

# **Albemarle County Board of Supervisors**

## **Rules of Procedure**

**Adopted February \_\_, 2017**

# **Rules of Procedure of the Albemarle County Board of Supervisors**

## **1. Purpose**

- A. General.** 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).

**Comment:** This subject matter is addressed in the opening paragraph of the current Rules.

- 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.

**Comment:** This subject matter is addressed in the opening paragraph of the current Rules.

- 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 the procedural rules shall 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.

**Comment:** This subject matter is addressed in the opening paragraph of the current Rules, but the language is further clarified to distinguish those rules that are purely parliamentary (rules intended to facilitate the Board getting through its business efficiently) and those that are jurisdictional (rules that must be complied with in order for a Board action to be valid).

**Comment:** The opening paragraph of the current Rules also includes a sentence about the Board reserving the right to amend its Rules, which is addressed in Rule 12 below and need not also be stated here.

## **2. Board Members**

- A. Equal Status.** Except for the additional responsibilities of the Chair provided in Rule 3(A), all Board members have equal rights, responsibilities, and authority.

**Comment:** This subject matter is addressed in Section A of the current Rules.

- B. Decorum.** Members will act in a collegial manner and will cooperate and assist in preserving the decorum and order of the meetings.

**Comment:** This subject matter is addressed in Section A of the current Rules.

**Comment:** Section A of the current Rules also includes a sentence providing that changes to any rules and procedures could be made only at a public meeting, which is addressed in Rule 12(B), (allowed only at a “regular meeting”) and need not also be stated here.

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

- A. Chair.** When present, the Chair shall preside at all Board meetings during the year for which

elected. The Chair shall have a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423)  
The Chair shall also be the head official for all of the Board's official functions and for ceremonial purposes.

**Comment:** This subject matter is addressed in Section B(1) of the current Rules, but is revised to address the role of Chair. The election of the Chair is addressed in Section 4(A) below, which pertains to all of the actions occurring at the Annual Meeting.

- B. Vice-Chair.** If the Chair is absent from a Board meeting, the Vice-Chair, if present, shall preside at the meeting. The Vice-Chair shall also discharge the duties of the Chair during the Chair's absence or disability. (Virginia Code § 15.2-1422)

**Comment:** This subject matter is addressed in Section B(2) of the current Rules, but is revised to address the role of Vice-Chair. The election of the Vice-Chair is addressed in Section 4(A) below, which pertains to all of the actions occurring at the Annual Meeting.

- C. Acting Chair in Absence of Chair and Vice-Chair.** If the Chair and Vice Chair are absent from any meeting, a present Board member shall be chosen to act as Chair.

**Comment:** This subject matter is addressed in Section B(4) of the current Rules.

- 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)

**Comment:** This subject matter is addressed in Section B(4) of the current Rules.

- E. References to the Chair.** All references in these Rules to the *Chair* include the Vice-Chair or any other Board member when the Vice-Chair or the other member is acting as the Chair.

**Comment:** This subject matter is new; added for clarification.

#### 4. Meetings

- A. Annual Meeting.** The *Annual Meeting* is the first meeting in January held after the newly elected members of the Board 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 shall:

**Comment:** This subject matter is addressed in Section D(1) of the current Rules, but is reorganized and amended below to list all of the actions occurring at the Annual Meeting in a single section.

- 1. Elect Officers.** Elect a Chair and a Vice-Chair.

**Comment:** This subject matter is addressed in Sections B(1) and B(2) of the current Rules.

- 2. Designate Clerks.** Designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board, who shall 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)

**Comment:** This subject matter is addressed in Section C of the current Rules.

3. **Establish Schedule for Regular Meetings.** Establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code § 15.2-1416)

**Comment:** This subject matter is addressed in Section D(1) of the current Rules.

4. **Establish Dates for Hearings on Zoning Text Amendments.** Establish the days on which public hearings may be held on citizen-initiated zoning text amendments.

**Comment:** This subject matter is new, and implements the authority in Virginia Code § 15.2-2286(A)(7). However, establishing dates for hearings on zoning text amendments is a recurring action at the Board's Annual Meeting.

5. **Adopt Rules and Policies.** Adopt Rules of Procedure and Board Policies that will apply in the calendar year, subject to amendment under Rule 12.

**Comment:** This subject matter is new, but it is a recurring action at the Board's Annual Meeting.

- B. **Regular Meetings.** *Regular Meetings* are those established at the Annual Meeting to occur at specified days, times, and places.

**Comment:** This subject matter is addressed in Section D(2) of the current Rules, but is reorganized and restated below.

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 shall be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)

**Comment:** This subject matter is addressed in Section D(2) of the current Rules.

2. **Adjourning a Regular Meeting.** A regular meeting, without further public notice, may be adjourned from day to day or from time to time or from place to place, 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 Board members present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

**Comment:** This subject matter is addressed in Section D(2) of the current Rules. The second sentence is added to link adjournment to the quorum rules in Section 7.

3. **Continuing a Regular Meeting When Weather and Other Conditions Create Hazard.** If the Chair finds and declares that weather or other conditions are hazardous for Board members to attend a regular meeting, the meeting shall be continued to the next regular meeting date. The Chair's finding shall be communicated to the other Board members and to the general news media as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code § 15.2-1416)

**Comment:** This subject matter is addressed in Section D(2) of the current Rules.

4. **Establishing Different Day, Time, and Place of Regular Meeting.** After the Annual Meeting, the Board may establish different days, times, or places for Regular Meetings by passing a resolution to that effect in accord with Virginia Code § 15.2-1416.

**Comment:** This subject matter is addressed in Section D(2) of the current Rules.

- C. Special Meetings.** The Board may hold special meetings as it deems necessary at times and places that it deems convenient.

**Comment:** This subject matter is addressed in Section D(3) of the current Rules, but is reorganized and restated below.

- 1. Calling and Requesting a Special Meeting.** A special meeting shall be held when called by the Chair or requested by two or more Board members. The call or request shall be made to the Clerk and shall specify the matters to be considered at the meeting.

**Comment:** This subject matter is addressed in Section D(3) of the current Rules.

- 2. Duty of Clerk to Provide Notice.** Upon receipt of a call or request, the Clerk, after consultation with the Chair, shall immediately notify each Board member, the County Executive, and the County Attorney. The notice shall be in writing and delivered to the person or to his place of residence or business, or if requested by a Board member, by email or facsimile. The notice shall state the time and place of the meeting and shall specify the matters to be considered. The notice may be waived if all members are present at the special meeting or if all members sign a waiver for the notice. (Virginia Code § 15.2-1418) The Clerk shall also notify the general news media of the time and place of the special meeting and the matters to be considered.

**Comment:** This subject matter is addressed in Section D(3) of the current Rules.

- 3. Matters That May Be Considered.** Only those matters specified in the notice shall be considered at a special meeting unless all Board members are present.

**Comment:** This subject matter is addressed in Section D(3) of the current Rules.

- 4. Adjourning a Special Meeting.** A special meeting may be adjourned from time to time as the Board finds necessary and convenient. (Virginia Code § 15.2-1417) If a quorum was not established or was lost during the meeting, the Board members present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

**Comment:** This subject matter is addressed in Section D(3) of the current Rules. The second sentence is added to link adjournment to the quorum rules in Section 7.

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

- A. Establishing the Agenda.** The Clerk of the Board shall establish the agenda for all meetings in consultation with the County Executive and the Chair. The County Executive and Clerk shall review the agenda with the Chair and Vice Chair prior to the meeting. The Clerk shall set the order of business as provided in Rule 6(B), provided that the Clerk may modify the order of business to facilitate the business of the Board. The draft agenda shall be provided to the Board 6 days prior to the regular meeting date.

**Comment:** This subject matter is addressed in Section E(1) of the current Rules, but the agenda-related rules are reorganized to provide greater clarity to the process. The third sentence allowing the Clerk to modify the order of business is addressed in Section E(1)(b) of the current Rules. The reference in the introductory paragraph of Section E(1) of the current Rules that the pledge of allegiance and moment of silence are to be the first two items on the

Agenda is deleted because it duplicates what is stated in Section 5(B) below, which places these items as the first two items on the agenda after the meeting is called to order.

- 1. Resolutions Proposed by Board Members.** Resolutions may be proposed by a Board member requesting the Board to take a position on an issue of importance to the Board. A Board member 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. The Clerk will distribute the draft resolution with background information, if available, to all Board members. Board members may submit proposed changes to the proposed resolution to the Clerk in a redline format. The Clerk shall forward all comments received from Board members to the Board. The Board member requesting the resolution will then coordinate with the Clerk to prepare a resolution for consideration by the Board. The Clerk shall poll the Board members to determine if a majority of the Board members support adding the resolution to the agenda for consideration. If a majority of the Board members indicate support for considering the resolution, the resolution will be added to the proposed final agenda. If all Board members indicate support for the resolution, the resolution may be placed on the proposed consent agenda unless any member requests otherwise.

**Comment:** This subject matter is addressed in Section E(2) (Adoption of Final Agenda) of the current Rules, which is one of the items at the Board's meeting. The subject matter of this Section is the procedure for getting a resolution onto the Board's agenda in the first place, so this is a more logical place for the rule to be located.

- 2. Other Items Proposed To Be Added to the Clerk's Draft Agenda by Board Members.** Any Board member 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 Board members, the Clerk, and the County Executive by 5:00 p.m. 2 days before the date of the meeting or upon the unanimous consent of all Board members present. Any item that has been timely proposed and properly noticed shall be added to the end of the agenda for discussion or action unless a majority of the Board members present agree to consider the item earlier on the agenda.

**Comment:** This subject matter is addressed in Section E(2) (Adoption of Final Agenda) of the current Rules, which is one of the items of business at the Board's meeting. The subject matter of this Section is the procedure for getting an item onto the Board's agenda in the first place, so this is a more logical place for the rule to be located.

- 3. Proclamations and Recognitions Proposed by Citizens.** A request by a citizen to place a proclamation or recognition on the agenda must be made at least 4 weeks in advance of the meeting date. The request to advance a proclamation or recognition shall be submitted to the Clerk. If the request is made to a Board member, 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. Upon submittal of the request, the Clerk will review the submittal for completeness and forward it to Board members for review. The Clerk shall poll Board members to determine if a majority of the Board 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.

**Comment:** This subject matter is addressed in Section E(4) (Proclamations and Resolutions) of the current Rules, which is one of the items of business at the Board's meeting. The subject matter of this Section is the procedure for getting a proclamation or

recognition onto the Board's agenda in the first place, so this is a more logical place for the rule to be located. This rule has been amended to make it applicable only to requests by citizens.

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:

**Comment:** This subject matter is addressed in Section E(10) (Zoning Public Hearings) of the current Rules, which is one of the items of business at the Board's meeting. The subject matter of this Section is the procedure for getting a zoning map amendment onto the Board's agenda in the first place, so this is more logical place for the rule to be located.

- a. **Public Hearing Should Not Be Advertised Until Final Documents 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 no later than 2 business days prior to 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.

**Comment:** This subject matter is addressed in Section E(10) of the current Rules.

- b. **Effect of Failure to Timely Receive Final Documents.** If the County does not timely receive the required final documents, the public hearing shall not be advertised and the matter shall not be placed on the agenda unless the applicant demonstrates to the satisfaction of the Director of Community Development that good cause exists for the public hearing to be advertised. If the matter is not advertised, a new public hearing date will be scheduled.

**Comment:** This subject matter is addressed in Section E(10) of the current Rules.

- c. **Receipt of Final Signed Proffers.** Final signed proffers shall be submitted to the County no later than 9 calendar days prior to the date of the advertised public hearing. This policy is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Board members at the public hearing.  
**Comment:** This subject matter is addressed in Section E(10) of the current Rules. It is not necessarily a rule pertaining to getting a zoning map amendment hearing onto the agenda, but if not placed here it would be a standalone rule that may be easily overlooked.

5. **Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request.** Zoning map amendments advertised for public hearing shall be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as follows:

- a. **First Request Received Prior to Noon on the Wednesday of the Week Before the Public Hearing; Approval by Clerk; Matter Removed from Agenda.** If an applicant submits its first signed written deferral request and it is received by the Clerk no later than noon on the Wednesday of the week prior to the scheduled public hearing, the Clerk will administratively grant the request and remove the matter from the Agenda.

The Board will be notified of the deferral in the next Board package and the deferral will be announced at the earliest possible Board meeting to alert the public of the deferral. The staff also will make every effort to alert the public when a deferral is granted.

**Comment:** The subject matter of this rule is addressed in Section E(10) of the current Rules.

- b. Subsequent Request or Request Received Later Than Noon on the Wednesday of the Week Before the Public Hearing; Matter Remains on Agenda.** Any subsequent request for deferral for the same application previously deferred, or any request received by the Clerk later than noon on the Wednesday of the week prior to the scheduled public hearing, will be granted only at the discretion of the Board by a majority vote of those Board members present and voting. In considering whether to grant the deferral, the Board shall consider whether the reason for the deferral justifies the likely inconvenience to the public caused by the deferral. The staff also will make every effort to alert the public when a deferral is granted.

**Comment:** The subject matter of this rule is addressed in Section E(10) of the current Rules.

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

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of the Final Agenda.
5. Brief Announcements by Board Members.
6. Proclamations and Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda.
8. Consent Agenda.
9. General Business.
10. From the Board: Committee Reports and Matters Not Listed on the Agenda.
11. From the County Executive: Report on Matters Not Listed on the Agenda.
12. Adjourn.

**Comment:** This subject matter is addressed in Section E(1)(a) of the current Rules.

- C. Closed Meetings.** 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.

**Comment:** This subject matter is addressed in Section E(1)(a) of the current Rules.

## **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. The final agenda shall be adopted by a majority vote of the Board members present and voting. No matter for action not included on the final agenda shall be considered at that meeting.



**Comment:** This subject matter is addressed in Section E(2) of the current Rules. As explained in the comments to the rules in Section 5(A), the portions of current Section E(2) pertaining to getting an item on the agenda were moved to Section 5(A).

- B. Brief Announcements by Board Members.** *Brief Announcements by Board Members* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.

**Comment:** This subject matter is addressed in Section E(3) of the current Rules

- 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.

**Comment:** This subject matter is addressed in Section E(4) of the current Rules. As explained in the comments to the rules in Section 5(A), the portions of current Section E(4) pertaining to getting an item on the agenda were moved to Section 5(A).

- D. From the Public: Matters Not Listed for Public Hearing on the Agenda.** *From the Public: Matters Not Listed for Public Hearing on the Agenda* allows any member of the public to speak on any topic of public interest that is not on the agenda for a public hearing at that meeting. The following rules apply:

**Comment:** This subject matter is addressed in Section E(5) and a portion of Section I(1) (addressing the requirement of public speakers exercising decorum and using “civil language”). Given the breadth of the forum the Board provides to speakers, the First Amendment is best accommodated by having rules only for the time, place, and manner in which speakers may speak, and so the rules below are revised to address those three areas.

- 1. Time.** Each speaker may speak for up to 3 minutes, provided that if the anticipated number of speakers may exceed 10, or for other reasons related to the Board efficiently conducting its business, the Chair may reduce the amount of time allowed for each speaker to speak to 2 minutes.

**Comment:** The subject matter of this rule is addressed in Section E(5) of the current Rules, with clarity added as to when the amount of time allowed for each speaker may be reduced.

- 2. Place.** Each speaker shall speak from the podium.

**Comment:** The subject matter of this rule is new, and is added to provide clarity.

- 3. Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker shall comply with Rules 6(D)(1) and 6(D)(2), shall address the Board and not the audience, and shall not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation.

**Comment:** The subject matter of this rule replaces the current “decorum” and “civil language” rules with a rule that is focused on avoiding “actual disruptions” of the meeting. The courts will uphold the public body’s removal of persons at public meetings who actually disrupt the meeting, but not otherwise. To quote a federal district court judge who may have stated it best and simplest: “As a practical matter, any restriction that maintains

decorum versus merely preventing disruption may run the danger of [violating the First Amendment].”

- E. Consent Agenda.** The *Consent Agenda* shall be used for matters that do not require discussion or comment and are anticipated to have the unanimous approval of the Board.

**Comment:** The subject matter of this rule is addressed in Section E(6) of the current Rules.

- 1. Questions to Staff.** Board members should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item prior to the Board meeting.

**Comment:** The subject matter of this rule is addressed in Section E(6) of the current Rules.

- 2. Discussion and Comment.** There shall be no discussion or comment on Consent Agenda items at the Board meeting.

**Comment:** The subject matter of this rule is addressed in Section E(6) of the current Rules.

- 3. Removing Item from Consent Agenda.** Any Board member may remove an item from the Consent Agenda. Any item removed from the Consent Agenda shall be moved to a specific time or to the end of the meeting agenda for further discussion or action. An item requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.

**Comment:** The subject matter of this rule is addressed in Section E(6) of the current Rules.

- 4. Effect of Approval of Consent Agenda.** A motion to approve the Consent Agenda shall approve Consent Agenda items identified for action and accept Consent Agenda items identified for information.

**Comment:** The subject matter of this rule is addressed in Section E(6) of the current Rules.

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

**Comment:** The subject matter of this rule is addressed in Section E(7) of the current Rules.

- 1. Public Hearings.** The Board shall not decide any matter 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 holding of a public hearing or consideration of the matter. The procedures for receiving a presentation from the applicant and comments from members of the public shall be at the discretion of the Board. However, unless otherwise decided, the following rules apply:

**Comment:** The subject matter of this rule is addressed in Section J(3) (Voting Procedures) of the current Rules. This is a more logical location. The subject matter of Sections (a), (b), and (c) immediately below is also addressed in a portion of Section I(1) (addressing the requirement of public speakers exercising decorum and using “civil language”). The First Amendment is best accommodated by having rules only for the time, place, and manner in which speakers may speak, and so the rules below are revised to address those three areas.

- a. Time.** The applicant shall be permitted up to 10 minutes to present its application. Following the applicant’s presentation, any member of the public shall be permitted to make 1 appearance for that public hearing and speak for up to 3 minutes on the matter, provided that if the anticipated number of speakers may exceed 10, the Chair may reduce the amount of time allowed for each speaker to speak to 2 minutes. Following comments by members of the public, the applicant shall be permitted up to 5 minutes for a rebuttal presentation.

**Comment:** The subject matter of this rule is addressed in Section J(3) of the current Rules, with clarity added as to when the amount of time allowed for each speaker may be reduced.

- b. Place.** The applicant and each member of the public presenting and speaking shall do so from the podium.

**Comment:** The subject matter of this rule is new, and is added to provide clarity.

- c. Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker shall comply with Rules 6(F)(1)(a) and 6(F)(1)(b), shall address the Board, speak to issues that are relevant to the matter for which the public hearing is being held, and shall not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation.

**Comment:** The subject matter of this rule replaces the current “decorum” and “civil language” rules with a rule that is focused on avoiding “actual disruptions” of the meeting. The speakers’ forum is more limited in a public hearing pertaining to a specific matter, in comparison to the forum provided to those speaking during “From the Public.” Therefore, a requirement for relevance is included that provides the Chair the ability to declare a speaker out of order if the speaker wanders far off topic, but any speaker should be given wide latitude. The courts will uphold the public body’s removal of persons at public meetings who actually disrupt the meeting, but not otherwise. To quote a federal district court judge who may have stated it best and simplest: “As a practical matter, any restriction that maintains decorum versus merely preventing disruption may run the danger of [violating the First Amendment].”

- 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 shall consider whether deferral or denial would be in the public interest or would forward the purposes of this policy.

**Comment:** The subject matter of this rule is addressed in Section E(10) of the current Rules.

- 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* shall be 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 Board members. Any *matters* discussed are not matters to be acted upon by the Board at that meeting.

**Comment:** The subject matter of this rule is addressed in Section E(8) of the current Rules.

- 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.

**Comment:** The subject matter of this rule is addressed in Section E(8) of the current Rules.

## 7. Quorum

- A. Establishing a Quorum.** A majority of all of the members of the Board that is physically assembled shall constitute a quorum for any meeting of the Board, except as provided in Rule 8(B)(2). (Virginia Code § 15.2-1415)

**Comment:** The subject matter of this rule is addressed in Section G of the current Rules.

- B. Quorum Required to Act; Exceptions.** The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415) There are 2 exceptions:

**Comment:** The subject matter of this rule is addressed in Section G of the current Rules.

- 1. Quorum Not Established; Adjournment.** If a quorum is not established, the only action the Board members present may take is to adjourn the meeting.

**Comment:** The subject matter of this rule is addressed in Section G of the current Rules.

- 2. Quorum Not Established or Lost Because of Conflict of Interest.** If a quorum cannot be established or is lost because one or more Board members are disqualified because of a conflict of interest under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3700 *et seq.*), the remaining members constitute a quorum for the conduct of business and have the authority to act for the Board.

**Comment:** This rule is new. The Conflict of Interests Act allows less than a quorum to conduct business if members of the Board are disqualified under the Act. This exception is very narrow and applies only if disqualification prevents a quorum from being established. Therefore, for example, this exception does not apply if 2 Board members are absent because they are traveling and 1 of the 4 members present is disqualified

- C. Loss of Quorum During Meeting.** If a quorum was established but during a meeting the quorum is lost, the only action the Board members 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)

**Comment:** The subject matter of this rule is addressed in Section G of the current Rules.

- D. Quorum Required to Adjourn Meeting to Future Day and Time.** A majority of the Board members present at the time and place established for any regular or special meeting shall constitute 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.

**Comment:** The subject matter of this rule is addressed in Section G of the current Rules.

## **8. Remote Electronic Participation**

The Board will permit a Board member to participate in a Board meeting electronically from a remote location, provided that:

**Comment:** The subject matter of this rule is addressed in Section H of the current Rules.

- A. Notification to Clerk of Inability to Attend Because of Emergency, Personal Matter, Disability, or Medical Condition.** On or before the day of the meeting, the Board member shall notify the Chair that the member is unable to attend the meeting due to an emergency or a personal matter or that the member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance. The member must identify with specificity the nature of the emergency or personal matter.

**Comment:** The subject matter of this rule is addressed in Section H of the current Rules.

- B. Quorum Physically Assembled; Approval of Remote Electronic Participation.** A quorum of the Board must be physically assembled at the primary or central meeting location. The Board members present must approve the participation; however, the decision shall be based solely on the criteria in Rule 8(A), without regard to the identity of the member or matters that will be considered or voted on during the meeting.

**Comment:** The subject matter of this rule is addressed in Section H of the current Rules.

- C. Duty of Clerk to Record Action.** The Clerk shall record in the Board's minutes the specific nature of the emergency, personal matter, disability, or medical condition, and the remote location from which the absent Board member participated. If the absent member's remote participation is disapproved because participation would violate this policy, the disapproval shall be recorded in the Board's minutes.
- D. Audibility of Absent Member.** The Clerk shall make arrangements for the voice of the absent Board member to be heard by all persons in attendance at the meeting location. If, for any reason, the voice of the absent member cannot reasonably be heard, the meeting may continue without the participation of the absent member.

**Comment:** The subject matter of this rule is addressed in Section H of the current Rules.

- E. Limitation on Remote Electronic Participation in Calendar Year.** Electronic participation by the absent member as provided in this Rule shall not exceed 2 Board meetings in each calendar year.

**Comment:** The subject matter of this rule is addressed in Section H of the current Rules.

## 9. Conducting the Business of the Board

**Comment:** The subject matter of this rule is generally addressed in Section I of the current Rules. The heading has been changed from “Meeting Decorum.”

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

**Comment:** The Board may certainly conduct its meetings in the manner stated in this rule. The subject matter of this section is addressed in a portion of Section I(1) (addressing the requirement for decorum and using “civil language”). These rules are best aimed at restricting actual disruptions rather than requiring decorum and civil language.

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

1. **Speakers.** Members of the public who are speaking to the Board shall 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 From the Public: Matters Not Listed for Public Hearing on the Agenda or during a public hearing shall comply with Rule 6(D).

**Comment:** This rule is new.

2. **Persons Attending the Meeting.** Any person attending a Board meeting shall 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 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.

**Comment:** The subject matter of this rule is addressed in Section I(1) of the current Rules.

- b. **Other Behavior.** Persons may not act, make sounds, or both, that actually disrupt the Board meeting.

**Comment:** This rule is new, and serves as a catch-all to cover other behaviors that disrupt the 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 attending the meeting.

**Comment:** The subject matter of this rule is addressed in Section I(1) of the current Rules.

- C. Chair May Maintain Order.** The Chair may ask any person 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.

**Comment:** The subject matter of this rule is addressed in Section I(2) of the current Rules.

## 10. Voting Procedures

- A. Action by Motion.** Unless otherwise provided (See Rule 12(D)), any action by the Board shall be initiated by a motion properly made by a Board member and followed by a vote, as provided below:

**Comment:** The subject matter of this rule is addressed in Section J(1) of the current Rules.

- 1. Motion Must Be Seconded; Exception.** Each action by the Board shall be initiated by a motion that is seconded; provided that a second shall not be required if debate immediately follows the motion. Any motion that is neither seconded nor immediately followed by debate shall not be further considered.

**Comment:** The subject matter of this rule is addressed in Section J(1) of the current Rules, but with a key addition to the second clause of the first sentence – a second is not required if discussion immediately follows. The purpose for a second is merely to find if there is enough interest to discuss the motion, and if discussion immediately follows the motion, the purpose for the second has been satisfied. The failure for a motion to receive a second before it is voted on will not invalidate the Board's action, but this proposed change would eliminate any uncertainty.

- 2. Voting and Recording the Vote.** The vote on any motion shall be by a voice vote. The Clerk shall record the name of each Board member voting and how he voted on the motion.

**Comment:** The subject matter of this rule is addressed in Section J(1) of the current Rules.

- 3. Required Vote, Generally Required Vote for Specific Matters.** Each action by the Board shall be made by the affirmative vote of *a majority of the members present and voting* on the motion; provided that an affirmative vote of *a majority of all elected members* of the Board shall be required to approve an ordinance or resolution: (1) appropriating money exceeding the sum of \$500; (2) imposing taxes; or (3) authorizing the borrowing of money. (Article VII, § 7, Virginia Constitution; Virginia Code §§ 15.2-1420, 15.2-1427, 15.2-1428)

**Comment:** The subject matter of this rule is addressed in Section J(2) of the current Rules.

- 4. Tie Vote.** A tie vote shall defeat the motion voted upon. A tie vote on a motion to approve shall be deemed a denial of the matter being proposed for approval. A tie vote on a motion to deny shall not be deemed an approval of the matter being proposed for denial.

**Comment:** The subject matter of this rule is addressed in Section J(1) of the current Rules. The third sentence is new and, though it may be unnecessary, it would eliminate any certainty as to the effect of a tie vote on a motion to deny.

- 5. Abstention.** If any Board member abstains from voting on any motion, he shall state his abstention. The abstention will be announced by the Chair and recorded by the Clerk.

**Comment:** The subject matter of this rule is addressed in Section J(1) of the current Rules.

- B. Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Board member. Upon a proper second, the motion to amend shall 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 Board members 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.

**Comment:** The subject matter of this rule is addressed in Section J(4) of the current Rules.

- C. Motion to Call the Question.** The discussion of any motion may be terminated by any Board member making a *motion to call the question*. Upon a proper second, the Chair shall call for a vote on the motion to call the question without debate on the motion itself, and the motion shall take precedence over any other matter. If the motion is approved, the Chair shall immediately call for a vote on the original motion under consideration.

**Comment:** The subject matter of this rule is addressed in Section J(5) of the current Rules. The name of the motion has been changed from “moving the previous question” to a “motion to call the question.” The other common name for this motion is a “motion to close debate.”

- D. 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 member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the item for discussion in the exact position it occupied before it was voted upon.

**Comment:** The subject matter of this rule is addressed in Section J(6) of the current Rules.

- E. 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 members of the Board. The motion to rescind may be made by any Board member. 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 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 shall only be eligible for reconsideration as provided in Rule 10(D).

**Comment:** The subject matter of this rule is addressed in Section J(7) of the current Rules.

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

**Comment:** The subject matter of this rule is addressed in Section O of the current Rules. The heading has been changed from “Rules of Procedure.”



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

**Comment:** The subject matter of this rule is addressed in Section O of the current Rules.

- A. Not Required to Obtain the Floor.** Board members are not required to obtain the floor before making motions or speaking, which they can do while seated.

**Comment:** The subject matter of this rule is addressed in Section O(1) of the current Rules.

- B. No Limitation on Number of Times a Member May Speak.** There is no limitation on the number of times a Board member may speak to a question, and motions to call the question or to limit debate generally should not be entertained.

**Comment:** The subject matter of this rule is addressed in Section O(2) of the current Rules. The current Rules refer to generally not entertaining motions to “close . . . debate,” and this reference has been revised to refer to a motion to “call the question” because that terminology is consistent with the proposed change in terminology in Rule 10(C).

- C. Informal Discussion.** Informal discussion of a subject is permitted while no motion is pending.

**Comment:** The subject matter of this rule is addressed in Section O(3) of the current Rules.

- D. When Vote Without Motion Not Required.** Sometimes, when a matter is perfectly clear to all present and if agreed to by unanimous consent of all Board members present and voting, a vote can be taken without a motion having been introduced. Unless agreed to by unanimous consent, however, all proposed actions of the Board must be approved by vote under the same rules as in other assemblies, except that a vote can be taken initially by a show of hands, which is often a better method.

**Comment:** The subject matter of this rule is addressed in Section O(4) of the current Rules.

- E. Chair; Putting Question to Vote.** The Chair need not rise while putting questions to vote.

**Comment:** The subject matter of this rule is addressed in Section O(5) of the current Rules.

- F. Chair; Speaking During Discussion.** The Chair can speak in discussion without rising or leaving the chair, and, subject to rule or custom within the particular board (which should be uniformly followed regardless of how many members are present), the Chair usually can make motions and usually votes on all questions.

**Comment:** The subject matter of this rule is addressed in Section O(6) of the current Rules.

## 12. Amendment of Rules of Procedure

These Rules of Procedure may be amended only as follows:

**Comment:** The subject matter of this rule is addressed in the introductory paragraph and in Section M of the current Rules.

- A. Rules Eligible for Amendment.** Any Rule may be amended.

**Comment:** The subject matter of this rule is addressed in the introductory paragraph and in Section M of the current Rules.

- B. Procedure to Amend.** Any Rule eligible for amendment may be amended only by a majority vote of the Board members present and voting at the next regular meeting following a regular meeting at which notice of the motion to amend is given. Notice of the motion to amend a rule may be made by any Board member. The motion to amend a rule may be made by any Board member. Upon a proper second, the motion shall 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), and 10(A)(3) address statutory or constitutional requirements.

**Comment:** The first sentence requiring notice of a motion to amend at one meeting, which may be acted on at the next regular meeting, is addressed in Section M of the current Rules. The current Rules state that the required vote is a “majority of the Board.” This rule is clarified to provide that the motion must be approved by a majority of the Board members present and voting (rather than the majority of the entire membership). The second, third, and fourth sentences are borrowed from the current Rules pertaining to suspending the Rules. The fifth sentence is a reminder that some of the Rules address statutory or constitutional requirements, so those Rules are limited to non-substantive amendments.

- C. Limitation on Effect of Amendment.** The Board’s approval of a motion to amend 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.

**Comment:** The subject matter of this rule is borrowed from current Rule N (Suspension of Rules of Procedure).

### 13. Suspension of Rules of Procedure

These Rules of Procedure may be suspended only as follows:

**Comment:** The subject matter of this Rule is addressed in Section N of the current Rules.

- A. Rules Eligible for Suspension.** Rules 1, 2, 5, 6, 9(A), 10 (except for Rule 10(A)(3)), 11, and 12 may be suspended.

**Comment:** The subject matter of this Rule is new. Some of the Rules can be suspended, but many of them address statutory or constitutional requirements and cannot be amended.

- B. Procedure to Suspend, Generally.** Any Rule eligible for suspension may be suspended by a majority plus 1 vote of the Board members present and voting. The motion to suspend a rule may be made by any Board member. 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 matter before the Board.

**Comment:** The subject matter of this rule is addressed in Section N of the current Rules.

- C. Suspension of Rules Pertaining to Motions When Uncertainty as to Status or Effect.** If one or more motions have been made on a matter, 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 Board members present and voting, suspend the rules in Rule 6 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 Board member. Upon a proper second, the motion may be discussed and voted on.

**Comment:** The subject matter of this Rule is new, and it provides a simple way for the Board to undo a series of pending motions (e.g., a motion to approve followed by a series of motions to amend) when the status or effect of the several motions has become uncertain.

- D. Limitation on Effect of Suspension.** 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.

**Comment:** The subject matter of this rule is addressed in Section N of the current Rules.

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(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).