

ORDINANCE NO. 17-1()

AN ORDINANCE TO AMEND CHAPTER 1, GENERAL PROVISIONS, 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 1, General Provisions, is hereby amended and reordained as follows:

By Amending, Renumbering, and Reorganizing:

Current:

- Sec. 1-100 How Code designated and cited.
- Sec. 1-101 Definitions and rules of construction.
- Sec. 1-102 Provisions considered continuations of prior ordinances.
- Sec. 1-103 Catchlines of sections.
- Sec. 1-104 References to chapters, articles, divisions or sections.
- Sec. 1-105 History notes.
- Sec. 1-106 Editor's notes and reference notes.
- Sec. 1-107 Code not to affect prior offenses or rights.
- Sec. 1-108 Repeal of ordinance not to revive former ordinances.
- Sec. 1-109 Ordinances not affected by Code.
- Sec. 1-110 Conflicting provisions.
- Sec. 1-111 Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-113 Acts by deputy or designee.
- Sec. 1-114 Severability of parts of Code.
- Sec. 1-115 General penalty; continuing violation; injunctive relief.
- Sec. 1-116 Classes of misdemeanors; definition; punishments.
- Sec. 1-117 Unlawful or prohibited acts include causing, permitting, concealing.
- Sec. 1-118 Fines and costs.
- Sec. 1-119 Additional court costs.
- Sec. 1-120 Penalty for returned checks or other payment.

New:

Article 1. The Albemarle County Code

- Sec. 1-100 How the Albemarle County Code is designated and cited.
- Sec. 1-101 Definitions.
- Sec. 1-102 Rules of construction.
- Sec. 1-103 Provisions of the Code are considered continuations of prior ordinances.
- Sec. 1-104 Severability of parts of the Code.

Article 2. Ordinances

- Sec. 1-200 Adopting ordinances that amend the Code.
- Sec. 1-201 Adopting ordinances that do not amend the Code.
- Sec. 1-202 Repealing Code section or ordinance does not revive previously repealed Code section or ordinance.
- Sec. 1-203 Ordinances and other matters not affected by the Code.

Article 3. Offenses, Penalties, and Costs

- Sec. 1-300 Code does not affect prior offenses or rights.
- Sec. 1-301 General punishment; continuing violation; injunctive relief.
- Sec. 1-302 Classes of misdemeanors; punishment.
- Sec. 1-303 Unlawful or prohibited acts include causing, allowing, permitting, and other specified acts.
- Sec. 1-304 Fines and costs.
- Sec. 1-305 Additional court costs.
- Sec. 1-306 Penalty for returned checks or other payment.

Article IV. Acts by Officers and Employees

- Sec. 1-400 Acts by deputies.
- Sec. 1-401 Acts by officers or employees to whom powers and duties delegated.

By Repealing:

- Sec. 1-112 Interpretation of section numbers.

Chapter 1. General Provisions

~~Sec. 1-100 How Code designated and cited.~~

~~The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the County of Albemarle, Virginia, of 1998" and may be so cited. Such Code may also be cited as the "Albemarle County Code of 1998."~~

~~(Code 1967, § 1-1 Code 1975, Code 1988, § 1-1; Ord. No. 98-A(1), 8-5-98)~~

~~State law reference—Authority to codify ordinances; admissibility of Code as evidence in courts, Va. Code § 15.2-1433.~~

~~Sec. 1-101 Definitions and rules of construction.~~

~~In the construction of this Code and of all other ordinances of the county, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county supervisors or the context clearly requires otherwise:~~

~~(1) *Board of supervisors.* The term "board of supervisors" means the board of county supervisors of the County of Albemarle, Virginia.~~

~~(2) *Code.* The term "Code" means and refers to the Code of the County of Albemarle, Virginia, of 1998.~~

~~(3) *Code of Virginia.* The term "Code of Virginia" means the Code of Virginia, 1950, as amended, including the latest edition or supplement unless otherwise indicated.~~

~~(4) *Computation of time.* Whenever a notice is required to be given, or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, may be counted in computing the time; but when a notice is required to be given, or other act to be done, within a certain time after any event or judgment, that time shall be allowed in addition to the day on which the event or judgment occurred. When the last day for any act to be done falls on a Saturday, Sunday~~

~~or legal holiday, or any day on which the county offices are closed, the act may be done on the next day that is not a Saturday, Sunday or legal holiday, or day on which the county offices are closed.~~

~~State law reference~~—Computation of time, Va. Code § 1-13.3; acts where last day falls on Saturday, Sunday or holiday, Va. Code § 1-13.3:1.

~~(5) County. The term "county" shall be construed as if the words "of Albemarle, Virginia," followed it.~~

~~(6) County attorney. The term "county attorney" shall be construed to mean the county attorney of Albemarle County, Virginia, or his duly authorized representative.~~

~~(7) County executive. The term "county executive" shall be construed to mean the county executive of Albemarle County, Virginia, or his duly authorized representative.~~

~~(8) Definitions given within a Chapter or Article shall apply only to words or phrases used in such Chapter or Article unless otherwise provided.~~

~~(9) Designee following an official of the county shall mean the authorized agent, employee or representative of such official.~~

~~(10) Director of Finance. The term of "director of finance" means the director of finance of Albemarle County, Virginia and any of his duly authorized deputies, assistants, employees or agents.~~

~~(11) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.~~

~~State law reference~~—Similar provisions, Va. Code § 1-13.7.

~~(12) Highway. The terms "highway" and "street" include highways, streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto and all other public ways in the county and shall mean the entire width thereof between the abutting property lines.~~

~~(13) Joint authority. Words purporting to give authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.~~

~~State law reference~~—Similar provisions, Va. Code § 1-13.1.

~~(14) May. The term "may" is permissive.~~

~~(15) Month. The term "month" shall mean a calendar month unless otherwise expressed.~~

~~(16) Number. A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.~~

~~State law reference~~—Similar provisions, Va. Code § 1-13.15.

~~(17) Oath. The term "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.~~

~~State law reference~~—Similar provisions, Va. Code § 1-13.16.

~~(18) Officers; employees; departments; boards; commissions; agencies. Any reference to an officer, employee, department, board, commission or agency shall be construed as if followed by the words "of the County of Albemarle, Virginia."~~

~~(19) — *Ordinances and resolutions.* The terms "ordinances" and "resolutions" shall mean the ordinances and resolutions of the County of Albemarle, Virginia and all amendments and supplements thereto.~~

~~(20) — *Owner.* The term, "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.~~

~~(21) — *Person.* The term "person" may extend and be applied to associations, firms, partnerships, corporations and bodies politic and corporate as well as to individuals.~~

~~State law reference—~~ Similar provisions, Va. Code § 1-13.19.

~~(22) — *Personal property.* The term "personal property" shall mean any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property.~~

~~(23) — *Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.~~

~~State law reference—~~ Similar provisions, Va. Code §§ 1-13.6, 1-13.23.

~~(24) — *Public place.* The term "public place" shall mean and include any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building or any other place commonly open to the public.~~

~~(25) — *Real property.* The term "real property" shall mean land, together with all things attached to the land so as to become a part thereof.~~

~~(26) — *Registered mail.* The term "registered mail" shall include certified mail with return receipt requested.~~

~~(27) — *Shall.* The term "shall" is mandatory.~~

~~(28) — *Signature or subscription.* The terms "signature" or "subscription" include a mark when a person cannot write.~~

~~(29) — *State.* The terms "the state" or "this state" shall mean the Commonwealth of Virginia.~~

~~State law reference—~~ Similar provisions, Va. Code § 1-13.26.

~~(30) — *Swear, sworn.* The terms "swear" or "sworn" shall be equivalent to the words "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.~~

~~State law reference—~~ Similar provisions, Va. Code § 1-13.28.

~~(31) — *Tense.* Words used in the past or present tense include the future as well as the past and present.~~

~~(32) — *Words and phrases* shall mean and be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.~~

~~(33) —Written or in writing. The terms "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.~~

~~(34) —Year. The term "year" shall mean a calendar year unless otherwise expressed.~~

~~(Code 1967, § 1 2; Code 1975 § 1 2; Code 1988, § 1 2; Ord. No. 98 A(1), 8 5 98)~~

~~Sec. 1-102 Provisions considered continuations of prior ordinances.~~

~~The provisions of this Code, so far as they are in substance the same as the provisions of county ordinances or the Albemarle County Code of 1975 existing on the date of the adoption of this Code, shall be considered to be continuations of such ordinances or code provisions and not new enactments.~~

~~(Code 1967, § 1 3; Code 1975, § 1 3; Code 1988, § 1 3; Ord. No. 98 A(1), 8 5 98)~~

~~Sec. 1-103 Catchlines of sections.~~

~~The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.~~

~~(Code 1967, § 1 4; Code 1975, § 1 4; Code 1988, § 1 4; Ord. No. 98 A(1), 8 5 98)~~

~~Sec. 1-104 References to chapters, articles, divisions or sections.~~

~~All references in this Code to chapters, articles, divisions or sections shall be to those chapters, articles, divisions or sections of this Code unless otherwise specified.~~

~~(Ord. No. 98 A(1), 8 5 98)~~

~~Sec. 1-105 History notes.~~

~~The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.~~

~~(Ord. 98 A(1), 8 5 98)~~

~~Sec. 1-106 Editor's notes and reference notes.~~

~~The editor's notes, cross references and state law references in this Code are not intended to have any legal effect, but are merely intended to assist the user of this Code.~~

~~(Ord. 98 A(1), 8 5 98)~~

~~Sec. 1-107 Code not to affect prior offenses or rights.~~

~~Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-108 Repeal of ordinance not to revive former ordinances.~~

~~When an ordinance that has repealed another ordinance shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-109 Ordinances not affected by Code.~~

~~Nothing in this Code or the ordinance adopting this Code shall affect the following when not in conflict with the Code:~~

~~—(1) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code.~~

~~—(2) Any ordinance or resolution promising or guaranteeing the payment of money or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness or any contract or obligation assumed by the county.~~

~~—(3) Any annual tax levy.~~

~~—(4) Any right or franchise conferred by ordinance or resolution on any person.~~

~~—(5) Any ordinance adopted for purposes which have been consummated.~~

~~—(6) Any ordinance which is temporary, although general in effect, or special, although permanent in effect.~~

~~—(7) Any ordinance relating to the compensation of the county's officers or employees.~~

~~—(8) Any ordinance naming, renaming, opening, accepting or vacating streets, alleys, easements or rights of way in the county.~~

~~—(9) Any ordinance relating to a rezoning or the zoning map.~~

~~—(10) Any ordinance establishing fees or charges which are not set out in this Code.~~

~~—All such ordinances shall be on file in the county offices.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-110 Conflicting provisions.~~

~~—A. If the provisions of different chapters, articles, divisions or sections of this Code conflict with or contravene each other, the provisions of each chapter, article, division or section shall prevail as to all matters and questions growing out of the subject matter of that chapter, article, division or section.~~

~~— B. If clearly conflicting provisions are found in different sections of the same chapter, the provisions of the section last enacted shall prevail unless the construction is inconsistent with the meaning of that chapter.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-111 Amendments to Code; effect of new ordinances; amendatory language.~~

~~— A. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the case of repeal of chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of supervisors to make the addition or amendment a part of this Code, shall be deemed to be incorporated in the Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.~~

~~— B. Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of the County of Albemarle, Virginia, of 1998, is hereby amended and reordained to read as follows:" The new provisions shall then be set out in full as enacted.~~

~~— C. If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the County of Albemarle, Virginia, of 1998, is hereby amended and reordained by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as enacted.~~

~~— D. All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-112 Interpretation of section numbers.~~

~~— In reading a section from left to right, the digit or digits to the left of the first dash designate the chapter number. The digit or digits to the right of the first dash and to the left of the second dash, (i.e., between the dashes), designates the article within the chapter. Figures to the right of the second dash designate the section number within the chapter.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-113 Acts by deputy or designee.~~

~~— Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by any authorized deputy or designee or by any person duly authorized, unless this Code expressly provides otherwise.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-114 Severability of parts of Code.~~

~~— It is hereby declared to be the intention of the board of supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.~~

~~(Code 1967, § 1-5, Code 1975, § 1-5, Code 1988, § 1-5; Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-115 General penalty; continuing violation; injunctive relief.~~

~~— A. Wherever in this Code, any ordinance of the county, or rule, regulation or order promulgated by any officer or agency of the county under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, rule, regulation or order shall be punished by a fine or imprisonment not exceeding the penalty provided in general law of the Code of Virginia for the violation of a class 1 misdemeanor. Provided, however, no fine or term of confinement for the violation of a county ordinance shall exceed the penalty provided by general law of the Code of Virginia, as amended, for like offenses.~~

~~— B. Each day any violation of this Code or any such ordinance, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.~~

~~— C. The imposition of any penalty, pursuant to this or any other provision of this Code, shall not prohibit the county in any proper case from seeking equitable relief in any court of competent jurisdiction to enjoin the violation of any provision of this Code or other county ordinance.~~

~~(Code 1967, § 1-6; Code 1975 § 1-6, Code 1988, § 1-6; Ord. 98 A(1), 8-5-98)~~

~~State law reference—Maximum penalty for violation of county ordinances, Va. Code § 15.2-1429; penalties for misdemeanors, Va. Code §§ 18.2-11, 18.2-12.~~

~~Sec. 1-116 Classes of misdemeanors; definition; punishments.~~

~~— Wherever in this Code there appears a designation of a misdemeanor by class, the following punishments for conviction of the misdemeanor are authorized:~~

~~(1) For class 1 misdemeanors, confinement in jail for not more than twelve (12) months and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500), either or both.~~

~~— (2) For class 2 misdemeanors, confinement in jail for not more than six (6) months and a fine of not more than One Thousand Dollars (\$1,000.00), either or both.~~

~~— (3) For class 3 misdemeanors, a fine of not more than Five Hundred Dollars (\$500.00).~~

~~(4) For class 4 misdemeanor, a fine of not more than Two Hundred Fifty Dollars (\$250.00)~~

~~(Ord. 98 A(1), 8-5-98)~~

~~— State law reference—Va. Code § 18.2-11.~~

~~Sec. 1-117 Unlawful or prohibited acts include causing, permitting, concealing.~~

~~—Whenever in this Code any act or omission is made unlawful or prohibited it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.~~

~~(Ord. 98 A(1), 8-5-98)~~

~~Sec. 1-118 Fines and costs.~~

~~—A. All fines and costs collected under the terms of this Code and other county ordinances shall be paid over to the director of finance and credited by him to the county general revenue fund.~~

~~—B. Costs shall be taxed in prosecutions under this Code in the same amounts and in the same manner as prescribed by law in misdemeanor cases under the Code of Virginia.~~

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~~(Code 1967, § 1-7, Code 1975, § 1-7, Code 1988, § 1-7; Ord. 98 A(1), 8-5-98)~~

~~—State law reference—Fines paid to county, Va. Code § 16.1-69.48; fines in traffic cases, Va. Code § 46.2-1308.~~

~~Sec. 1-119 Additional court costs.~~

~~—A. A fee of two dollars (\$2.00) shall be taxed as additional costs in each criminal, traffic or civil case in the respective district or circuit courts of the county for the purpose of providing for the maintenance, construction or renovation of the courthouse, jail or court related facilities located in and serving the county and to defray the costs of cooling, heating and electricity in these facilities. The director of finance shall segregate the fees collected pursuant to this section for the purposes designated above.~~

~~B. A fee of ten dollars (\$10.00) shall be taxed as additional costs in each criminal or traffic case in the respective district or circuit courts of the county in which the defendant is convicted of a violation of any statute or ordinance. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the director of finance, and held by the director of finance subject to appropriation by the board of supervisors to the sheriff's office for the funding of courthouse security personnel, and, if requested by the sheriff, equipment and other personal property used in connection with courthouse security.~~

~~C. A fee of twenty five dollars (\$25.00) shall be taxed as additional costs in each criminal case in the respective district or circuit courts of the county in which the defendant is convicted of a violation of any statute or ordinance and is processed for admission into the regional jail as a result of such conviction. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the director of finance, and held by the director of finance subject to appropriation by the board of supervisors to the sheriff's office for the funding of costs of processing arrested persons into the regional jail.~~

~~—D. A fee of five dollars (\$5.00) shall be taxed as additional costs in each criminal or traffic case in the respective district or circuit courts of the county in which the defendant is convicted of a violation of any statute or ordinance. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the director of finance, and held by the director of finance subject to appropriation by the board of supervisors to the appropriate law enforcement agency or agencies for the funding of software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.~~

~~(Ord. of 8-8-90; Ord. of 8-5-92, Code 1975, § 1-8, 6-17-89; Code 1988, § 1-8 Ord. 98 A(1), 8-5-98; Ord. 02-1(1), 6-5-02; Ord. 07-1(1), adopted 6-6-07, effective 7-1-07; Ord. 17-1(1), 8-2-17)~~

~~—State law reference—Authority for above provisions, Va. Code §§ 17.1-281, 53.1-120, 15.2-1613.1, 17, 17.1-279.1.~~

~~Sec. 1-120 Penalty for returned checks or other payment.~~

~~—If any check or other means of payment tendered to the county or any agency thereof in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the named payee unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of thirty-five dollars (\$35.00) shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 15-103 shall not apply.~~

~~(Ord. No. 97-1(1), 2-12-97; Code 1988, § 1-9; Ord. 98-A(1), 8-5-98; Ord. 07-1(2), 10-3-07, effective 1-1-08)~~

~~—State law reference—Va. Code § 2.2-614.1(C).~~

Article 1. The Albemarle County Code

Sec. 1-100 How the Albemarle County Code is designated and cited.

The ordinances codified in this chapter and in the following chapters and appendices compose, and may be formally cited as, the “Albemarle County Code of 1998,” and may also be referred to as the “Albemarle County Code,” the “County Code,” and the “Code.”

(Code 1967, § 1-1 Code 1975, Code 1988, § 1-1; Ord. No. 98-A(1), 8-5-98)

State law reference – Va. Code § 15.2-1433.

Comment: This is current section 1-100, with minor revisions.

Sec. 1-101 Definitions.

The following definitions apply in the administration of the Code and any uncodified ordinance, unless the word or term is otherwise defined in another chapter of the Code or in the uncodified ordinance:

Board of Supervisors. The term “Board of Supervisors” means the board of county supervisors of the County of Albemarle, Virginia.

County. The term “County” means the County of Albemarle, Virginia.

County Attorney. The term “County Attorney” means the County Attorney of the County of Albemarle, Virginia, or his duly authorized representative.

County Executive. The term “County Executive” means the County Executive of the County of Albemarle, Virginia, or his duly authorized representative.

Designee. The term “designee,” when it follows the title of a county officer, means the authorized agent, employee, or representative of the officer.

Director of Finance. The term “Director of Finance” means the Director of Finance of the County of

Albemarle, Virginia, and any of his duly authorized deputies, assistants, employees, or agents.

Following. The term “following” means that which goes immediately after.

Highway. The term “highway” means the entire width between the boundary lines of every way or place open to the use of the public for the purposes of vehicular, pedestrian, and other lawful modes of travel within the county.

Month. The term “month” means a calendar month unless otherwise provided.

Oath. The term “oath” means an oath required by law and in the form required by law, or an affirmation that may be substituted for an oath as provided by law.

Ordinance. The term “ordinance” means an ordinance adopted by the Board of Supervisors of the County of Albemarle, Virginia, and all amendments thereto.

Person. The term “person” means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

Personal property. The term “personal property” means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property that is not real property.

Preceding. The terms “preceding” means that which goes immediately before.

Public place. The term “public place” means any public highway or street; any public stadium, athletic field, park, or playground; any public building or grounds appurtenant thereto; any public school building or grounds appurtenant thereto; any public parking lot; any public lands; and any places commonly open to the public including resorts, places of amusement, stadiums, athletic fields, parks, playgrounds, vacant lands, and the elevator, lobby, halls, corridors, and areas open to the public of any store, office, or apartment building.

Real property. The term “real property” means land, together with all improvements and other things attached to the land so as to become a part thereof.

Resolution. The term “resolution” means a resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, and all amendments thereto.

State. The term “State” means the Commonwealth of Virginia.

Street. The term “street” means the entire width between the boundary lines of every way or place open to the use of the public for the purposes of vehicular, pedestrian, and other lawful modes of travel within the County.

Virginia Code. The term “Virginia Code” means the Code of Virginia, 1950, as amended, including the latest edition or supplement unless otherwise indicated.

Year. The term “year” means a calendar year unless otherwise provided.

(Code 1967, § 1-2; Code 1975 § 1-2; Code 1988, § 1-2; Ord. No. 98-A(1), 8-5-98)

Comment: This section contains the definitions that are in current section 1-101. The language in the definitions has been standardized, simplified, and modernized. Because this section pertains to definitions, and definitions may be routinely added or amended as necessary in the future, subsection designations (e.g., “A,” “B”) are not included to simplify future amendments. Some of the terms are defined or described by State law, such as “highways” and “streets” (Virginia Code § 33.2-100), “oath” (Virginia Code § 1-228), and “person” (Virginia Code § 1-230). Other chapters of the County Code have their own definitions which apply only to that chapter. The parts of current section 1-101 that are rules of construction have been moved to new section 1-102.

Sec. 1-102 Rules of construction.

The following rules of construction apply to the construction of the Code, unless the application of a rule would be contrary to the purposes of the Code or the context clearly indicates otherwise:

- A. *Catchlines of subsections.* The italicized catchlines of subsections within sections of the Code are intended as mere catchwords to indicate the contents of the subsection and are not part of the substance of the subsection.
- B. *Chapters, articles, divisions, sections, or subsections.* Any references to a chapter, article, division, section, or subsection in the Code is construed to be followed by the words “of the Albemarle County Code of 1998 unless otherwise provided.
- C. *Computation of time.* The manner in which to compute time is as follows:
 - 1. *Providing notice before a public hearing or other proceeding.* When notice is required to be given before a public hearing or other proceeding, the day on which the public hearing or other proceeding will be held is not counted against the time allowed, and the day on which notice is given may be counted against the time allowed.
 - 2. *Act to be performed after a decision or event.* When an act must be performed within a prescribed period of time after a decision or event, the day on which the decision or event occurred shall not be counted against the time allowed.
 - 3. *Effect of Saturday, Sunday, or legal holiday on time in which to perform an act.* When the Code requires, either by specification of a date or by a prescribed period of time, that an act be performed on a Saturday, Sunday, or legal holiday or on any day or part of a day on which the county office where the act to be performed is closed, the act may be performed on the next business day of the county that is not a Saturday, Sunday, legal holiday, or day on which the county office is closed. Any day on which the governor authorizes the closing of the state government shall be considered a legal holiday.
- D. *Conflicting provisions.* If any chapter, article, division, or section conflicts with another, the provisions of each chapter, article, division, or section shall control on all matters pertaining to the subject matter of that chapter, article, division, or section. If clearly conflicting provisions exist in different sections of the same chapter, the provisions of the section last enacted shall apply unless the construction is inconsistent with the meaning of that chapter.
- E. *Definitions within other chapters.* Any definition within a chapter shall apply only to that chapter unless otherwise provided.

- F. *Gender*. A word used in the masculine includes the feminine and the neuter.
- G. *Headlines of sections*. The bold-faced headlines of the sections of the Code are intended as mere catchwords to indicate the contents of the section and are not part of the substance of the section.
- H. *Including*. The word “including” is construed to be followed by the phrase “but not limited to.”
- I. *Interpretation of words and phrases, generally*. Words and phrases that are not defined in the Code shall be given their plain and natural meaning which is most appropriate in the context in which they are used; provided that technical words and phrases are presumed to be given their technical meaning and words and phrases having legal significance are presumed to be given their legal meaning.
- J. *May*. Depending on the context in which it is used, the term “may” is permissive or it is the grant of authority to act.
- K. *Notes following sections or subsections*. The legislative history notes and the State law references appearing after sections or subsections are not intended to have any legal effect but are merely intended to indicate the sources of the matter contained in the sections.
- L. *Number*. A word used in the singular includes the plural, and a word in the plural includes the singular.
- M. *Officers; employees; departments; boards; commissions; agencies*. Any reference to an officer, employee, department, board, commission, or agency is construed to be followed by the words “of the County of Albemarle, Virginia.”
- N. *Owner*. The term “owner,” when it is used in reference to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or a part of such building or land.
- O. *Shall*. The term “shall” is mandatory.
- P. *Signature*. A “signature” may be a mark when a person cannot write.
- Q. *Tense*. Any word used in the past or present tense includes the future tense.
- R. *Written, writing, or in writing*. The terms “written,” “writing,” or “in writing” include any representation of words, letters, symbols, numbers, or figures, whether: (i) printed or inscribed on a tangible medium; or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Uniform Electronic Transfers Act (Virginia Code § 59.1-479 *et seq.*) is or is not affixed.

Comment: This section is new, and it is composed of the rules of construction that are in current section 1-101, as well as the rules of construction that compose current sections 1-103 (new subsection 1-102(A)), 1-104 (new subsection 1-102(B)), 1-105 and 1-106 (new subsection 1-102(K)), and 1-110 (new subsection 1-102(D)). Current section 1-111, which provides a rule for interpreting section numbers, is being repealed because it is unnecessary. The language in the rules have been standardized, simplified, and modernized. Some of the rules are based on State law, such as “Computation of time” in subsection 1-102(C) (Virginia Code § 1-210), “Gender” in subsection 1-102(F) (Virginia Code § 1-216), and “Number” in subsection 1-102(L) (Virginia Code § 1-227).

Sec. 1-103 Provisions of the Code are considered continuations of prior ordinances.

The provisions of the Code, so far as they are in substance the same as the provisions of County ordinances or the Code of 1975 existing on the date of adoption of the Code, shall be considered to be continuations of those ordinances or Code provisions and not new enactments.

(Code 1967, § 1-3; Code 1975, § 1-3; Code 1988, § 1-3; Ord. No. 98-A(1), 8-5-98)

Comment: This section is current section 1-102, with minor stylistic revisions. It will be further amended when the recodified County Code is adopted.

Sec. 1-104 Severability of parts of the Code.

It is the intention of the Board of Supervisors that any part of the Code 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 shall not affect any other part of the Code.

(Code 1967, § 1-5, Code 1975, § 1-5, Code 1988, § 1-5; § 1-114, Ord. 98-A(1), 8-5-98)

Comment: This section is current section 1-114. The language in the section has been simplified and modernized.

Article 2. Ordinances

Sec. 1-200 Adopting ordinances that amend the Code.

- A. *Amending the Code.* The Code may be amended by ordinances adopted by the Board of Supervisors that change the content, add new content, or repeal existing content, or any combination thereof.
- B. *Form of an ordinance amending the Code.* An ordinance amending the Code shall clearly indicate the text being changed, added, or repealed by generally identifying the proposed changes in the title page or pages of the ordinance and by specifically identifying proposed changed or added text by underlining and identifying repealed text by strikethrough. An ordinance amending the Code shall also use the organization and numbering system used in the Code.
- C. *Form of the codified amendment.* An ordinance adopted by the Board of Supervisors in the form prescribed in this section shall be incorporated into the Code. Any portion of the Code that is repealed by an ordinance amending the Code shall be excluded from the Code.

(§ 1-111, Ord. 98-A(1), 8-5-98)

Comment: This section is based on current section 1-111, but it is significantly revised and greatly simplified.

Sec. 1-201 Adopting ordinances that do not amend the Code.

The Board of Supervisors may adopt ordinances that are not part of the Code. These ordinances may be referred to as “uncodified ordinances.” An uncodified ordinance may not amend the Code.

Comment: This section is new, added only to expressly acknowledge that not all ordinances adopted by the Board necessarily end up in the County Code.

Sec. 1-202 Repealing Code section or ordinance does not revive previously repealed Code section or ordinance.

When an ordinance repeals a Code section or another County ordinance, and that repealing ordinance is itself repealed, the previously repealed Code section or ordinance is not revived.

(Ord. 98-A(1), 8-5-98)

Comment: This section is current section 1-108, with minor revisions.

Sec. 1-203 Ordinances and other matters not affected by the Code.

The Code and the ordinance adopting the Code do not affect the following when they are not in conflict with the Code:

- A. *Pending proceedings and rendered judgments.* Any prosecution, suit, or proceeding pending or any judgment rendered prior to the effective date of the Code.
- B. *Guarantees of money payment or authorizing the issuance of bonds.* Any ordinance or resolution promising or guaranteeing the payment of money or authorizing the issuance of any bonds of the County, or any evidence of the County's indebtedness or any contract or obligation assumed by the County.
- C. *Tax levy.* Any annual tax levy of the County.
- D. *Right or franchise.* Any right or franchise conferred by ordinance or resolution on any person.
- E. *Purpose completed.* Any ordinance adopted for purposes that have been completed or accomplished.
- F. *Certain temporary and permanent ordinances.* Any ordinance which is temporary, although general in effect, or special, although permanent in effect.
- G. *Ordinances relating to compensation.* Any ordinance relating to the compensation of the county's officers or employees.
- H. *Ordinances relating to streets and other rights-of-way.* Any ordinance naming, renaming, opening, accepting or vacating streets, alleys, easements, or other rights-of-way in the county.
- I. *Ordinances relating to zoning map amendments.* Any ordinance relating to a zoning map amendment.
- J. *Ordinances establishing fees or charges that are not codified.* Any ordinance establishing fees or charges which are not set out in the Code.

Any ordinance or resolution identified in this section shall be on file in the office of the clerk for the Board of Supervisors.

(Ord. 98-A(1), 8-5-98)

Comment: This section is current section 1-109. The language in the section has been standardized,

simplified, and modernized.

Article 3. Offenses, Penalties, and Costs

Sec. 1-300 Code does not affect prior offenses or rights.

The Code and the ordinance adopting the Code does not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of the Code.

(Ord. 98-A(1), 8-5-98)

Comment: This section is current section 1-107. The language in the section has been slightly revised.

Sec. 1-301 General punishment continuing violation; injunctive relief.

- A. *Punishment when not otherwise specified.* When the Code or any County ordinance declares an act or omission to be unlawful or prohibited and to be a misdemeanor, but does not specify the punishment, the maximum punishment shall be the punishment provided for a class 1 misdemeanor as provided in County Code § 1-302(A); provided that the punishment shall not exceed the punishment provided by the Virginia Code for a similar offense under State law.
- B. *Each day a separate violation.* Each day any violation of the Code or any County ordinance, or any order authorized to be issued by the Board or any County officer for which criminal punishment is authorized, continues shall constitute a separate violation, except where otherwise provided.
- C. *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 the Code or any County ordinance by bringing a proceeding for an injunction brought in any court of competent jurisdiction.

(Code 1967, § 1-6; Code 1975 § 1-6, Code 1988, § 1-6; Ord. 98-A(1), 8-5-98)

State law reference – Va. Code § 15.2-1429 (maximum penalty for violation of County ordinances); Va. Code § 15.2-1432 (authority to seek injunctive relief); Va. Code §§ 18.2-11 (penalties for misdemeanors where penalty not specified).

Comment: This section is current section 1-115. The language in the section has been clarified, simplified, and modernized.

Sec. 1-302 Classes of misdemeanors; punishment.

The following punishments are authorized for conviction of a misdemeanor designated by the Code or any County ordinance when the misdemeanor class is specified:

- A. *Class 1 misdemeanors.* For class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.
- B. *Class 2 misdemeanors.* For class 2 misdemeanors, confinement in jail for not more than 6 months and a fine of not more than \$1,000, either or both.
- C. *Class 3 misdemeanors.* For class 3 misdemeanors, a fine of not more than \$500.

D. *Class 4 misdemeanors*. For class 4 misdemeanors, a fine of not more than \$250.

(Ord. 98-A(1), 8-5-98)

State law reference—Va. Code § 18.2-11.

Comment: This section is current section 1-116. The new section has minor formatting and text changes.

Sec. 1-303 Unlawful or prohibited acts include causing, allowing, permitting, and other specified acts.

When the Code declares an act or omission to be unlawful or prohibited, the unlawful or prohibited act includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of the act or omission.

(Ord. 98-A(1), 8-5-98)

Comment: This section is current section 1-117. The new section has minor text changes and the language has been modernized.

Sec. 1-304 Fines and costs.

- A. *Fines tendered to Director of Finance*. All fines collected for violations of any provision of the Code or any County ordinance shall be tendered by the clerk of the circuit court to the Director of Finance, who shall credit the tendered fines to the County general fund.
- B. *Costs*. Costs shall be taxed in prosecutions under the Code in the same amounts and in the same manner as prescribed by law in misdemeanor cases under the Virginia Code.

(Code 1967, § 1-7, Code 1975, § 1-7, Code 1988, § 1-7; Ord. 98-A(1), 8-5-98)

State law reference—Va. Code § 16.1-69.48 (fines paid to County generally); Va. Code § 46.2-1308 (fines paid to County in traffic cases).

Comment: This section is current section 1-118. The new section has minor text changes and the language has been modernized.

Sec. 1-305 Additional court costs.

- A. *Fee supporting court and jail facilities*. A fee of two dollars (\$2.00) shall be taxed as additional costs in each criminal, traffic, or civil case in the respective district or circuit courts of the County for the purpose of providing for the maintenance, construction, or renovation of the courthouse, jail, or court-related facilities located in and serving the County and to defray increases in the costs of cooling, heating, and electricity in these facilities. The Director of Finance shall segregate the fees collected pursuant to this section for the purposes designated above.
- B. *Fee supporting courthouse security*. A fee of ten dollars (\$10.00) shall be taxed as additional costs in each criminal or traffic case in the respective district or circuit courts of the County in which the defendant is convicted of a violation of any statute or ordinance. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the Director of Finance, and held by the Director of Finance subject to appropriation by the Board of Supervisors to the sheriff's office for

funding courthouse security personnel, and, if requested by the sheriff, equipment and other personal property used in connection with courthouse security.

- C. *Fee supporting processing arrested persons into regional jail.* A fee of twenty five dollars (\$25.00) shall be taxed as additional costs in each criminal case in the respective district or circuit courts of the County in which the defendant is convicted of a violation of any statute or ordinance and is processed for admission into the regional jail as a result of the conviction. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the Director of Finance, and held by the Director of Finance subject to appropriation by the Board of Supervisors to the sheriff's office for funding its costs to process arrested persons into the regional jail.
- D. *Fee supporting electronic summons system.* A fee of five dollars (\$5.00) shall be taxed as additional costs in each criminal or traffic case in the respective district or circuit courts of the County in which the defendant is convicted of a violation of any statute or ordinance. The fee shall be collected by the clerk of the court in which the case is heard, remitted to the Director of Finance, and held by the Director of Finance subject to appropriation by the Board of Supervisors to the appropriate law enforcement agency or agencies for funding software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

(Ord. of 8-8-90; Ord. of 8-5-92, Code 1975, § 1-8, 6-17-89; Code 1988, § 1-8 Ord. 98-A(1), 8-5-98; Ord. 02-1(1), 6-5-02; Ord. 07-1(1), adopted 6-6-07, effective 7-1-07; Ord. 17-1(1), 8-2-17)

State law reference--Va. Code §§ 17.1-281, 53.1-120, 15.2-1613.1, 17.1-279.1.

Comment: This section is current section 1-119. The new section has limited stylistic changes. The only substantive change is to the fee imposed by subsection (A), which under State law may be applied to defray "increases in" the costs of cooling, heating, and electricity. The quoted text has been added so that the language in this section is consistent with the language in the State enabling authority.

Sec. 1-306 Penalty for returned checks or other payment.

If any check or other means of payment tendered to the County in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the named payee unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of thirty-five dollars (\$35.00) shall be added to the amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by County Code § 15-103 shall not apply.

(Ord. No. 97-1(1), 2-12-97; Code 1988, § 1-9; Ord. 98-A(1), 8-5-98; Ord. 07-1(2), 10-3-07, effective 1-1-08)

State law reference—Va. Code § 2.2-614.1(C).

Comment: This section is current section 1-120. The new section has limited stylistic changes.

Article IV. Acts by Officers and Employees

Sec. 1-400 Acts by deputies.

Any person appointed and classified as a deputy is authorized to act as a substitute for his department head, in the name of the department head and in his behalf, in matters in which the department head may act.

(Ord. 98-A(1), 8-5-98

State law reference—Va. Code § 15.2-1502(B).

Comment: This section is based on part of current section 1-113, but it is revised to be consistent with Virginia Code § 15.2-1502(B).

Sec. 1-401 Acts by officers or employees to whom powers and duties delegated.

A department head or his deputy may delegate, to a person reporting to him, his powers and duties unless it is a power or duty that is expressly forbidden by law to be delegated or requires the exercise of judgment for the public welfare. Any delegation does not relieve the officer making the delegation of his legal obligations for the exercise of powers and the performance of duties of his office.

State law reference—Va. Code § 15.2-1502(D).

Comment: This section is based on part of current section 1-113, but it is revised to be consistent with Virginia Code § 15.2-1502(D).

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____