for each overtime hour worked in a workweek or work period instead of overtime pay referenced in B.1-3. The employee and supervisor must agree to compensatory time leave as compensation. If a supervisor is offering only compensatory time leave as payment, the employee must agree to accept compensatory time leave or be able to decline the additional work. Otherwise, overtime pay must be provided for required additional work. Temporary employees are not eligible for compensatory time leave in lieu of overtime pay.
5. Compensation for Additional Non-Overtime Work. When a non-exempt employee works more than his/her base weekly hours, the employee must be paid his/her hourly rate (straight time) for those excess hours worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Compensatory time leave may not be earned except as overtime.



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### 6. Dual Job Employees.

- a. Two or More Non-exempt Positions. Employees who have two or more non-exempt regular positions contributing to overtime hours are eligible for both overtime pay and compensatory time leave. These employees may receive overtime pay at the blended overtime rate or earn compensatory leave time in accordance with B.4. Department heads shall consult with Human Resources for guidance regarding the payment of overtime compensation to these employees.
- b. Exempt and Non-exempt Regular Positions. For employees who have one or more exempt regular position(s) and one or more non-exempt regular position(s), the eligibility for overtime is determined by the primary position (the position with the highest part-time percentage). When the primary position is classified as non-exempt, all work performed in both positions contributes to the total hours for the workweek or work period. When the primary position is classified as exempt, the employee is not eligible to earn overtime or compensatory time leave. The employee may receive straight time pay for hours worked in the workweek or work period beyond the base weekly hours in the non-exempt position.
- c. Non-exempt Regular and Temporary Positions. If a non-exempt regular employee also has time worked in a non-exempt temporary position during the workweek, all such time worked counts towards the maximum allowable hours. The supervisor of the regular position may deny the earning of compensatory time leave in lieu of overtime pay, regardless of which position(s) contributed to the overtime hours. If a supervisor denies compensatory time leave, overtime must be paid at the blended overtime rate.
- d. Non-exempt Regular Employees Working Exempt Temporary Positions. As long as the exempt temporary position is occasional and sporadic, the hours worked in the temporary position do not count towards the maximum allowable hours. Supervisors of temporary positions shall contact the Department of Human Resources before scheduling any non-exempt regular employee for exempt temporary work.

### C. **Compensatory Time Leave Payouts**

1. Maximum Balances. Employees eligible for the public safety exemption may accrue up to 240 hours of compensatory time leave. All other regular, non-exempt employees may accrue up to 100 hours of compensatory time leave.

2. Job Changes. Upon termination of regular employment, non-exempt employees shall be paid for unused compensatory time leave. A non-exempt employee who is transferring to another department or who is changing from a non-exempt to an exempt position shall be paid for the unused compensatory time leave balance or reach an agreement with the current department head to use any accumulated compensatory leave prior to the effective date of the change. The employee's compensatory time leave balance must be zero (0) prior to the starting date for the new position.
3. Compensatory Time Leave Payout Requests.
  - a. Department heads may offer periodically partial or full payouts of accrued compensatory time leave. Fair practices must be established to provide equal access to all eligible non-exempt employees. Department heads may not make payouts under the maximum compensatory time leave balance without employee approval.
  - b. Employees may request partial or full payouts of accrued compensatory time leave. Payouts are subject to department head approval and budgetary considerations. Department heads may set fair and consistent limits.
4. Compensatory Time Leave Payout Rate.
  - a. During Employment: When compensatory time leave is paid during the course of employment, it will be paid at the employee's current regular rate.
  - b. Upon Termination: When compensatory time leave is paid upon termination of employment, it will be paid at a rate of compensation not less than:
    - i. The average regular rate the employee received during the last 3 years of employment, or
    - ii. The employee's final regular rate, whichever is higher.

**D. Employer Responsibilities**

1. Managing the Accrual of Overtime. Department heads/designees may require that employees work additional time or overtime to meet the needs of the department. They are also responsible for managing non-exempt employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in a day, the employee's supervisor may adjust the employee's work schedule for that

## PERSONNEL POLICY

workweek or work period by the amount of the excess time worked to avoid the accrual of overtime.

The County will compensate an employee for any time worked in excess of the employee's base weekly hours. However, an employee may be disciplined for working unapproved time.

2. Availability of Funds. Department heads/designees shall ensure that adequate funds are available to pay required overtime compensation and compensatory time leave payouts.
3. Scheduling Compensatory Time Leave. (See Policy § P-86, Leave Program.)
4. Recordkeeping. Department heads/designees shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. They shall also ensure that exempt employees submit timely and accurate leave records.

### E. Employee Responsibilities

Authorization for Overtime. Non-exempt employees may work additional time beyond their scheduled hours only with prior authorization from their supervisor. Failure to obtain prior authorization may result in disciplinary action in accordance with County policy.

## IV. ON-CALL AND CALL-BACK COMPENSATION

### A. On-Call Compensation

1. Purpose. Employees may be required to be available to return to work or "on-call" during a scheduled period. On-call periods have been established as 12-hour periods for the entire County. Department heads/designees may schedule employees to be on-call for shorter periods based on business needs.
2. Compensation and Eligibility. A regular or temporary non-exempt employee on-call will be paid a flat fee equal to one and a quarter (1.25) of the employee's hourly rate for each 12-hour on-call period. When an on-call period of less than 12 hours has been designated, an employee will still receive one unit of on-call pay for the period. Periods during which an employee is on-call are not time worked and do not count towards maximum allowable hours for overtime. For example, an employee who makes \$10.00/hour and is on-call for a designated eight (8)-hour shift would receive \$12.50 for one on-call period. If the on-call shift was 13 to 24 hours, the employee would receive \$25.00 for two (2) on-call periods.

## PERSONNEL POLICY

Non-exempt employees who are on-duty while they are on-call are to be compensated for the time they are on-duty as time worked. Whether the FLSA considers an employee to be "on-duty" while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer's premises and being restricted from using on-call time effectively for personal purposes.

Exempt employees are not eligible to receive on-call compensation.

3. Condition to Work. Employees who are "off-duty", but on-call, must remain in a work-appropriate condition. This includes, but is not limited to, refraining from consuming substances that impair or compromise an employee's ability to work.
4. Departmental Expectations. Departments may develop on-call guidelines and expectations for employees for "off-duty" on-call time based on departmental needs. Department heads must submit their proposed guidelines to the Human Resources Department for approval to ensure that they meet all applicable legal and policy requirements.

On-call compensation will be authorized only if the on-call service meets all the following criteria:

- a. Service must be mandated.
  - b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific required response times may vary depending on individual departmental requirements.
  - c. On-call employees will not be called if another employee is already on duty and available to perform the required services.
  - d. The department's on-call guidelines have been approved by the Department of Human Resources.
5. Reporting for Work. While on-call, an employee may be contacted to report to work. An employee who is called in to work from on-call status is eligible for call-back compensation. The employees will also retain the on-call compensation in addition to wages for time worked.
  6. Special Provisions Regarding CPS Workers. Child protective service workers employed by the Department of Social Services shall be compensated for their on-call service in accordance with all state-mandated requirements.

## PERSONNEL POLICY

**B. Call-Back Compensation**

1. Purpose. There may be times when supervisors may need employees to report back to work on short notice outside of the employee's work schedule. Call-Back status occurs when a department head/designee requires a non-exempt employee to report back to work outside of the employee's work schedule on less than 24-hour notice. Call-back is not hours worked beyond the schedule which require an employee to stay at work, such holdover time shall be compensated as straight time or overtime as applicable. Additionally, work schedule changes with more than 24 hours' notice are not call-back hours. Whenever possible, supervisors should give notice to employees when the need for call-back may occur, such as for an anticipated snowstorm.
2. Eligibility for Call-Back Compensation. Any regular non-exempt employee who is called back to work as described above by the department head/designee shall be paid call-back compensation..  
  
Temporary, non-exempt employees who have regular work schedules which are changed via call-back are eligible. Temporary employees who work on an intermittent, occasional, or sporadic basis do not qualify for call-back pay when scheduled or called to work with less than 24 hours' notice.  
  
While exempt employees may be called back to work with short notice, they are not eligible for call-back pay.
3. Condition to Work. Employees who are called back for work must report in a work-appropriate condition that includes, but is not limited to, the non-consumption of substances that impair or compromise an employee's ability to work. If an employee is not in a condition to work, the employee must disclose that to the supervisor before reporting for duty.
4. Compensation. The call-back compensation rate is one and one-half (1.5) times the employee's regular hourly rate for call back hours. If an employee exceeds the maximum allowable hours for the workweek or work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), the employee will receive overtime pay instead of call-back pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above.

## PERSONNEL POLICY

Once an employee has been called back to work, the employee will be guaranteed a minimum of two (2) hours of call-back pay even if less than two (2) hours of work are performed. An employee will receive call-back pay for all hours worked. Ordinary travel/commute between

an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources. Emergency travel time to a location other than the employee's regular place of business which requires travel of a substantial distance (more than the employee's typical commute) is considered hours worked. Only hours physically worked or call back emergency travel time to work count towards the maximum allowable hours. An employee called back to work from "on-call" status may keep the on-call pay in addition to call-back pay received. When work is completed, travel time home is not compensable as time worked.

If an essential personnel employee receives additional pay due to building closure, the employee is not eligible for call-back for the same hours worked.

### V. HOLIDAY PAY

Please refer to Policy § 86, Leave Program, for information on pay for work performed on a holiday.

### VI. SHIFT DIFFERENTIALS

Non-exempt regular and temporary employees may be regularly or periodically scheduled to work evening or midnight shifts and may receive premium pay for such work. When five (5) or more hours are physically worked in either shift, the employee will receive the following additional percentage of his/her hourly rate for each hour worked in the range.

Evening: 3:00 p.m. – 12:00 a.m.      5% of the hourly rate premium pay

Midnight: 12:00 a.m. – 9:00 a.m.      6% of the hourly rate premium pay

Shift differential premium pay will not be granted when less than five (5) hours of work are performed in the designated range. Although an employee may be regularly assigned to an evening or night shift, the shift premium will not be paid when paid leave is taken, nor will the employee be charged the premium for leave without pay. Fire Rescue employees who are 7(k) exempt are not eligible for this shift differential premium pay.

## PERSONNEL POLICY

**VII. BUILDING CLOSURES DUE TO INCLEMENT WEATHER OR EMERGENCY SITUATIONS**

The County expects all employees not required to work onsite who are able to work remotely during building closure periods to do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

Employees may be required to report to a County-operated worksite during building closure periods. Please refer to policy § P-66, Coverage Due to Inclement Weather or Emergency, for more information. While they may be essential personnel, employees on the public safety pay scales are not eligible for additional pay due to building closures.

Compensation for other essential personnel is as follows:

**Employees Required to Work.** Any non-exempt, regular employee who is directed to work at a site that is impacted by a declared inclement weather event or emergency are essential personnel and are paid a premium equal to the employee's hourly rate for any time the employee works during the building closure period. This premium is in addition to the regular wages essential personnel earn for any time worked in accordance with this policy.

For example, if the building closure period is 6am-10am, the employee's work schedule is 8am-4pm, and the employee works 9am-4pm (no lunch break) on the day of the closure as directed by the supervisor, the employee would receive one hour of paid administrative leave due to building closure (8am- 9am), one hour of essential personnel additional pay due to building closure (9am-10am), and seven hours of pay for time worked (9am-4pm).

**VIII. PROFESSIONAL LEARNING**

See Policy § P-87, Professional Learning, for more information on compensable work time for training and learning activities.

**IX. COURT APPEARANCES / HEARINGS**

When employees are subpoenaed to appear as witnesses in legal proceedings or participate in hearings with other federal, state, or local agencies in their capacities as County employees, the time spent in such work-related proceedings will be treated as compensable work time.

Employees who initiate or are otherwise involved in legal actions of any kind (excluding employee grievance proceedings) in their private capacity and not as a County employee, whether such actions involve the County or not, will not be permitted to treat such time as compensable work time. Leave may be requested in accordance with policy § P-86, Leave Program.

**X. SPECIAL PROVISIONS FOR SWORN LAW-ENFORCEMENT EMPLOYEES**

PERSONNEL POLICY

- A. **Court Appearances/Hearings.** Work-related Court appearances/hearings worked by sworn law-enforcement employees outside of the regular work schedule for that day will be paid at one and one-half (1.5) times the employee's regular hourly rate, If an employee exceeds the maximum allowable hours for the work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), while attending work-related Court hearings, the employee will receive overtime pay instead of court pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above. These employees will be guaranteed a minimum of two (2) hours of court pay even if less than two (2) hours of work are performed. Only hours physically worked count towards the maximum allowable hours.
- B. **Contractual Overtime.** Contractual overtime is defined as work outside of County work hours assigned to a sworn law-enforcement employee at the request of an outside entity and performed at the employee's option. Contractual overtime shall only be compensated monetarily. Those voluntary contractual hours worked by employees shall not count as hours worked for the County. Sworn law-enforcement employees shall be paid for voluntary contractual hours worked at an established fixed rate.

Amended August 4, 1993; August 3, 1994; September 1, 1997; December 9, 2009; Adopted March 6, 2019, effective April 1, 2019; January 6, 2021



COUNTY OF ALBEMARLE  
PERSONNEL POLICY

§P-66

**COVERAGE DUE TO INCLEMENT WEATHER OR  
EMERGENCY**

It is the County's intention to keep County Office Buildings open to the extent possible and provide staff coverage to maximize service to the public. However, sometimes coverage will be limited due to inclement weather or other emergencies. In such instances, the County strives to staff facilities to provide necessary services and to protect the safety of employees and the public.

## PERSONNEL

### Building Closure Procedures

1. **Designated Building Closure.** The County Executive determines when buildings are closed and may retroactively designate these periods.
2. **Single Location Closures.** If a situation only impacts certain buildings, such as a power outage, the County Executive may close only those locations. Employees whose locations are not impacted are required to report to work as scheduled. The County Executive may designate a liberal leave period for employees working at other locations.
3. **General Coverage.** Department heads must arrange coverage to ensure safe and effective operation. During inclement weather or emergency situations, essential personnel may be required to report for work.
4. **Liberal Leave.** The County Executive may designate a liberal leave period due to inclement weather or emergency situations when a building is not closed but employees may be unable to report to work or may need to leave early from work. During these periods, department heads should allow staff to take unscheduled leave if their employees feel it necessary, unless coverage requirements cannot otherwise be met. Employees may use accrued leave without prior approval during liberal leave periods. In lieu of taking leave, employees may be allowed to flex time with supervisor approval. Department heads are responsible for monitoring time worked and leave taken to ensure employees are fairly and accurately compensated.  
  
If essential personnel feel they are unable to report to work, they must use applicable accrued leave or leave without pay. These employees are not eligible for paid administrative leave provided to non-essential employees for building closures. Essential personnel who are repeatedly unable to work during building closures may be counseled or disciplined, as essential personnel are expected to work during these periods. Please refer to Policy § P-02, Definition of Employee Status, for more information on essential personnel.
5. **Scheduled Leave.** Leave previously scheduled by an employee which falls on a work day when the employee's regular schedule is impacted by a delayed opening, early closing, or closing should not be adjusted.
6. **Impact to Work Schedule.** Employees not required to work onsite who are able to work remotely during building closure periods must do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

An employee not able to work remotely during building closure periods will be granted paid administrative leave (building closure leave) up to his/her regular schedule for such time missed and will not be required to use accrued leave or take leave without pay. For example, in the event the building is closed due to weather, and the remote-working employee loses electricity, the employee will be granted paid administrative leave for time unable to work within their regularly scheduled hours.

Employees whose schedules are not impacted by a closure will not receive additional leave or compensation. Employees may receive different amounts of paid administrative leave depending on the impact to their individual schedules.

7. **Working During Building Closures.** Essential personnel are expected to work at a site that is impacted by a declared inclement weather event or emergency. Only those employees required to work onsite should report to a County-operated worksite. Employees do not receive administrative leave due to building closure when they are working. Please refer to Policy § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensation during building closures.
8. **Board Authority.** The Board may modify the procedures and compensation practices in this policy at any time.

Adopted: February 6, 2019, effective March 1, 2019; January 6, 2021

**RESOLUTION OF INTENT**

**WHEREAS**, Section 35, Fees, of the Zoning Ordinance (Chapter 18 of the Albemarle County Code) establishes a schedule of fees for services provided by the County of Albemarle under the Zoning Ordinance; and

**WHEREAS**, it is desired to amend Section 35.1 of the Zoning Ordinance in order to capture the increase in costs associated with the aforementioned services that has occurred since the most recent update to the schedule of fees; and

**WHEREAS**, it is desired to amend Section 35.1 of the Zoning Ordinance to establish new fees in order to capture costs generated by certain zoning-related services that the County of Albemarle provides, but which currently are not addressed in the Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Section 35.1 of the Zoning Ordinance to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

**RESOLUTION TO APPROVE  
SE202000009 SOUTHWOOD PHASE I**

**NOW 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 §§ 18-8.5.5.3 and 18-33.49, the Albemarle County Board of Supervisors hereby approves SE202000009 Southwood Phase I to vary the Code of Development approved in conjunction with ZMA201800003 Southwood Phase I for changes to the garage setbacks in Blocks 5-8 and rear setbacks in Blocks 6-8, subject to the condition attached hereto.

\* \* \*

**SE202000009 Southwood Phase I Condition**

1. All changes to the Code of Development shall be in accordance with the Front-loaded garage scenario, the "No min" rear setback scenario, and the revised Table 5 prepared by BRW Architects entitled "Attachment 2B: Front-load Garage Scenarios"; "Attachment 3B: "No Min." Rear Setback Scenarios" and "Attachment 4: Modifications to Table 5 as requested (changes highlighted)" last revised on December 4, 2020.

**RESOLUTION TO APPROVE AMENDMENT TO SPECIAL EXCEPTIONS FOR R. A. YANCEY LUMBER CORPORATION: SPECIAL EXCEPTION REQUEST**

**WHEREAS**, by Resolution dated July 15, 2020, the Albemarle County Board of Supervisors approved certain special exceptions requested by the R. A. Yancey Lumber Corporation (listed therein as Special Exceptions 1-3, 5, and 8-17), and deferred certain other requests (listed therein as requests 4, 6, and 7) for further consideration; and

**WHEREAS**, by Resolution dated August 19, 2020, the Albemarle County Board of Supervisors restated and reaffirmed the special exceptions previously approved on July 15, 2020, and approved the special exception requests previously deferred subject to conditions; and

**WHEREAS**, the Board now wishes to amend Condition 2 of the approved conditions.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application to amend Condition 2 and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-4.18, 18-4.20, 18-5.1(a), 18-5.1.15, 18-33.43, and 18-33.49, the Albemarle County Board of Supervisors hereby restates and reaffirms all the Special Exceptions previously granted for and on County Parcel ID Numbers 05500-00-00-111B0 and 05500-00-00-11200, subject to the conditions attached thereto, with the following amendment to Condition 2:

2. The owner must obtain a Certificate of Occupancy for all existing structures by October 1, 2021. For any structure that is not issued a Certificate of Occupancy by October 1, 2021, the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SE2020-00016 EVELYN TICKLE KITCHIN 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 comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot northern and southern side yards required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \* \*

**SE 2020-16 Evelyn Tickle Kitchin Homestay Special Exception Conditions**

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit dated December 10, 2020.
2. The existing screening, as depicted on the Parking and House Location Exhibit dated December 10, 2020, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SE2020-00015 SUSAN PIERCE 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 comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot front yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \* \*

**SE 2020-15 Susan Pierce Homestay Special Exception Condition**

1. Parking for homestay guests must be located within existing parking areas on the "gravel drive" depicted on the plat titled "Plat Showing Survey of Parcel A" dated May 2, 2008, prepared by J. Thomas Gale.
2. The existing screening, to a minimum depth of 20 feet along property lines where homestay guest parking and structures are less than 125 feet therefrom, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.





**ORDINANCE NO. 21-3(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE 2, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, 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 3, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3-207      Batesville Agricultural and Forestal District  
 Sec. 3-220      High Mowing Agricultural and Forestal District

**CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS****ARTICLE 2. DISTRICTS OF STATEWIDE SIGNIFICANCE****DIVISION 2. DISTRICTS****Sec. 3-207 - Batesville Agricultural and Forestal District.**

The district known as the "Batesville Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on May 2, 1990.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
  - 1. Tax map 70: parcel 40A.
  - 2. Tax map 71: parcels 23A, 23C, 24B, 24C, 24C1, 26, 26A, 26B, 26B1, 26B2, 26C, 27A, 29C, 29D, 29E, 29G, 29H, 29I.
  - 3. Tax map 84: parcels 35A, 69.
  - 4. Tax map 85: parcels 3, 3A (part), 3A1, 4J, 17, 21, 21D, 21D1, 22B, 22C, 30D, 31.
- C. *Review.* The district is reviewed once every five years and will next be reviewed prior to January 6, 2026.

(Code 1988, § 2.1-4(s); § 3-207, Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 00-3(3), 9-13-00; Ord. 01-3(2), 7-11-01; Ord. 04-3(1), 3-17-04; Ord. 09-3(4), 12-2-09; Ord. 10-3(1), 4-14-10; Ord. 18-3(1), 11-7-18; Ord. 21-3(1), 1-6-21)

**Sec. 3-220 - High Mowing Agricultural and Forestal District.**

The district known as the "High Mowing Agricultural and Forestal District" was created and continues as follows:

- A. *Date created.* The district was created on January 16, 1991.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
  - 1. Tax map 84: parcel 69A.
  - 2. Tax map 85: parcels 39, 39H, 41A, 41A1.
- C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to January 6, 2031.

(Code 1988, § 2.1-4(t); § 3-216, Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; § 3-220, Ord. 18-3(1), 11-7-18; Ord. 21-3(1), 1-6-21)

**RESOLUTION TO APPROVE A LEASE AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE AND  
THE B. F. YANCEY COMMUNITY FOOD PANTRY**

**WHEREAS**, the Board finds it in the best interest of the County to approve a Lease Agreement for the B. F. Yancey Community Food Pantry to lease a portion of the Yancey School Community Center, located at 7625 Porters Road, Esmont, Virginia, from the County.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves a Lease Agreement between the County and the B. F. Yancey Community Food Pantry for the lease of space at the Yancey School Community Center, and authorizes the County Executive to execute the Agreement, once it has been approved as to form and substance by the County Attorney.

LEASE

THIS LEASE, dated this 7 day of December, 2020, is by and between the COUNTY OF ALBEMARLE, VIRGINIA (the "County" or "Owner"), and the B.F. YANCEY COMMUNITY FOOD PANTRY, a Virginia nonstock corporation (the "Food Pantry" or the "Occupant").

ARTICLE I. PREMISES AND IMPROVEMENTS

In consideration of the covenants herein set forth, the County hereby authorizes the Food Pantry to occupy the premises shown as "Leased Space" on Exhibit A attached hereto and made a part hereof, together with any and all improvements thereon (the "Premises"). Except as otherwise provided herein, the Food Pantry will have exclusive use of Rooms 18B and 19 and of the two walk-in freezers located outside the building, and shared use of Rooms 18, 18A, 18C, 18D, and of the common areas. Upon mutual written agreement of the parties, this Lease may be amended to add additional square footage to the Premises.

ARTICLE II. TITLE: QUIET ENJOYMENT

So long as the Food Pantry is not in default hereunder, the Food Pantry will have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease will commence on February 1, 2021 (the "Date of Commencement") and will expire on January 31, 2022. All references to the "term" of this Lease will, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. This Lease will automatically renew for additional 12-month terms unless written notice is given by either the County or the Food Pantry no later than 60 days prior to the expiration of any term.

ARTICLE IV. RENT

Though the County reserves the right to collect unpaid charges and expenses incurred under this Lease, no rent (other than for utilities and services as provided in Article V) will be charged for the Food Pantry's occupancy of the Premises.

ARTICLE V. UTILITIES AND SERVICES

The County will provide water, sewer, electricity, and heating and cooling services at no expense to the Food Pantry. The County will further provide custodial services (to common areas only) and arrange for the regular collection of a shared dumpster at no expense to the Food Pantry. The Food Pantry will exercise reasonable and responsible care to conserve these services. Rent may be charged or adjusted to reflect any change in the cost to the County of providing the above

services. The County will provide the Food Pantry with prompt notice of any such change, and will provide evidence of its actual costs. The Food Pantry will provide telephone, custodial (including clean-up of shared space(s) when used), and all other services to the Premises.

#### ARTICLE VI. USE OF PROPERTY

Section 6.1. Permitted Use. The Food Pantry may use the Premises only for the collection, storage, preparation, and distribution of food items. No other use of the Premises is permitted without the prior written consent of the County.

Section 6.2. Parking. The Food Pantry will have shared use of parking spaces in the parking lot and an access easement to the Premises. The County reserves the nonexclusive right to use the parking lot.

#### ARTICLE VII. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS

##### Section 7.1. Installation by the Food Pantry.

(a) The Food Pantry may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements that do not damage or alter the Premises, provided that the Food Pantry has first obtained both (a) the County's written consent and (b) all required governmental permits for such alterations, additions or improvements. All such alterations, additions or improvements will be at the sole expense of the Food Pantry.

(b) The Food Pantry may, from time to time, make interior structural alterations, additions or improvements, only with County's prior written consent to plans and specifications therefor, which consent will not be unreasonably withheld. All such alterations, additions or improvements will be at the sole expense of the Food Pantry. Upon the expiration or sooner termination of this Lease, the County will have the option (exercisable upon sixty (60) days' notice to the Food Pantry, except in the case of a termination of this Lease due to a default by the Food Pantry, in which case no such notice will be required) to require the Food Pantry to remove at the Food Pantry's sole cost and expense any and all improvements made by the Food Pantry to the Premises or to elect to keep such improvement as County property. In the event the Food Pantry is required to remove any improvements, (i) the Food Pantry will be responsible for the repair of all damage caused by the installation or removal thereof, and (ii) if the Food Pantry fails to properly remove such improvements or provide for the repair of the Premises, the County may perform the same at the Food Pantry's cost and expense.

Section 7.2. Signs. The Food Pantry may place signs on the interior or exterior of the Premises with the prior written approval of the County.

#### ARTICLE VIII. MAINTENANCE OF THE PREMISES

Section 8.1. Maintenance. The Food Pantry will keep the Premises clean, neat, orderly, presentable, and in good repair at all times. The County will deliver the Premises to the Food Pantry at the beginning of the term in its present condition. The County will be responsible for all repairs and maintenance for the Premises, except as provided below, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, including, but not limited to,

plumbing, heating, electrical, plate glass and windows. The Food Pantry will be responsible for routine repairs and maintenance (excluding repairs and maintenance of the building and structural components identified above), except that the Food Pantry's obligation for such routine repairs and maintenance will not exceed \$2,500 in any one year of the initial or subsequent term(s). Notwithstanding the foregoing, the Food Pantry will be responsible for all maintenance and repairs necessitated by the negligence of the Food Pantry, its employees and invitees.

Section 8.2. Right of Entry. The County reserves the right for itself, its agents and employees to enter upon the Premises at any reasonable time to make repairs, alterations or improvements; provided, however, that such repairs, alterations, or improvements do not unreasonably interfere with the Food Pantry's operations. Such right to enter will also include the right to enter upon the Premises for the purposes of inspection.

Section 8.3. Surrender of the Premises. At the expiration of the occupancy hereby created, the Food Pantry will surrender the Premises and all keys for the Premises to the County, and will inform the County of all combinations on locks, safes and vaults, if any, which the County has granted permission to have left in the Premises. At such time, the Premises will be broom clean and in good condition and repair, commensurate with its age. If the Food Pantry leaves any of the Food Pantry's personal property in the Premises, the County, at its option, may remove and store any or all such property at the Food Pantry's expense or may deem the same abandoned and, in such event, the property deemed abandoned will become the property of the County.

#### ARTICLE IX. INSURANCE

Section 9.1. Liability Insurance of the Food Pantry. At all times during the term of this Lease, the Food Pantry must keep in full force and effect a policy of public liability and property damage insurance with respect to the Premises and the business operated by the Food Pantry and any sub-tenants of the Food Pantry on the Premises. The limits of public liability for bodily injury and property damage must not be less than One Million Dollars (\$1,000,000) per accident, combined single limit. The policy must name the County as an additional insured. The policy will provide that the insurance thereunder may not be cancelled until thirty (30) days after written notice thereof to all named insured.

Section 9.2. Fire and Extended Coverage. During the initial and any renewal term of this Lease, the County will insure and keep insured, for the benefit of the County and its respective successors in interest, the Premises, or any portion thereof then in being. Such policy will contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time. The County will name the Food Pantry as an additional insured on such policy, as its interest may appear.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by the Food Pantry and the County pursuant to Sections 9.1 and 9.2 will be delivered by the County or the Food Pantry, as the case may be, to the other upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. The County and the Food Pantry each hereby release

the other from any and all liability or responsibility to itself or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty results from the negligence of itself or anyone for whom it may be responsible, provided, however, that this release will be applicable and in force and effect only with respect to loss or damage occurring during such time as any such release will not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

#### ARTICLE X. WASTE, NUISANCE, COMPLIANCE WITH GOVERNMENTAL REGULATIONS

Section 10.1. Waste or Nuisance. The Food Pantry must not commit or allow to be committed any waste or any nuisance upon the Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, the Food Pantry must, at the Food Pantry's sole cost and expense, comply with all requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Premises or the Food Pantry's use and occupancy thereof.

#### ARTICLE XI. FIRE OR OTHER CASUALTY

If the Premises are damaged so as to render two-thirds (2/3) or more of the Premises untenable by fire or other casualty insured against under the insurance required to be carried by the County pursuant to Section 9.2, the County may elect either to terminate this Lease as of the date of damage or to repair the Premises. Unless the County elects to terminate this Lease, such damage or destruction will in no way annul or void this Lease. Notwithstanding the foregoing, if any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, the Food Pantry may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to the County.

#### ARTICLE XII. CONDEMNATION

If the whole or any part of the Premises is taken under the power of eminent domain, then this Lease will terminate as to the part so taken on the day when the Food Pantry is required to yield possession thereof, and the County will make such repairs and alterations as may be necessary to restore the part not taken to useful condition. If the amount of the Premises so taken substantially impairs the usefulness of the Premises, then either party may terminate this Lease as of the date when the Food Pantry is required to yield possession.

#### ARTICLE XIII. DEFAULT

Section 13.1. Default. The occurrence of any of the following will be deemed a "default" under this Lease:

- (a) The Food Pantry fails to pay when due any amounts due under this Lease, including Articles IV and V, and such payment is not received by the County within ten (10) days after written notice of such failure is received by the Food Pantry; or
- (b) a default in any of the other provisions of this Lease, and such default continues



uncured for a period of thirty (30) days after written notice thereof from the County.

Section 13.2. Remedies. In the event of any default or breach hereof by the Food Pantry, the County may (in addition to all other rights and remedies provided by law) terminate this Lease or re-enter and take possession of the Premises, peaceably or by force, and remove any property therein without liability for damage to and without obligation to store such property, but may store the same at the Food Pantry's expense, and collect from the Food Pantry any amounts then due and which would accrue for the unexpired portion of the term hereof, together with reasonable attorney's fees. In addition, in the event of a failure to pay any amount due within five (5) days of its due date, the Food Pantry must pay to the County the greater of Twenty-Five Dollars (\$25.00) or one half (1/2) of one percent (1%) of such sum for each day after the fifth day such amount is late.

#### ARTICLE XIV. HOLDING OVER, ASSIGNS, SUCCESSORS

Section 14.1. Holding Over. Any holding over after the expiration of the term hereof, with the consent of the County, will be construed to be a tenancy from month-to-month at the same rent herein specified (prorated on a monthly basis) and will otherwise be on the terms and conditions herein specified as far as applicable.

Section 14.2. Showing the Premises. During the last ninety (90) days of the term hereof, the Food Pantry will allow the County, or its agents, to show the Premises to prospective tenants or purchasers at such times as County may reasonably desire.

Section 14.3. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, will extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. All covenants, representations and agreements of the County will be deemed the covenants, representations and agreements of the fee owner of the Premises. The County will be automatically released of any liability under this Lease from and after the date of any sale by the County of the Premises. All covenants, representations and agreements of the Food Pantry will be deemed the covenants, representations, and agreements of the occupant or occupants of the Premises.

#### ARTICLE XV. BROKER'S FEES

The Food Pantry and the County hereby warrant that there are no brokerage commissions due in connection with this Lease.

#### ARTICLE XVI. NO ASSIGNMENT

The Food Pantry may not assign this Lease or sublet all or any portion of the Premises, either directly or indirectly, without the prior written consent of the County. No assignment, sublease or transfer of this Lease by the Food Pantry will (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing the Food Pantry's obligations under this Lease, or (ii) relieve the Food Pantry of its obligations hereunder, and the Food Pantry will thereafter remain liable for the obligations of the Food Pantry under this Lease whether arising before or after such assignment, sublease or transfer.

#### ARTICLE XVII. SUBORDINATION OF AGREEMENT

This Lease and all rights of the Food Pantry hereunder are and will be subject and subordinate in all respects to (1) any mortgages, deeds of trust and building loan agreements affecting the Premises, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, upon the County's request, the Food Pantry will promptly execute and deliver an instrument in recordable form satisfactory to the County evidencing such subordination. If the Food Pantry fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefor, the Food Pantry hereby irrevocably constitutes and appoints the County as the Food Pantry's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of the Food Pantry. If any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, the Food Pantry may not withhold or delay its consent thereto.

#### ARTICLE XVIII. MISCELLANEOUS

Section 18.1. Waiver. A waiver by either party of any breach of any term, covenant or condition contained herein will not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition contained herein. The subsequent acceptance or payment of any amount hereunder by the County or the Food Pantry, respectively, will not be deemed to be a waiver of any breach by the Food Pantry or the County, respectively, of any term, covenant or condition of this Lease, regardless of knowledge of such breach at the time of acceptance or payment of such amount. No covenant, term, or condition of this Lease will be deemed to have been waived by the Food Pantry or the County unless the waiver be in writing signed by the party to be charged thereby.

Section 18.2. Entire Agreement. This Lease, and the Exhibits attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions and understandings between the County and the Food Pantry concerning the Premises; and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease will be binding upon the County or the Food Pantry unless reduced in writing and signed by them.

Section 18.3. Notices. Any notice, demand, request or other instrument which may be, or is required to be given under this Lease, will be in writing and delivered in person or by United States certified mail, postage prepaid, and will be addressed:

- (a) if to the County, at  
County of Albemarle  
County Executive's Office  
401 McIntire Road  
Charlottesville, Virginia 22902  
or at such other address as the County may designate by written notice;
- (b) if to the Food Pantry, at  
B.F. Yancey Community Food Pantry

7625 Porters Road  
Esmont, VA 22937-2112  
or at such other address as the Food Pantry may designate by written notice.

Section 18.4. Captions and Section Numbers. The captions and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 18.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance to any extent is held to be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, covenant, or condition of this Lease will be valid and be enforced to the fullest extent permitted by law.

Section 18.6. Governing Law. This Lease will be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 18.7. Counterparts. This Lease may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

**OCCUPANT**

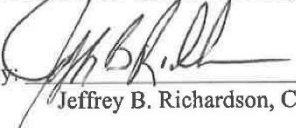
**B.F. YANCEY COMMUNITY FOOD PANTRY**

By:   
Berlinda Mills, Director

**COUNTY**

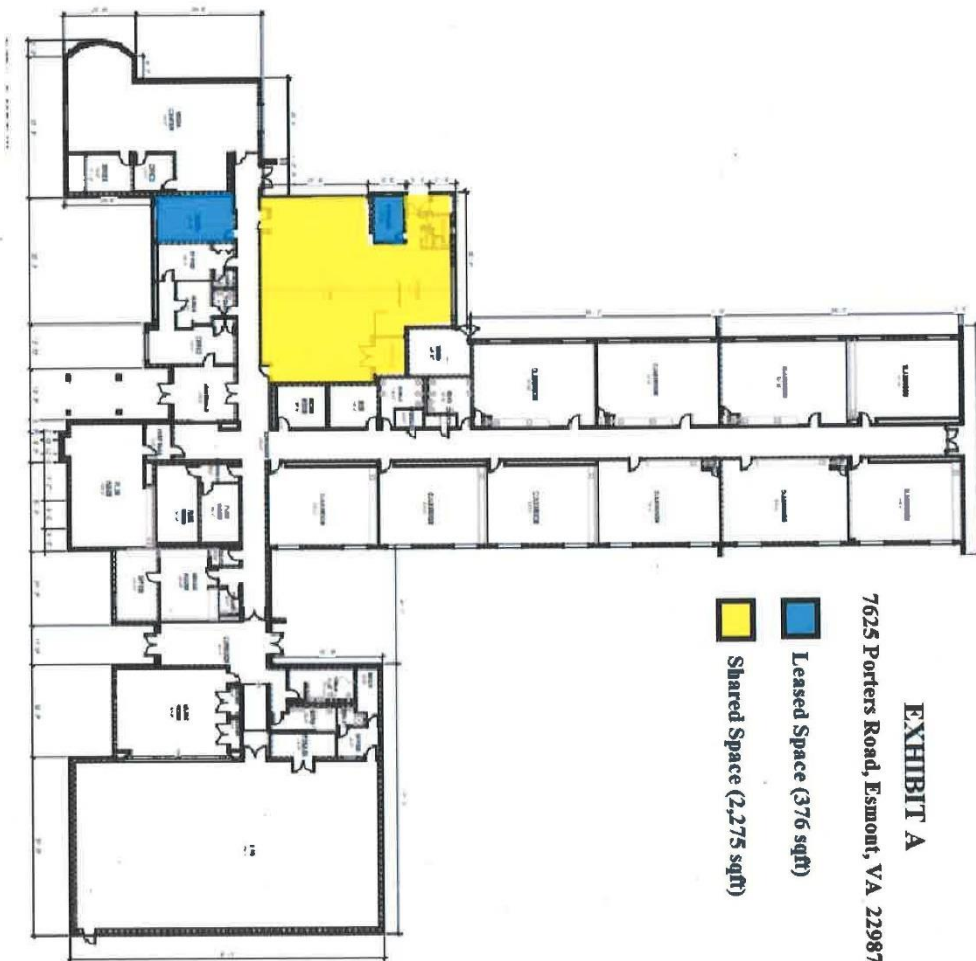
This Lease is executed on behalf of the County of Albemarle by Jeffrey B. Richardson, County Executive, following a duly-held public hearing, and pursuant to a Resolution of the Albemarle County Board of Supervisors.

**COUNTY OF ALBEMARLE, VIRGINIA**

By:   
Jeffrey B. Richardson, County Executive

Approved as to form:

  
Albemarle County Attorney



**RESOLUTION TO APPROVE SP 202000014  
1680 SEMINOLE TRAIL OUTDOOR SALES, STORAGE, AND DISPLAY**

**NOW, BE IT RESOLVED** that, upon consideration of the staff report prepared for SP 202000014 and all of its attachments, the information presented at the public hearing, any comments received, and the factors relevant to a special use permit in Albemarle County Code § 18-30.6.3, the Albemarle County Board of Supervisors hereby approves SP 202000014, subject to the conditions attached hereto.

\* \* \*

**SP 202000014 1680 Seminole Trail Outdoor Sales, Storage, and Display Special Use Permit Conditions**

1. Use of this site must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the concept plan "Application & Conceptual Layout Plan by Collins Engineering" last revised 09/21/20 (the Concept Plan),. To be in general accord with this plan, development and use of the site must reflect the general size, arrangement and location of the vehicle display/storage and landscape areas. Permitted modifications may include those required by the ARB, those necessary to satisfy the conditions of this special use permit, and additional landscaping/screening approved by the Site Plan Agent.
2. Vehicles must be displayed or stored only in areas indicated for display or storage on the Concept Plan.
3. Vehicles for sales/storage/display must be parked in striped parking spaces.
4. Vehicles must not be elevated anywhere outside of a building on site.
5. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of the ARB guidelines and/or the Zoning Ordinance to mitigate visual impacts of the proposed use.
6. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum height of new pole lights must not exceed 20'. Maximum light levels must not exceed 30 foot candles in the display lot and 20 foot candles in all other locations. Nonconforming poles and fixtures must be removed. All fixtures must have lamps whose color temperature is between 2000 and 3000 Kelvin.
7. The existing freestanding sign must be removed prior to commencement of the new use. Any new freestanding sign must meet zoning ordinance and Entrance Corridor requirements.

**ORDINANCE NO. 21-A(1)**

AN ORDINANCE TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS, SARS-CoV-2, AND THE DISEASE IT CAUSES, COMMONLY REFERRED TO AS COVID-19

**WHEREAS**, on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as “COVID-19”); and

**WHEREAS**, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

**WHEREAS**, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Number Fifty-One (“EO 51”) declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a “disaster” as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a national emergency in response to the spread of COVID-19; and

**WHEREAS**, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; spread is more likely when people are in close contact with one another (within about six feet)<sup>1</sup>, and by airborne transmission, which may be able to infect people who are further than 6 feet away from the person who is infected or after that person has left the space<sup>2</sup>; and

**WHEREAS**, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity<sup>3</sup>; and

**WHEREAS**, at this time, there is no known cure and no effective treatment of widespread application<sup>4</sup> vaccine; however, the first vaccine was approved for emergency use by the United States Food and Drug Administration on December 11, 2020 and distribution of available quantities began on December 13, 2020<sup>5</sup>, and as of December 18, 2020, approval of a second vaccine is pending<sup>6</sup>; nonetheless, at this time, people may be infected but asymptomatic and infect persons<sup>7</sup>; and

**WHEREAS**, the World Health Organization, the United States Centers for Disease Control and Prevention (“Centers for Disease Control”) and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community: frequently washing hands, sanitizing frequently touched surfaces, wearing a cloth face covering when in public, maintaining a separation of at least six feet between people (“social distancing” or “physical distancing”), limiting the size of gatherings in public places, and limiting the duration of gatherings<sup>8</sup>; and

**WHEREAS**, with respect to people wearing face coverings when in public, current evidence suggests that transmission of COVID-19 occurs primarily between people through direct, indirect, or close contact with infected people through infected secretions such as saliva and respiratory secretions, or through their respiratory droplets, which are expelled when an infected person coughs, sneezes, talks or sings; and some outbreak reports related to indoor crowded spaces have suggested the possibility of aerosol transmission, combined with droplet transmission, for example, during choir practice, in food establishments, or in fitness classes<sup>9</sup>; and

**WHEREAS**, according to the World Health Organization, fabric face coverings, “if made and worn properly, can serve as a barrier to droplets expelled from the wearer into the air and environment,” however, these face coverings “must be used as part of a comprehensive package of preventive measures, which includes frequent hand hygiene, physical distancing when possible, respiratory etiquette, environmental cleaning and disinfection,” and recommended precautions also include “avoiding indoor crowded gatherings as much as possible, in particular when physical distancing is not feasible, and ensuring good environmental ventilation in any closed setting”<sup>10</sup>; and

**WHEREAS**, the World Health Organization advises that people take a number of precautions, including: (i) maintaining social distancing because when someone coughs, sneezes, or speaks they spray small liquid droplets from their nose or mouth which may contain virus, and if other persons are too close, they can breathe in the droplets, including the COVID-19 virus, if the person coughing, sneezing, or speaking has the disease; and (ii) avoiding crowded places because when people are in crowds, they are more likely to come into close contact with someone that has COVID-19 and it is more difficult to maintain social distancing<sup>11</sup>; and

**WHEREAS**, the Centers for Disease Control caution that: (i) the more people a person interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading; (ii) the higher level of community transmission in the area that a gathering is being held, the higher the risk of COVID-19 spreading during the gathering; and (iii) large in-person gatherings where it is difficult for persons to remain spaced at least six feet apart and attendees travel from outside the local area pose the highest risk of COVID-19 spreading<sup>12</sup>; and

**WHEREAS**, the Centers for Disease Control state that cloth face coverings are strongly encouraged in settings where persons might raise their voice (e.g., shouting, chanting, singing)<sup>13</sup>; and

**WHEREAS**, the Centers for Disease Control advise, in restaurants: (i) wearing cloth face coverings when less than six feet apart from other people or indoors; (ii) wearing face coverings as much as possible when not eating; (iii) maintaining a proper social distancing if persons are sitting with others who do not live with the person; and (iv) sitting outside when possible<sup>14</sup>; and

**WHEREAS**, for these and related reasons, the Virginia Department of Health has stated that those businesses that operate indoors and at higher capacity, where physical distancing “recommendations” are not observed, sharing objects is permitted, and persons are not wearing cloth face coverings, create higher risk for the transmission of COVID-19<sup>15</sup>; and

**WHEREAS**, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; and

**WHEREAS**, as of July 21, 2020, the spread of COVID-19 in the Commonwealth, in the Thomas Jefferson Health District of which the County is a member, and in the County itself, had been increasing since late June, shortly before Executive Order Number Sixty-Seven (2020) and Order of Public Health Emergency Seven, Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19) (collectively referred to as “EO 67”) moved the Commonwealth into “Phase 3” of its reopening plan, the curve in the positivity rate of persons tested for COVID-19 was no longer flattened, and the community was currently experiencing more transmission of COVID-19; and

**WHEREAS**, on July 27, 2020, the Board of Supervisors adopted Ordinance No. 20-E(5), “An Emergency Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19 (the “Ordinance”), which became effective August 1, established regulations pertaining to: (1) the maximum indoor occupancy allowed at restaurants, farm wineries, limited breweries, and limited distilleries; (2) the maximum size of public and private gatherings; and (3) the requirement for persons to wear face coverings in public places; and

**WHEREAS**, as of September 7, Virginia’s 7.30 percent positivity rate in COVID-19 testing over a 14-day period exceeded the World Health Organization’s recommendation at that time that the positivity rate remain at 5 percent or lower for at least 14 days before governments lift public health and social measures (“re-open”)<sup>16</sup>; the seven-day positivity rate in the Thomas Jefferson Health District was 6.4 percent<sup>17</sup>; the community had just entered an uncertain period with approximately 4,400 students having returned to the University of Virginia to live on grounds since September 3, and in-person instruction beginning at the University on September 8.<sup>18</sup>

**WHEREAS**, on September 16, 2020, following a duly noticed public hearing, the Board of Supervisors adopted Ordinance No. 20-A(13), “An Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19”; and

**WHEREAS**, as of November 9, 2020, the seven-day positivity rate in the Thomas Jefferson Health District was 1.7%; nationwide, as of November 9, 2020, new daily cases rose 29.1%, new daily reported deaths rose 20.9%, and hospitalizations rose 18.5%, all over the prior week, and the positivity rate among reported tests was



8%;<sup>19</sup> and all states and territories, with the exception of Puerto Rico, including Virginia (+10%, in addition to 21% the week before), reported increases in cases over the prior week<sup>20</sup>, and public health experts warn that, during the coming winter, with people spending much more time indoors and in drier air, will bring on a new surge in COVID-19 cases unless gatherings are limited, physical distancing is maintained, and face coverings are worn<sup>21</sup>; and

**WHEREAS**, the Board of Supervisors had on its agenda for November 18, 2020 a public hearing on the question of extending Ordinance No. 20-A(13) from November 18, 2020 to January 20, 2021; and

**WHEREAS**, on November 13, 2020, Governor Northam issued amended Executive Order Number 63 (2020) and Order of Public Health Emergency Five, Requirement to Wear Face Covering While Inside Buildings (collectively referred to as “EO 63”) and EO 67, and the introduction to EO 67 states that the “statewide percent test positivity rate is at 6.5%, an increase from 4.3% approximately one month ago,” that all “five health regions report a positivity rate over five percent and hospitalizations have increased statewide by more than 35 percent in the last four weeks,” that “[c]ase investigation interviews show a pattern of increased socialization with extended (non-household) family members and friends,” that “[r]ecent scientific literature suggests indoor settings contribute to community transmission,” and that “[m]odeling data demonstrates that large gatherings substantially increase transmission of the virus”<sup>22</sup>; and

**WHEREAS**, because EO 67 reduced the State-allowed maximum gathering size from 250 to 25 persons, the Board of Supervisors on November 18, 2020 adopted an emergency ordinance, Ordinance 20-E(7), which reduced the County-allowed maximum gathering size from 50 to 25 persons, among other changes; and

**WHEREAS**, on December 10, 2020, Governor Northam issued Executive Order Number Seventy-Two (2020) and Order of Public Health Emergency Nine, Common Sense Surge Restrictions, Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19) (collectively referred to as “EO 72”) which imposes further directions and restrictions, including a request for persons in Virginia to stay at home between the hours of 12:00 a.m. and 5:00 a.m. each day, and a reduction in the maximum size of gatherings, in response to increases in new COVID-19 cases, positive tests, and hospitalizations throughout Virginia<sup>23</sup>; and

**WHEREAS**, on December 16, 2020, the Board of Supervisors amended Ordinance No. 20-E(7) by adopted Ordinance No. 20-E(8) to reduce the County-allowed maximum gathering size from 25 to 10 persons, among other changes; and

**WHEREAS**, in November and December, most states reported record-high COVID-19 case counts, deaths, and greater demand for hospital beds<sup>24</sup>.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that:

### **Sec. 1. Purpose**

For the reasons stated in the recitals, the purpose of this ordinance is to prevent the spread of COVID-19.

### **Sec. 2. Authority**

This ordinance is authorized by Virginia Code § 15.2-1200, which enables the County, through its Board of Supervisors, to adopt “necessary regulations to prevent the spread of contagious diseases among persons . . .” that “are not inconsistent with the general laws of the Commonwealth.”

### **Sec. 3. Definitions**

The following definitions apply to this ordinance:

- A. “Entertainment and amusement businesses” includes performing arts venues, concert venues, sports venues, convention centers, expos, movie theaters, museums, aquariums, fairs, carnivals, public and private social clubs, botanical gardens, entertainment centers, historic horse racing facilities, bowling alleys, skating rinks, arcades, trampoline parks, arts and craft facilities, escape rooms, amusement parks, and zoos, and other places of indoor public amusement.

- B. "Face covering" means an item normally made of cloth or various other materials with elastic bands or cloth ties to secure over the wearer's nose and mouth in an effort to contain or reduce the spread of potentially infectious respiratory secretions at the source (*i.e.*, the person's nose and mouth).
- C. "Farm winery" means an establishment that is required to be licensed as a farm winery under Virginia Code § 4.1-207.
- D. "Food establishment" means a food establishment as defined in 12VAC5-421-10 and the term includes, but is not limited, any place where food is prepared for service to the public on or off the premises, or any place where food is served, including restaurants, lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs. For purposes of this ordinance, "food establishment" does not include kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under Virginia Code § 53.1-68.
- E. "Gathering" includes, but is not limited to, parties, celebrations, wedding receptions, or other social events, whether they occur indoors or outdoors. The following are not "gatherings": (i) the gathering of family members who live in the same residence; (ii) the presence of more than 10 persons performing functions of their employment or assembled in an educational instructional setting; (iii) the presence of more than 10 persons in a particular location, such as a park or retail business, provided that those persons do not congregate; and (iv) the presence of more than 10 persons in shared spaces not expressly addressed in Section 5 but which may be subject to restrictions on the maximum size of gatherings in EO 72 or any state or federal law or order that are unique to that institution, business sector, facility, activity, or event.
- F. "Limited brewery" means an establishment that is required to be licensed as a limited brewery under Virginia Code § 4.1-208.
- G. "Limited distillery" means an establishment for which a limited distiller's license is required under Virginia Code § 4.1-206.
- H. "Public place" means: (i) any indoor place shared by other persons, including, but not limited to, local government buildings, retail stores, food establishments, theaters, personal care and personal grooming services, and transportation other than a personal vehicle; or (ii) any outdoor place shared by other persons. "Public place" does not include a person's residence or personal vehicle. "Public place" also does not include institutions of higher education and other schools, fitness and other exercise facilities, religious institutions and places where religious rituals are conducted, areas under state or federal jurisdiction or control, indoor shooting ranges, and the County courthouse buildings, provided that they, and any other institutions, business sectors, and locations shared by other persons not expressly addressed in Section 6 may be subject to face covering requirements in EO 72 or any state or federal law or order that are unique to that institution, business sector, facility, activity, or event.

**Sec. 4. Limitation on the Number of Persons at Food Establishments, Farm Wineries, Limited Breweries, and Limited Distilleries**

- A. *Indoor occupancy.* Indoor occupancy at food establishments, farm wineries, limited breweries, and limited distilleries must not be more than 50 percent of the lowest occupancy load on the certificate of occupancy issued by the County of Albemarle. If the building or structure does not have an occupancy load established on a certificate of occupancy issued by the County of Albemarle, indoor occupancy must not be more than 50 persons.
- B. *Persons at gathering are counted.* Persons participating in or attending a gathering who are indoors count towards the occupancy limits established by this section.
- C. *Persons working not counted.* Persons working at food establishments, farm wineries, limited breweries, or limited distilleries, either as employees or independent contractors, do not count towards the occupancy limits established by this section.
- D. *State requirements, recommendations, and guidance.* Except as provided in Sections 4(A), (B), and (C), this section does not affect any requirement, recommendation, or guidance including, but not limited to, those requiring or recommending physical distancing that apply to food establishments, farm wineries, limited breweries, and limited distilleries established in EO 72, or as it may be further amended or superseded, any

Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic.

**Sec. 5. Limitation of the Number of Attendees at Gatherings**

- A. *Generally.* All public and private in-person gatherings, as defined in Section 3(E), of more than 10 persons are prohibited, except as provided in Sections 5(B) and (C).
- B. *Entertainment and amusement businesses.* The total number of attendees (including both participants and spectators) at entertainment and amusement businesses cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons. Private bookings at entertainment and amusement businesses are subject to the 10-person limitation in Section 5(A).
- C. *Recreational sports.* The total number of spectators at indoor and outdoor recreational sports activities are limited as follows:
  - 1. *Indoor sports.* For sports played indoors, the number of spectators may not exceed 25 persons per field and the total number of spectators may not exceed 30 percent of the occupancy load of the certificate of occupancy for the venue.
  - 2. *Outdoor sports.* For sports played outdoors, the number of spectators may not exceed two spectators per player and the total number of spectators may not exceed 30 percent of the occupancy load of the certificate of occupancy for the venue. Races or marathons may have up to 250 participants, provided staggered starts separate runners into groups of 25 persons or less.
- D. *State requirements, recommendations, and guidance.* Sections 5(A), (B), and (C) incorporate the gathering size limitations of EO 72 for common businesses, events, and activities in the County, however this section does not affect any other applicable requirement, recommendation, or guidance in EO 72 including, but not limited to, those requiring or recommending physical distancing pertaining to entertainment and amusement businesses and recreational sports. This section also does not affect any requirement, recommendation, or guidance pertaining to business sectors and other events and activities subject to EO 72, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic. This section also does not affect the exceptions in section II(D)(3) of EO 72.

**Sec. 6. Face Coverings**

- A. *Face coverings required.* Face coverings must be worn by all persons in public places, as defined in Section 3(H), except as provided in Sections 6(B) and (C).
- B. *Persons not required to wear face coverings.* Face coverings are not required to be worn by the following persons:
  - 1. *Children.* Children four years of age or under.
  - 2. *Wearing face covering poses certain risks.* Persons for whom wearing a face covering poses a bona fide and substantial mental or physical health risk, such as persons who have trouble breathing, a health condition, or a disability, or persons for whom wearing a face covering poses a safety or security risk to persons who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance. For this exception to apply to any person claiming that wearing a face covering poses a substantial mental or physical health risk: (i) the person must present a valid document from a physician or other health care practitioner licensed, accredited, or certified to perform specified health care services, including mental health services, consistent with State law, specifying the medical necessity for not wearing a face covering, and the date on which the person may begin wearing a face covering again; and (ii) the public place must be unable to provide goods, services, or activities outdoors to the person or to the adult accompanying a child four years of age or under.
  - 3. *Certain employees.* On-duty employees exempt from wearing face coverings by workplace safety regulations promulgated by the State Safety and Health Codes Board, or exempt from face covering rules established by an applicable Executive Order of the Governor or an Order of Public Health Emergency by the State Health Commissioner.

- C. *Circumstances when face coverings are not required to be worn by any persons.* Face coverings are not required to be worn by any persons in the following circumstances:
1. *Outdoor activities.* While persons are engaged in outdoor activities in public places such as parks and other open spaces, provided that at least six feet of physical distancing from any person not living in the same household is maintained.
  2. *Eating or drinking.* While a person is eating food or drinking a beverage.
  3. *Exercising.* While a person is exercising or using exercise equipment.
  4. *Certain musical instruments.* While a person is playing a musical instrument, whether indoors or outdoors and in a rehearsal or during a performance, if wearing a face covering would inhibit playing the instruments, such as a wind instrument, if at least 10 feet of physical distancing can be maintained from other persons.
  5. *Communicating with the hearing impaired.* While communicating with the hearing impaired and for which the mouth must be visible.
  6. *Receiving services.* While receiving governmental or medical services if removing the face covering is necessary to receive the services.
  7. *End of waiver of Virginia Code § 18.2-422.* When the waiver of Virginia Code § 18.2-422, currently established in section III(F) of EO 72, or as it may be further amended or superseded, ends.
- D. *Responsibility of adults accompanying minors.* Adults accompanying minors should use their best judgment regarding placing face coverings on any minor between the ages of two through four in public places. Adults accompanying minors between the ages of five through 17 must use reasonable efforts to prompt the minor to wear face coverings while in public places.

#### **Sec. 7. Effect of More Restrictive Executive Order or Order of Public Health Emergency**

Section 4, 5, or 6 does not apply when a more restrictive requirement in an Executive Order or an Order of Public Health Emergency is in effect.

#### **Sec. 8. Penalties**

- A. *Penalty for violation of Section 4.* A violation of Section 4 by the owner of the food establishment, farm winery, limited brewery, or limited distillery, and any manager or assistant manager, however titled, responsible for the operation and management of the food establishment, farm winery, limited brewery, or limited distillery on the date of the violation, is punishable as a Class 3 misdemeanor. Section 4(D) is not enforced pursuant to this ordinance.
- B. *Penalty for violation of Section 5.* A violation of Section 5 by the owner or tenant of the private property on which the gathering is located, is punishable as a Class 1 misdemeanor. A violation of Section 5 by any person attending the gathering, after first being warned by a law enforcement officer to disperse from the gathering because it exceeds the limitation for a gathering and having failed to disperse after a reasonable period of time not to exceed two minutes, is punishable as a Class 1 misdemeanor.
- C. *Penalty for violation of Section 6.* A violation of Section 6 by any person subject to its requirements is punishable as a Class 1 misdemeanor. No person under the age of 18 is subject to a criminal penalty for failing to wear a face covering.
- D. *Injunctive relief.* The County, the Board of Supervisors, and any County officer authorized by law, may seek to enjoin the continuing violation of any provision of this ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

#### **Sec 9. Succession to Ordinance No. 20-E(8) and Duration**

This ordinance succeeds and supersedes Ordinance Nos. 20-E(8) and is in effect on January 6, 2021 and continues in full force and effect until April 7, 2021 unless it is amended, superseded, or repealed on or before that date.

**Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management**

This ordinance does not affect the powers of the County Executive, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

**Sec. 11. Severability**

It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

**State law reference –** Va. Code §§ 15.2-1200, 15.2-1427(F), 15.2-1429, 15.2-1432, 18.2-11.

**ORDINANCE NO. 21-6(1)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE 1, COORDINATED FIRE AND RESCUE SYSTEM, 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 6, Fire Protection, Article I, Coordinated Fire and Rescue System, Division 1, In General, and Division 2, Establishment of the Coordinated Fire And Rescue System, is hereby amended and reordained as follows:

**By Amending:**

Sec. 6-100 Purpose.

Sec. 6-102 Establishment and composition of the coordinated fire and rescue system.

**Chapter 6. Fire Protection****Article I. Coordinated Fire and Rescue System****Division 1. In General****Sec. 6-100. Purpose.**

The board of supervisors, determined to provide for the public safety, health and welfare of Albemarle County citizens and communities, hereby establishes a coordinated and integrated fire and emergency medical service system currently composed of the following, volunteer fire companies, volunteer rescue squads and the Albemarle County Department of Fire and Rescue:

Charlottesville-Albemarle Rescue Squad  
 Crozet Volunteer Fire Department  
 Earlysville Volunteer Fire Company  
 East Rivanna Volunteer Fire Company  
 North Garden Volunteer Fire Company  
 Scottsville Volunteer Fire Department  
 Seminole Trail Volunteer Fire Department  
 Stony Point Volunteer Fire Company  
 Western Albemarle Rescue Squad

In taking this measure to assure the most efficient and effective service possible and to meet the challenges of the growth and development of the jurisdiction, the board of supervisors specifically recognizes the essential and historical contributions of volunteers and the necessity of continuing and expanding volunteer participation, without which the county could not discharge its responsibilities.

The coordinated fire and rescue system shall work to develop an integrated and seamless systems approach to the provision of emergency services; promote the interests and welfare of county citizenry and communities; perform with maximum cost-effectiveness consistent with safety objectives; account for service delivery and resource utilization; and communicate and consider all views regarding the system.

(Ord. 11-6(1), 4-20-11; Ord. 21-6(1), 1-6-21)

**Division 2. Establishment of the Coordinated Fire and Rescue System****Sec. 6-102. Establishment and composition of the coordinated fire and rescue system.**

(a) The Albemarle County Coordinated Fire and Rescue System ("the system" or "the coordinated fire and rescue system") is hereby established pursuant to Virginia Code §§ 27-6.1 and 32.111.4:3 *et seq.* The coordinated fire and rescue system shall provide comprehensive fire, rescue, and emergency medical services throughout the county in accordance with state laws, county ordinances, and duly adopted policies issued by the system.

(b) The coordinated fire and rescue system shall be a combined force of non-employee volunteer members of the several fire companies and rescue squads, county employees, and county volunteers of the Albemarle County Department of Fire and Rescue. The following volunteer fire companies and rescue squads, and any others that may be duly established in the future, along with county volunteers, constitute an indispensable part of the public safety program for the county: Charlottesville-Albemarle Rescue Squad, Crozet Volunteer Fire Department, Earlysville Volunteer Fire Company, East Rivanna Volunteer Fire Company, North Garden Volunteer Fire Company, Scottsville Volunteer Fire Department, Seminole Trail Volunteer Fire Department, Stony Point Volunteer Fire Company, and Western Albemarle Rescue Squad.

(Ord. 11-6(1), 4-20-11; Ord. 21-6(1), 1-6-21)

**State law reference** – Virginia Code §§ 27-6.1, 32.111.4:3 *et seq.*

<sup>1</sup> *Xponential Fitness v. Arizona*, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at \*1 (D. Ariz. July 14, 2020) and cases and authorities cited therein; [How Coronavirus Spreads | CDC](#).

<sup>2</sup> [How Coronavirus Spreads | CDC](#).

<sup>3</sup> *Xponential Fitness v. Arizona*, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at \*1 (D. Ariz. July 14, 2020) and cases and authorities cited therein.

<sup>4</sup> <https://www.covid19treatmentguidelines.nih.gov/whats-new/> (use of remdesivir approved for certain patients on October 22, 2020); <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-monoclonal-antibody-treatment-covid-19> (use of investigational monoclonal antibody therapy bamlanivimab approved for certain patients on November 9, 2020).

<sup>5</sup> [Hospitals await coronavirus vaccine shipments and wonder who gets the first shots - The Washington Post](#)

<sup>6</sup> [Covid live updates: Pence vaccinated on live TV as FDA prepares to authorize Moderna shots - The Washington Post](#)

<sup>7</sup> *South Bay United Pentecostal Church v Newsom*, 140 S. Ct. 1613 (May 29, 2020) (Roberts concurring in denial of application for injunctive relief); on the fact that there is no effective treatment as of the date of this ordinance, see also [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters?gclid=EALaQobChMI9lvSvJPk6glVGrblCh2TYw9QEAAAYASAAEgKjDfD\\_BwE#medicines](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters?gclid=EALaQobChMI9lvSvJPk6glVGrblCh2TYw9QEAAAYASAAEgKjDfD_BwE#medicines); <https://www.health.harvard.edu/diseases-and-conditions/treatments-for-covid-19>; <https://www.mayoclinic.org/diseases-conditions/coronavirus/diagnosis-treatment/drc-20479976>.

<sup>8</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html> and <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html> and links therein; <https://www.vdh.virginia.gov/coronavirus/#COVID-19-resources> and links therein.

<sup>9</sup> World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>.

<sup>10</sup> World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>; see also Statement of Dr. Michael Ryan, World Health Organization COVID-19 Virtual Press Conference, transcript page 12, [https://www.who.int/docs/default-source/coronaviruse/transcripts/covid-19-virtual-press-conference---17-july.pdf?sfvrsn=dd7f91a1\\_0](https://www.who.int/docs/default-source/coronaviruse/transcripts/covid-19-virtual-press-conference---17-july.pdf?sfvrsn=dd7f91a1_0) ("So it's all about the setting, it is about the duration you spend in that setting and it's about the intensity of the activities that you participate in in that setting and when you get into a particular setting, a very overcrowded situation in an indoor environment then effectively all bets are off because so many of the modes of transmission come into play; the aerosol route, the airborne route, the fomite or contamination route. So the more close you are to other people, the more you are inside, the more the activity is intense or involves very close social contact the more that multiple modes of transmission come into play. So in that sense it is about you understanding your risk, it is about you managing that risk and being aware of the situation that you find yourself in personally and reducing that risk for you, for your family, for your children and for your community. It is important, as I've said previously, that governments communicate those risks very, very carefully and it is also important that providers, authorities and others ensure that those environments are as safe as possible and that the risks are also managed.")

<sup>11</sup> <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>.

<sup>12</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>; see also <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>; [How Coronavirus Spreads | CDC](#).

<sup>13</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>.

<sup>14</sup> <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/personal-social-activities.html>; [Deciding to Go Out | COVID-19 | CDC](#).

<sup>15</sup> <https://www.vdh.virginia.gov/coronavirus/schools-workplaces-community-locations/businesses/>.

<sup>16</sup> <https://coronavirus.jhu.edu/testing/testing-positivity>

<sup>17</sup> <https://www.vdh.virginia.gov/thomas-jefferson/tjhd-covid-19-data-portal/>

<sup>18</sup> <https://www.cavalierdaily.com/article/2020/08/there-are-no-risk-free-paths-u-va-announces-no-changes-to-fall-semester-plans-for-in-person-instruction>

<sup>19</sup> <https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/>

<sup>20</sup> <https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/>

<sup>21</sup> <https://www.scientificamerican.com/article/why-covid-outbreaks-could-worsen-this-winter/>; <https://www.forbes.com/sites/robertglatter/2020/10/25/dry-air-indoors-will-increase-transmission-of-covid-19-as-winter-approaches/?sh=1ce4e74720ee>; <https://blogs.webmd.com/public-health/20201019/will-covid19-get-worse-in-the-winter>

<sup>22</sup> <https://www.governor.virginia.gov/executive-actions/>



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<sup>23</sup> <https://www.governor.virginia.gov/executive-actions/>

<sup>24</sup> [U.S. coronavirus cases and state maps: Tracking cases, deaths - Washington Post](#)