

ACTIONS
Board of Supervisors Meeting of February 3, 2021

February 4, 2021

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 1:01 p.m. by the County Executive, Mr. Richardson. All BOS members were present. Also present were Greg Kamptner, Claudette Borgersen and Travis Morris. 		Link to video
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> A letter of support to amend State Budget Item 382, #1, "Department of Wildlife Resources Boat Ramp Access Fees was added under item #19. By a vote of 6:0, ADOPTED the final agenda as amended. 		
<p>5. Brief Announcements by Board Members. <u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Inquired if other Board members were receiving the Virginia Economic Review published by the Virginia Department of Economic Development Partnership. She noted that if Board members were not receiving the publication that she would assist with coordinating to make sure they receive it. 		
<p>6. Proclamations and Recognitions.</p> <p>a. Proclamation Celebrating Black History Month.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED proclamation and presented to Dr. Kevin Gaines. 	(Attachment 1)	
<p>7. 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"> <u>Gary Grant</u>, Rio District, commented on the proposed \$1,000 bonuses to Albemarle County local government employees. <u>Neil Williamson</u>, President of the Free Enterprise Forum, commented on agenda item #10. 		
<p>8.1 FY 2021 Appropriations.</p> <ul style="list-style-type: none"> ADOPTED, Resolution to approve appropriation #2021052 for local government projects and programs. 	<u>Clerk:</u> Forward copy of signed resolution to OMB and County Attorney's office. (Attachment 2)	
<p>8.2 Revitalization Area Designation - Southwood Blocks 11 & 12.</p> <ul style="list-style-type: none"> ADOPTED, resolution making the determinations requested by Piedmont Housing Alliance for the proposed Southwood LIHTC project. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 3)	
<p>8.3 Resolution for Free State Road Abandonment (vacated portion only) from the State Secondary System for Maintenance. (<i>Rio Magisterial District</i>)</p> <ul style="list-style-type: none"> ADOPTED resolution. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development. Attachment 4)	
<p>9. Non-Arterial Entrance Corridors.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED Resolution of Intent requesting arterial status for: <ul style="list-style-type: none"> Avon Street Extended (Rt. 742) - full length Barracks Road (Rt. 654) - from the city limits to Georgetown Road 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 5) <u>Community Development:</u> Proceed as directed.	

<ul style="list-style-type: none"> • Thomas Jefferson Parkway (Rt. 53) - full length from Rt. 20 to the County line • Richmond Road (Rt. 250 East) - from Rt. 22 to the County line; and • Provide direction to staff regarding scenic highway and historic district designation of the various streets/segments as outlined in the Executive Summary. 		
<p>Recess. The Board recessed at 2:28 p.m., and reconvened at 2:36 p.m.</p>		
<p>10. Work Session: Comprehensive Plan Update - Draft Scope of Work.</p> <ul style="list-style-type: none"> • HELD. 	<p><u>Community Development:</u> Proceed as discussed.</p>	
<p>Recess. The Board recessed at 3:43 p.m., and reconvened at 4:01 p.m.</p>		
<p>11. Discussion: Rio Road Corridor Plan - Overview.</p> <ul style="list-style-type: none"> • HELD. 	<p><u>Community Development:</u> Proceed as discussed.</p>	
<p>12. Presentation: Albemarle County Department of Social Services (ACDSS) FY20 Annual Report.</p> <ul style="list-style-type: none"> • RECEIVED. 		
<p>13. Closed Meeting.</p> <ul style="list-style-type: none"> • At 5:00 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: • Under Subsection (1), to discuss and consider appointments to four community advisory committees. 		
<p>14. Certified Closed Meeting.</p> <ul style="list-style-type: none"> • At 6:00 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
<p>15. Boards and Commissions.</p> <p>a. Vacancies and Appointments:</p> <ul style="list-style-type: none"> • APPOINTED, Mr. Anthony Arsali to the Pantops Community Advisory Committee to fill an unexpired term ending June 30, 2021. • APPOINTED, Ms. Samantha Strong to the Places 29 (Hydraulic) Community Advisory Committee to fill an unexpired term ending August 5, 2022. • APPOINTED, Ms. Susan Friedman to the Places 29 (North) Community Advisory Committee with said term to expire March 31, 2022. • APPOINTED, Ms. Paula Pagonakis to the Village of Rivanna Community Advisory Committee with said term to expire March 31, 2023. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
<p>16. 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"> • <u>Justin Miller</u>, provided comments that were not concerning items that were on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board. 		
<p>17. Pb. Hrg.: SP202000015 Animal Wellness Center.</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to approve SP202000015 with the revised conditions, including the revised concept plan; and ADOPTED resolution to approve SE202000022, the special exception request, with the revised conditions and concept plan. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 6-7)</p>	
<p>16. From the Public: Matters Not Listed for Public</p>		

<p>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"> • <u>Judy Schlusssel</u>, Rio District and a member of the Rio29 CAC, commented on the proposed by-right building that will take place on Dunlora Farm and the clear-cutting taking place to build residences. • <u>Kent Schlusssel</u>, Rio District, commented that the County's Comprehensive Plan it is outdated for the Rio District and that the clear cutting has impeded the use of the RTF trail that comes from pen Park to Belvedere. 		
<p>18. <u>Pb. Hrg.: Ordinance to Amend County Code Chapter 7, Health and Safety, Article 3, Smoking.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED Ordinance. 	<p>Clerk: Forward copy of signed ordinance to County Attorney's office. (Attachment 8)</p>	
<p>19. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p>a. Letter of Support for Amendment to State Budget Item 382 #1s, Department of Wildlife Resources Boat Ramp Access Fees.</p> <ul style="list-style-type: none"> • By a vote of 6:0, approved sending a letter form the Board to Creigh Deeds and members of the Virginia Senate Finance Committee and a letter to the House Appropriations Committee supporting delaying implementation of assessing the access fees for boat ramps owned or managed by the Department of Wildlife Resources until July 1, 2022. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Remarked that there was a bill put forth by Patrick Hope from Arlington to allow localities to require more tree retention for projects, but the legislature did not take action and now it has become a study. Mr. Kamptner commented on several areas where the Board could examine supporting greater protection. <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> • Commented on the comments made earlier in the meeting during Matters from the Public and noted she had already filed a report with the FBI. 		
<p>20. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Jeff Richardson:</u></p> <ul style="list-style-type: none"> • Presented his monthly County Executive's report. 		
<p>21. Adjourn to February 17, 2021, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).</p> <ul style="list-style-type: none"> • The meeting was adjourned at 7:52 p.m. 		

ckb/tom

- Attachment 1 – Proclamation Celebrating Black History Month
- Attachment 2 – Resolution to Approve Additional FY 2021 Appropriation
- Attachment 3 – Resolution – Revitalization Area Designation - Southwood Blocks 11 & 12
- Attachment 4 – Resolution – Free State Road Abandonment
- Attachment 5 – Resolution of Intent
- Attachment 6 – Resolution to Approve SP 202000015 Animal Wellness Center
- Attachment 7 – Resolution to Approve SE202000022 Animal Wellness Center
- Attachment 8 – Ordinance No. 21-7(1)

Proclamation Celebrating Black History Month

WHEREAS, Black History Month is celebrated during the month of February; and

WHEREAS, Albemarle County celebrates the wisdom of civil rights leaders and community builders this month and everyday; and

WHEREAS, the late John Lewis, speaking on the 50th anniversary of the Selma March and the subsequent attack on the gathering known infamously as “Bloody Sunday”, said:

“We, as a nation, have a great deal to be thankful for.

Jimmie Lee Jackson, whose death inspired the Selma march, along with so many others, did not make [it] to see this day.

But you and I are here. We can bear witness to the distance we have come and the progress we have made in 50 years. And we must use this moment to recommit ourselves to do all we can to finish the work. There’s still work left to be done. Get out there and push and pull, until we redeem the soul of America ...

Each of us must go back to our homes after this celebration and build on the legacy of the March in 1965. The Selma Movement is saying today that we all can do something. So I say to you, don’t give up on the things that have great meaning to you. Don’t get lost in a sea of despair. Stand up for what you believe. Because in the final analysis, we are one people, one family, the human family. We all live in the same House, the American House, the world House.

We’re black. We’re white. We are Hispanic, Asian-American, Native-American. But we’re one people.”; and

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors does hereby honor Black History Month and looks forward with the rest of our community to an even brighter future as one people committed to taking meaningful actions in order to create a more equitable and inclusive community for all.

Signed this 3rd day of February 2021

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATION**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriation #2021052 is approved;
- 2) That the appropriation referenced in Paragraph #1, above, is subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

RESOLUTION

WHEREAS, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents; and

WHEREAS, Albemarle County is committed to engaging actively in redevelopment and revitalization in the County's Development Areas; and

WHEREAS, Albemarle County supports the redevelopment of the Southwood Mobile Home Park to mixed-income community; and

WHEREAS, the Piedmont Housing Alliance proposes to construct 127-units of affordable rental housing in Southwood Redevelopment Phase 1 on Blocks 11 and 12 (Tax Map Parcel 09000-00-00-001A) east of Hickory Street and south of Old Lynchburg Road, utilizing Low Income Housing Tax Credit (LIHTC) financing; and

WHEREAS, pursuant to Virginia Code Section 36-55:30.2.A, Virginia Housing may provide LIHTC financing for projects enhancing economically mixed communities located within Revitalization Areas.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby certifies the above-referenced development is located in a Revitalization Area in the County of Albemarle, Virginia, and that the revitalization area is blighted, deteriorated or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions: dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty or otherwise inadequate design, quality or condition; and

BE IT FURTHER RESOLVED that the Board of Supervisors has determined that private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area.

RESOLUTION

WHEREAS, a portion of Route 651 has been realigned and a new segment constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Virginia Department of Transportation has inspected this street and found it to be acceptable for maintenance.

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors, this the 3rd day of February, 2021, that the old segment of Route 651, identified on the attached Form AM 4.3, is no longer needed as part of the Secondary System of State Highways, as the new road serves the same citizens as the old road, and is hereby requested to be abandoned by the Virginia Department of Transportation pursuant to §33.2-912, *Code of Virginia*, 1950 amended; and

BE IT FURTHER RESOLVED, a copy of this resolution be forwarded to the Virginia Department of Transportation.

* * * *

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In Albemarle County

by Resolution of the governing body adopted February 03, 2021

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision: Free State Road Abandonment

Abandonment - Project by VDOT §33.2-912

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
651	Free State Road	Rt 651, Free State Rd	Rt , Free State Rd	0.22			

RESOLUTION OF INTENT

WHEREAS, the Historic, Cultural, and Scenic Resources Chapter of the Albemarle County Comprehensive Plan states that one of the objectives of the County is to “Maintain the visual integrity of Albemarle’s Entrance Corridors” and further states that entrance corridor regulations may only be applied to “arterial streets or highways found to be significant routes of tourist access”; and

WHEREAS, Virginia Code §15.2-2306 enables localities to establish entrance corridor districts encompassing parcels contiguous to arterial streets and highways found to be significant routes of tourist access to the county and to designated historic landmarks, structures, or districts within the county; and

WHEREAS, Albemarle County Code § 18-30.6.2 lists arterial streets and highways designated as Entrance Corridor streets; and

WHEREAS, staff has evaluated various characteristics of the non-arterial Entrance Corridors, and desires to take steps to protect the characteristics of several of the non-arterial streets by requesting arterial classification, scenic highway designation, and/or local historic district designation.

NOW, THEREFORE, BE IT RESOLVED THAT the Albemarle County Board of Supervisors hereby directs staff to request arterial status and consider scenic highway and historic district designation as recommended; and

BE IT FURTHER RESOLVED THAT for purposes of public necessity, convenience, general welfare, and good zoning and development practices, the Board hereby adopts a resolution of intent to consider amending Albemarle County Code §18-30.6.2, any other sections of the Zoning Ordinance, and the Zoning Map deemed to be appropriate 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 by this resolution of intent, and make its recommendations to the Board of Supervisors, at the earliest possible date.

**RESOLUTION TO APPROVE
SP 202000015 ANIMAL WELLNESS CENTER**

BE IT RESOLVED that, upon consideration of the staff reports prepared for SP 202000015 and all of their attachments, the information presented at the public hearings, any comments received, and the factors relevant to special use permits in Albemarle County Code §§ 18-20B.2(E)(17) and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 202000015, subject to the conditions attached hereto.

* * * * *

SP2020-15 Animal Wellness Center Special Use Permit Conditions

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the concept plan entitled, "Special Use Permit SP2020-00015, An Amendment to SP2008-009, Concept Plan, Animal Wellness Center, 56A2-01-00-7," prepared by Shimp Engineering, P.C., dated July 20, 2020, last revised January 15, 2021. To be in general accord with the exhibit, development must reflect the following essential major elements:
 - Location of the existing building and its proposed additions
 - Location of the proposed new building in the "future phase/development"
 - Location of the parking areas
 - Location of the outdoor animal exercise areaMinor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. The outdoor animal exercise area must be separated from access by the public and limited to the area behind the building.
3. Final site plan approval is subject to approval of the landscape plan (submitted with the site plan) by the Architectural Review Board (ARB). 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.
4. Subject to the approval of the Albemarle County Facilities and Environmental Services department, a parking lot may be permitted in the location of the existing drainage channel located within the Albemarle County drainage easement (deed book 3982, page 599), as shown to the west of the existing building depicted on sheets 6 and 7 of the concept plan. For a parking lot to be permitted in this area, at a minimum, the developer must relocate and reconstruct the drainage channel to a condition that is consistent with the design of the existing channel and modify the drainage easement to reflect the new location. Piping of the existing or new drainage channel is not permitted. Any disposal of the County's existing drainage easement is further subject to the requirements of *Virginia Code* § 15.2-1800(B).

**RESOLUTION TO APPROVE
SE202000022 ANIMAL WELLNESS CENTER**

NOW BE IT RESOLVED that, upon consideration of the staff reports prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, all of the comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.11 and 18-33.49, the Albemarle County Board of Supervisors hereby approves SE202000020 Animal Wellness Center to allow the veterinary clinic and associated uses to be located less than 200 feet from a residential property line, subject to the conditions attached hereto.

* * * * *

SE202000022 Animal Wellness Center Conditions

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the concept plan entitled, "Special Use Permit SP2020-00015, An Amendment to SP2008-009, Concept Plan, Animal Wellness Center, 56A2-01-00-7," prepared by Shimp Engineering, P.C., dated July 20, 2020, last revised January 15, 2021. To be in general accord with the exhibit, development must reflect the following essential major elements:
 - Location of the existing building and its proposed additions
 - Location of the proposed new building in the "future phase/development"
 - Location of the parking areas
 - Location of the outdoor animal exercise areaMinor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. The buildings used for the veterinary clinic and overnight animal boarding uses must be air-conditioned and must be sound-proofed so that sound measured at the nearest agricultural or residential property line shall not exceed 55 decibels. Prior to the issuance of a building permit, the applicant must submit information to the satisfaction of the County Engineer and the Zoning Administrator (or their designees) that demonstrate that the sound attenuation qualities of the construction materials used in the renovation, expansion, and/or construction of the veterinary clinic and overnight animal boarding service buildings can reasonably meet the fifty-five (55) decibel sound limit in County Code §18-5.1.11(b).

ORDINANCE NO. 21-7(1)

AN ORDINANCE TO AMEND ARTICLE 3, SMOKING, OF CHAPTER 7, HEALTH AND SAFETY, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article 3, Smoking, of Chapter 7, Health and Safety, is hereby reordained and amended as follows:

By Amending:

Sec. 7-300	Purpose
Sec. 7-301	Definitions
Sec. 7-302	Smoking prohibited in certain public places
Sec. 7-303	Smoking in certain private places of employment
Sec. 7-304	Exemptions
Sec. 7-305	Designated smoking areas
Sec. 7-306	Posting signs
Sec. 7-307	Enforcement
Sec. 7-308	Violations

By Repealing:

Sec. 7-304	Designated no-smoking areas in restaurants
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CHAPTER 7**HEALTH AND SAFETY****ARTICLE 3. SMOKING****Sec. 7-300 Purpose.**

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

(6-7-89; Code 1988, § 16.1-2; Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

Sec. 7-301 Definitions.

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

"Child care facility" means any facility which is a "child day center" or a "family day home" as defined by Virginia Code § [63.2-100](#).

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

"Health care facility" means any office or institution providing individual care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions,

including, but not limited to, hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of any physician, dentist, chiropractor, psychologist, psychiatrist, physiologist, podiatrist, optometrist, or optician.

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

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

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

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

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

(6-7-89; Code 1988, § 16.1-3; Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#)

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

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

- A. *Elevators*. In an elevator, regardless of capacity, except in those elevators in single-family dwellings.
- B. *Health care facilities*. In any health care facility, regardless of capacity, but with the exception of private patient rooms designed for only one patient.
- C. *Public meetings*. In any public meeting attended by more than two persons.
- D. *Theaters*. In any theater, except smoking by performers as part of the production.
- E. *Cultural facilities*. In any art gallery, library, museum, or similar cultural facility, supported in whole or in part with public funds.
- F. *County buildings*. In the County office buildings and any other public building that is wholly or partially owned or leased by the County, is located within and is a part of the corporate limits of the County and is under the direct and exclusive management of the County Executive's Office.
- G. *Restaurants*. In any restaurant, as provided by Virginia Code § 15.2-2825.
- H. *Schools and child care facilities*. In any elementary or secondary school, or child care facility, whether public or private.
- I. *County owned or leased vehicles for public transportation*. In any vehicles owned or leased by the County and used regularly for public transportation, including, but not limited to, transit buses and school buses.
- J. *Food stores*. In any food store.
- K. *Retail stores*. In any retail store.

L. *Financial institutions*. In any bank or savings and loan.

M. *Shopping malls*. In any enclosed shopping mall.

(6-7-89; Code 1988, § 16.1-4; Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

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

A. *Smoke-free work areas in shared work areas*. Any employer who owns and operates a business within the County and who employs five or more employees must provide, to the extent reasonably practicable, smoke-free work areas for non-smoking employees who work in a shared work area or space that are entered by the general public in the normal course of business or use of the premises.

B. *Smoking prohibited in shared work areas; exception*. Unless each and every employee in a particular shared work area consents in writing, smoking is prohibited in the shared work areas of an employer subject to this section.

C. *Designated smoking areas*. Nothing herein prevents an employer subject to this section from establishing lawfully designated smoking areas outside of shared work areas and in accord with County Code § 7-306; provided, that employers may not designate restrooms and lunchrooms in buildings they own or manage as smoking areas, unless separate restrooms and lunchrooms are furnished for smokers and non-smokers.

(6-7-89; Code 1988, § 16.1-4; Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#)

Sec. 7-304 Exemptions.

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

A. *Designated smoking areas*. Lawfully designated smoking areas which comply with County Code § 7-305.

B. *Theater lobbies*. Theater lobbies, provided that the lobby is physically separated from the spectator area and a separate lobby is provided for smokers and non-smokers.

C. *Non-shared work areas*. Office or work areas which are not shared work areas and which are not entered by the public in the normal course of business or use of the premises.

D. *Tobacco stores*. Tobacco stores that sell tobacco and smoking implements.

E. *Enclosed public buildings*. Areas within enclosed public buildings which are being used as private dwelling units or are occupied by tenants who are leasing space from the County not subject to any express prohibitions in this article.

F. *Courthouses*. Courthouses owned or leased by the County.

G. *Health care facilities treating addictions or psychiatric disorders or illnesses*. Health care facilities or portions thereof which engage primarily in the treatment of patients suffering from alcohol and other chemical dependency or abuse, or psychiatric disorders or illnesses when implementation of the smoking prohibitions contained in this article would, in the written opinion of attending physicians, produce a significant risk of worsening a patient's mental health.

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

(6-7-89; Code 1988, § 16.1-6; § 7-305, Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; § 7-304, Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

Sec. 7-305 Designated smoking areas.

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

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

(6-7-89; Code 1988, § 16.1-8; § 7-306, Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; § 7-305, Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

Sec. 7-306 Posting signs.

- A. *Posting signs in buildings; content.* Any person who owns, manages, or otherwise controls any building or area in which smoking is regulated by this article must post in an appropriate place in a clear, conspicuous, and sufficient manner "Smoking Permitted" signs or "No Smoking" signs (or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). The text on these signs must be at least one inch in height, and the international symbol must have a circle of at least four inches in diameter.
- B. *Optional content.* "No Smoking" signs may, but are not required to, contain language that violation of the no smoking prohibition is punishable by a fine of up to \$100.00.

(6-7-89; Code 1988, § 16.1-9; § 7-307, Ord. 98-A(1); 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; § 7-306, Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

Sec. 7-307 Enforcement.

- A. *Duty to enforce.* This article is enforced by the Blue Ridge Health District or any other department or person designated by the County Executive.
- B. *Citizen complaint may initiate enforcement.* Any citizen who desires to register a complaint under this article may initiate enforcement with the Blue Ridge Health District.

(6-7-89; Code 1988, § 16.1-10; § 7-308, Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; § 7-307, Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).

Sec. 7-308 Violations.

A violation of this article by any person is punishable as a class 4 misdemeanor by a fine of up to \$100.00, except for a violation of section 7-302(G), which is subject to enforcement and a fine as provided in Virginia Code § 15.2-2825. Each day that this article is violated is a separate offense.

(6-7-89; Code 1988, § 16.1-11; § 7-309, Ord. 98-A(1), 8-5-98; Ord. [20-7\(1\)](#), 3-18-20, effective 5-1-20; § 7-308, Ord. 21-7(1), 2-3-21)

State Law reference – Va. Code § [15.2-2828](#).