

## Rules for the Public's Use of the County Office Buildings and Their Grounds

### 1. Purpose.

These rules are intended to ensure fair and equal access by the public to the County Office Buildings and their grounds (the "County Office Buildings") without unreasonably impairing the public's need to conduct business with the County of Albemarle (the "County") and Albemarle County Public Schools (the "School Division"), and for the County and the School Division, and their officers and employees, to conduct their business. To accomplish this, the Board of Supervisors establishes the following rules that balance the right of members of the public to exercise their First Amendment rights on the front lawn of the County Office Building on McIntire Road and during public meetings of public bodies, with the County's need to preserve the County Office Buildings for the uses to which they are lawfully dedicated.

Accordingly, these rules are intended to state when and to what extent the members of the public are authorized to engage in conduct and activities that are not directly related to the conduct of County business, to allow members of the public to exercise their First Amendment rights pursuant to content-neutral time, place, and manner rules, and to minimize disruptions to County business when members of the public are at the County Office Buildings for non-County business.

### 2. Definitions.

The following terms apply to these Rules:

- A. **COB-McIntire** means the real property owned by the County on which the County Office Building is located at 401 McIntire Road, and includes both the interior of the buildings and the exterior of the buildings including parking areas, sidewalks, lawns and other landscaped areas, and other exterior spaces on the property.
- B. **COB-5<sup>th</sup>** means the real property owned by the County on which the County Office Building is located at 1600 5<sup>th</sup> Street and includes both the interior of the buildings and the exterior of the buildings including parking areas, sidewalks, lawns and other landscaped areas, and other exterior spaces on the property.
- C. **County Business** means County or School Division business being conducted at COB-McIntire or COB-5<sup>th</sup> during the County's or the School Division's regular business hours or during meetings of the Board of Supervisors, the Planning Commission, or the School Board.
- D. **Commercial Activity** means any act involving buying, selling, trading, producing, or exchanging goods, products, or services, and includes offering goods, products, or services for sale, trade, or exchange, and engaging in, or soliciting, any business.
- E. **County** means the County of Albemarle, Virginia.
- F. **County Business Day** means any time between 8:00 a.m. and 5:00 p.m., Monday through Friday, during which COB-McIntire is open for business by the County but does not include any weekday during which COB-McIntire is open only for School Division business.
- G. **County Executive** means the County Executive appointed by the Albemarle County Board of Supervisors or the County Executive's designee.
- H. **Designated Public Forum** means a public forum that is not a traditional public forum but is expressly designated by the County as a public forum.

- I. **Director** means the Director of the Department of Facilities and Environmental Services.
- J. **Event** means a meeting or other gathering held by an Organization in an authorized location within the County Office Building.
- K. **Expressive Activity** means a non-commercial activity in which a person intends to convey a lawful message through speech or conduct that is likely to be perceived by an observer of the speech or conduct, and includes any lawful public gathering, demonstration, procession, or parade in which the primary purpose is to exercise the rights of free speech or peaceable assembly.
- L. **General Access** means those areas of the County Office Building that are Public Forums where members of the public may be without any prior permission from the County.
- M. **Limited Public Forum** means a subclass of a Designated Public Forum in which the government is not required to and does not allow persons to engage in every type of speech and by which the government may be justified in reserving the forum for certain groups or for discussing certain topics.
- N. **Nonpublic Forum** means property which is not by tradition or designation a Public Forum.
- O. **Organization** means a youth, educational, recreational, cultural, political, civic, charitable, social, veterans, religious, or other organization that is reputable, will be reasonably expected to hold events that neither disrupt County or School Division business, nor cause damage to the County Office Building, and whose membership is primarily from the County and abutting localities.
- P. **Photography** means creating photographic or video images.
- Q. **Public Body** means a public body within the meaning of the Virginia Freedom of Information Act (Virginia Code § 2.2-3701).
- R. **Public Forum** means a place which by long tradition or by government fiat has been devoted to assembly, debate, and other Expressive Activity. Parks, public streets, public sidewalks, and the grounds of the seat of legislative and executive power are Public Forums.
- S. **Selective Access** means those areas of either County Office Building that are Nonpublic Forums where the County reserves eligibility for access to a particular class of members of the public who must obtain permission from the County to use it.

### 3. **Applicability.**

- A. **Properties to which this Policy applies.** This Policy applies only to COB-McIntire and COB-5<sup>th</sup>.
- B. **Persons to whom this Policy applies.** This Policy applies to any persons at COB-McIntire and COB-5<sup>th</sup> who are not officers, employees, volunteers, or contractors of the County or the School Division.
- C. **Maps.** Maps depicting COB-McIntire and COB-5<sup>th</sup> are Attachments A and B. Specific references in this Policy to various interior and exterior spaces are identified on the maps.
- D. **Prior designated Public Forums.** Any previous policy, rule, or other act by the Board of Supervisors to designate any portion of COB-McIntire or COB-5<sup>th</sup> as a Public Forum is revoked and these Rules apply.
- E. **Prior Rules and Policies.** These Rules supersede any previous policies, rules, or acts pertaining to any person's or Organization's use of COB-McIntire or COB-5<sup>th</sup>, including the "Community Use of County Facilities Policy."

#### 4. Authority of the County and the County Executive.

The County regulates the use of the COB-McIntire and COB-5<sup>th</sup> pursuant to Virginia Code § 15.2-1800(E). In relation to this authority:

- A. **County Executive is authorized to administer and enforce these Rules.** The County Executive is authorized and has the duty to administer and enforce these Rules. The County Executive may also delegate this authority and duty to a Deputy County Executive, an Assistant County Executive, the Director, any other County department head, and the Superintendent of Schools. The delegation must be in writing and the writing must be kept on file in the Clerk of the Board of Supervisors' Office. The County Executive may rescind any delegation at any time for any reason.
- B. **County Executive is the “person lawfully in charge of the property” in trespass situations.** As provided in County Code § 10-120(B), the County Executive is designated as the “person lawfully in charge of the property” for the purpose of forbidding another person to go upon or remain at COB-McIntire or COB-5<sup>th</sup> and for the purpose of enforcing a trespass pursuant to County Code § 10-120(B) or Virginia Code § 18.2-119. The County Executive may delegate this authority as provided in County Code § 10-120(B).
- C. **County Executive may designate the Albemarle County Police Department as the “person lawfully in charge of the property” in trespass situations.** The County Executive may designate the Albemarle County Police Department, or any officer thereof, as the “person lawfully in charge of the property” for the purpose of forbidding another person to go upon or remain at COB-McIntire or COB-5<sup>th</sup> and for the purpose of enforcing a trespass pursuant to County Code § 10-120(A) or Virginia Code § 18.2-119. The County Executive may designate the Albemarle County Police Department as provided is County Code § 10-120(B).
- D. **County Executive is the “person in charge” in disorderly conduct situations.** As provided in County Code § 10-103, the County Executive is designated as the “person in charge” for the purpose of ejecting any person from COB-McIntire or COB-5<sup>th</sup> who violates County Code § 10-103 or Virginia Code § 18.2-415. The County Executive may delegate this authority as provided in County Code § 10-103(B).

Copies of County Code §§ 10-103 and 10-120 are attached as Attachment C.

#### 5. Rules Applicable to the Exterior and Interior Spaces at COB-McIntire.

##### A. **The Front Lawn.**

- 1. **Location.** The Front Lawn at COB-McIntire is that portion of the lawn abutting McIntire Road and Preston Avenue and identified as “Front Lawn” on Attachment A.
- 2. **Status.** The Front Lawn is open to the public and is open for General Access for lawful purposes as provided in this Section 5(A). For purposes of First Amendment analysis, the Front Lawn is a Public Forum and Expressive Activity is permitted in the area within the Front Lawn identified as “Area 1” on Attachment A and as provided in Section 5(A)(3).
- 3. **Rules Applicable to Area 1.** The following rules apply to persons in Area 1:
  - a. **When Area 1 is open.** Area 1 is open for General Access and Expressive Activity each day between 7:00 a.m. and 9:00 p.m.
  - b. **Permit is not required.** Persons and groups may engage in Expressive Activity without obtaining a prior permit from the County.

- c. **Reservations are not required.** Persons and groups may use Area 1 on a first-come first-served basis.
- d. **Using sound amplification equipment is restricted.** Sound amplification equipment directed at the County Office Building is prohibited between the hours of 8:00 a.m. and 5:00 p.m. on County Business Days and between 5:00 p.m. and 9:00 p.m. on County Business Days while the Albemarle County Board of Supervisors, the Albemarle County Planning Commission, or the Albemarle County School Board are holding public meetings in Rooms 235 or 241. Sound levels from sound amplification on these days and during these times must not disrupt any person from conducting County Business.
- e. **Multiple forms of communication are permitted.** Photography, audio recording, signs, placards, banners, leafletting, and other forms of communication are permitted.
- f. **Prohibited acts.** The following acts are prohibited in Area 1:
  - 1. **Obstructing sidewalks.** Persons may not obstruct or impede any pedestrian on a public sidewalk abutting Area 1 or any sidewalk connecting the public sidewalk or any parking area to the County Office Building.
  - 2. **Unattended displays, monuments, and signs; staking.** Displays, monuments, and signs are prohibited except when the display, monument, or political signs are attended by a person or group engaged in Expressive Activity. Staking or otherwise affixing displays, monuments, or signs in the ground is prohibited.
  - 3. **Driving or parking motor vehicles is prohibited.** Persons may not drive or park motor vehicles.
  - 4. **Open flames are prohibited.** Open flames, other than lighters used to light cigarettes and other similar products, are prohibited.
  - 5. **Alcoholic beverages are prohibited.** Alcoholic beverages of any kind are prohibited, regardless of whether they are in an open container.
  - 6. **Commercial Activity prohibited.** Commercial Activity is prohibited. Soliciting donations is not Commercial Activity.
  - 7. **Camping prohibited.** Tents and other forms of temporary shelter are prohibited.
- 4. **Rules Applicable to Area 2.** The following rules apply to persons in Area 2:
  - a. **When Area 2 is open.** Area 2 is open for General Access each day between 7:00 a.m. and 9:00 p.m.
  - b. **Photography and audio recording permitted.** Photography and audio recording are permitted.
  - c. **Expressive Activity in Area 1 only.** Expressive Activity is permitted in Area 1 as provided in Section 5(A)(3), and not in Area 2.
  - d. **Prohibited acts.** The following acts are prohibited in Area 2:
    - 1. **Obstructing sidewalks.** Persons may not obstruct or impede any pedestrian on any sidewalk.
    - 2. **Displays, monuments, and signs.** Displays, monuments, and signs are prohibited.

3. **Driving or parking motor vehicles is prohibited.** Persons may not drive or park motor vehicles.
4. **Open flames are prohibited.** Open flames, other than lighters used to light cigarettes and other similar products, are prohibited.
5. **Alcoholic beverages are prohibited.** Alcoholic beverages of any kind are prohibited, regardless of whether they are in an open container.
6. **Commercial Activity prohibited.** Commercial Activity is prohibited.
7. **Soliciting donations prohibited.** Soliciting donations is prohibited. Area 1 is the location where soliciting donations is permitted.
8. **Using sound amplification equipment is restricted.** Sound amplification equipment is prohibited during County Business Days if the sound level is such that it disrupts any person from conducting County Business.
9. **Camping prohibited.** Tents and other forms of temporary shelter are prohibited.

**B. The Extended Plaza.**

1. **Location.** The Extended Plaza at COB-McIntire is that portion of the County Office Building identified as the “Extended Plaza” on Attachment A.
2. **Status.** The Extended Plaza is open to the public and is open for General Access for lawful purposes as provided in this Section 5(B). For purposes of First Amendment analysis, the Extended Plaza is an extension of the Front Lawn and is a Designated Public Forum and Expressive Activity is permitted in the area within the Front Lawn identified as “Area 1” on Attachment A and as provided in Section 5(A)(3).
3. **Rules Applicable to the Extended Plaza.** The following rules apply to persons in the Extended Plaza:
  - a. **When the Extended Plaza is open.** The Extended Plaza is open for General Access each day between 7:00 a.m. and 9:00 p.m.
  - b. **Photography and audio recording permitted.** Photography and audio recording are permitted.
  - c. **Expressive Activity in Area 1 only.** Expressive Activity is permitted in Area 1 as provided in Section 5(A)(3), and not in the Extended Plaza.
  - d. **Prohibited acts.** The following acts are prohibited in the Extended Plaza:
    1. **Obstructing sidewalks.** Persons may not obstruct or impede any pedestrian on any sidewalk.
    2. **Displays, monuments, and signs.** Displays, monuments, and signs are prohibited.
    3. **Driving or parking motor vehicles is prohibited.** Persons may not drive or park motor vehicles.
    4. **Open flames are prohibited.** Open flames, other than lighters used to light cigarettes and other similar products, are prohibited.

5. **Alcoholic beverages are prohibited.** Alcoholic beverages of any kind are prohibited, regardless of whether they are in an open container.
6. **Commercial Activity prohibited.** Commercial Activity is prohibited.
7. **Soliciting donations prohibited.** Soliciting donations is prohibited. Area 1 is the location where soliciting donations is permitted.
8. **Using sound amplification equipment is restricted.** Sound amplification equipment is prohibited during County Business Days if the sound level is such that it disrupts any person from conducting County Business.
9. **Camping prohibited.** Tents and other forms of temporary shelter are prohibited.

**C. Front Steps and the Landing Plaza.**

1. **Location.** The Front Steps and the Landing Plaza at COB-McIntire are that portion of the County Office Building identified as the “Front Steps and Landing Plaza” on Attachment A.
2. **Status.** The Front Steps and the Landing Plaza are open for Selective Access. For purposes of First Amendment analysis, the Front Steps and Landing Plaza are Nonpublic Forums.
3. **Rules.** The Front Steps and Landing Plaza may be used by persons lawfully entering and leaving the County Office Building. The Landing Plaza may be used by persons lawfully walking to enter or to leave from the Front Lawn or the Extended Plaza.

**D. Parking Lots.**

1. **Location.** The parking areas at COB-McIntire are identified as the “Upper Parking Lot,” “Middle Parking Lot,” and the “Lower Parking Lot” on Attachment A (collectively, the “Parking Lots”).
2. **Status.** The Parking Lots are open for Selective Access. For purposes of First Amendment analysis, the Parking Lots are Nonpublic Forums.
3. **Rules.** The following rules apply to persons using the Parking Lots:
  - a. **Permitted Uses of the Upper and Middle Parking Lots.** The Upper and Middle Parking Lots may be used by persons parking vehicles to conduct County Business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons parking when it is related to an authorized use by an Organization. In addition:
    1. **Civic events.** The County Executive may authorize the Upper and Middle Parking Lots to be open for parking for civic events sponsored, co-sponsored, or organized by the County, by any locality, or by an Organization.
    2. **Vehicle-oriented events.** The Director may authorize the Middle Parking Lot to be open for vehicle-oriented events sponsored, co-sponsored, or organized by an Organization. A vehicle-oriented event must be authorized by a written agreement between the County and the Organization. The agreement is in lieu of a permit.
  - b. **Permitted Uses of the Lower Parking Lot.** The Lower Parking Lot is open to the public for vehicle parking subject to the following:

1. **Vehicle parking on County Business Days.** Vehicle parking in designated parking spaces in the Lower Parking Lot is permitted between 5:00 p.m. and 11:59 p.m. on each County Business Day, except during meetings of the Board of Supervisors, the Planning Commission, or the School Board. Before and during those meetings, the Lower Parking Lot is open only for persons attending the meeting or persons attending games and related activities at Lane Field.
  2. **Vehicle parking on weekdays that are not County Business Days.** Vehicle parking in designated parking spaces in the Lower Parking Lot is permitted on any weekday that is not a County Business Day between 6:00 a.m. and 11:59 p.m. each day.
  3. **Vehicle parking on weekends.** Vehicle parking in designated parking spaces in the Lower Parking Lot is permitted on Saturday and Sunday between 6:00 a.m. and 11:59 p.m. each day.
  4. **Vehicle-oriented events.** The Director may authorize the Lower Parking Lot to be used for vehicle-oriented events sponsored or organized by an Organization. A vehicle-oriented event must be authorized by a written agreement between the County and the Organization. The agreement is in lieu of a permit.
- c. **Closing Any Parking Lot.** The County Executive may close any Parking Lot as follows:
1. **Reasons for closing.** The County Executive may close any Parking Lot for any of the following reasons:
    - (a) **County or School Division business.** When they determine that the Parking Lot should be available or used only for County and School officers and employees and persons conducting County or School Division business, or when they otherwise determine to close it for any other County purpose.
    - (b) **Events.** When the Parking Lot will be used for a County or School Division-sponsored event or for a vehicle-oriented event authorized by Section 5(D)(3)(b).
    - (c) **Public threat.** When a credible threat is received that could adversely affect the safety or welfare of any person at the County Office Building or pertains to damaging or destroying the County Office Building.
    - (d) **Weather emergency.** When they determine that a weather emergency exists that warrants closing the Parking Lot.
    - (e) **Declared emergency.** When a local emergency is declared by the County pursuant to Virginia Code § 44-146.21 or a state of emergency is declared by the Governor.
    - (f) **Maintenance and repair.** When the Lower Parking Lot must be closed for maintenance and repair.
  2. **Procedure.** The County Executive may close any Parking Lot either in writing or verbally, and their determination should be communicated to the Albemarle County Police Department and the Director. The County Executive should state the reason for closing the Parking Lot, but their failure to do so does not invalidate their decision.
  3. **Duration of a closure.** The County Executive may close the Parking Lot in the circumstances described in Section 5(D)(3)(c) for a reasonable period before and after the actual use or necessity for closure. In addition, the duration of the closure is not required to be coterminous with the local or State emergency.

- d. **Persons engaging in Expressive Activity in Area 1.** The Lower Parking Lot is available for persons engaging in Expressive Activity in Area 1, subject to the rules applicable to the Lower Parking Lot in this Section 5(D).

**E. Travelways and Internal Sidewalks.**

1. **Location.** The travelways and internal sidewalks at COB-McIntire are identified as the “Travelways” and “Internal Sidewalks” on Attachment A. The Internal Sidewalks are distinguished from the “Public Sidewalks” abutting McIntire Road and Preston Avenue, which are not subject to these Rules.
2. **Status.** The Travelways and Internal Sidewalks are open for Selective Access. For purposes of First Amendment analysis, the Travelways and Internal Sidewalks are Nonpublic Forums.
3. **Rules.** The following rules apply to persons using the Travelways and Internal Sidewalks:
  - a. **Permitted Uses of the Travelways and Internal Sidewalks.** The Travelways and Internal Sidewalks may be used by persons as means of ingress and egress to conduct County Business, invitees of the County or the School Division, persons attending a meeting of a Public Body, persons parking when it is related to an authorized use by an Organization, and persons otherwise lawfully parking at COB-McIntire, including to engage in Expressive Activity in Area 1.
  - b. **The County Executive may close Travelways and Internal Sidewalks.** The County Executive may close Travelways and Internal Sidewalks in the following circumstances:
    1. **Interference with County or School Division business.** When the County Executive determines that using any Travelway or Internal Sidewalk interferes, or may interfere, with County or School Division business.
    2. **Parking Lots closed.** When the Upper, Middle, or Lower Parking Lots are closed as provided in Section 5(D)(3) and, as a result, any Travelway or Internal Sidewalk is not a required means of ingress and egress.
    3. **Declared emergency.** When a local emergency is declared by the County pursuant to Virginia Code § 44-146.21 or a state of emergency is declared by the Governor.

**F. Other Exterior Spaces.**

1. **Locations.** Any exterior spaces not otherwise identified in Sections 5(A) through (E) are regulated by this section and are referred to as “Other Exterior Spaces.”
2. **Status.** Other Exterior Spaces are open for Selective Access. For purposes of First Amendment analysis, the Other Exterior Spaces are Nonpublic Forums.
3. **Rule.** Other Exterior Spaces may be used by persons as means of ingress and egress to conduct County Business, invitees of the County or the School Division, persons attending a meeting of a Public Body, persons parking when it is related to an authorized use by an Organization, and persons otherwise lawfully parking at COB-McIntire, including to engage in Expressive Activity in Area 1.

**G. Interior Spaces.**

1. **Location.** Any space within the County Office Building at COB-McIntire is regulated by this section and is referred to as the “Interior Spaces.”

2. **Status.** As further described in subsection (3), below, some parts of the Interior Spaces are open for General Access and some parts are open for Selective Access. For purposes of First Amendment Analysis, when a Public Body is holding a public meeting either in Lane Auditorium or any other room, those locations are Limited Public Forums. Any other Interior Space is a Nonpublic Forum.
3. **Rules.** The following rules apply to Interior Spaces:
  - a. **Lane Auditorium and other meeting rooms when a Public Body is conducting a public meeting.** Lane Auditorium and Rooms 235, 241, and 246 identified on Attachment A, and any other rooms (collectively, “Lane Auditorium and the Rooms”) are open to persons when a Public Body is conducting a public meeting in that room, but only for those persons participating in the public meeting in a non-disruptive way. Any person may engage in Expressive Activity if it does not actually disrupt the public meeting. See Attachments D (The First Amendment Rights of Speakers at Public Meetings) and E (Guidance on Whether Particular Speech or Behavior at a Public Meeting is Disruptive). Photography and audio recording are permitted. For First Amendment analysis, when a Public Body is holding a public meeting either in Lane Auditorium or any other room, the location is a Limited Public Forum.
  - b. **Lane Auditorium and other meeting rooms when a Public Body is not conducting a public meeting.** Lane Auditorium and the Rooms are subject to the following:
    1. **On County Business Days; between 7:00 a.m. and 5:00 p.m.** On County Business Days between 7:00 a.m. and 5:00 p.m., Lane Auditorium and the Rooms are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County Business and invitees of the County or the School Division. Photography and audio recording are permitted. For First Amendment analysis, Lane Auditorium and the Rooms are Nonpublic Forums when they are not being used for a meeting by a Public Body pursuant to subsection (a).
    2. **On County Business Days; between 5:00 p.m. and 9:00 p.m.** On County Business Days between 5:00 p.m. and 9:00 p.m., Lane Auditorium and the Rooms are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County Business and invitees of the County or the School Division. Photography and audio recording are permitted. For First Amendment analysis, Lane Auditorium and the Rooms are Nonpublic Forums when they are not being used for a meeting by a Public Body pursuant to subsection (a).
  - c. **Lane Auditorium lobby.** The Lane Auditorium lobby identified on Attachment A is open for Selective Access, which is limited to persons who are in the County Office Building to conduct County or School Division business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons otherwise authorized to be in the County Office Building to attend an authorized use by an Organization. The Lane Auditorium lobby is not available for use by an Organization. Photography and audio recording are permitted. For First Amendment analysis, the Lane Auditorium lobby is a Nonpublic Forum.
  - d. **Hallways.** Hallways identified on Attachment A are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County or School Division business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons otherwise authorized to be in the County Office Building to attend an authorized use by an Organization. Photography and audio recording are permitted. For First Amendment analysis, Hallways are Nonpublic Forums.
  - e. **Department offices.** Department offices identified on Attachment A, including their lobbies, waiting areas, internal hallways, work spaces, and employee offices are open for Selective Access, which is limited to persons who are there to conduct County Business and invitees of the department or its employees. Photography is not permitted without the express permission of an officer or

employee of that department. Audio recording is permitted to the extent authorized by State law. For First Amendment analysis, department offices are Nonpublic Forums.

- f. **Stairwells, elevators, and bathrooms.** Stairwells, elevators, and bathrooms are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County or School Division business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons otherwise authorized to be in the County Office Building to attend an authorized use by an Organization. Photography and audio recording are permitted in stairwells and elevators. Photography is not permitted in bathrooms. Audio recording is permitted in bathrooms to the extent authorized by State law. For First Amendment analysis, stairwells, elevators, and bathrooms are Nonpublic Forums.
  - g. **Other interior spaces.** Any other interior spaces not described in this subsection, including any common area break rooms, closets, or other areas marked “Staff only” are not open to access by the public except as an invitee of a County or School Division officer or employee. Photography is not permitted without the express permission of an officer or employee of that department. Audio recording is permitted to the extent authorized by State law. For First Amendment analysis, the other interior spaces are Nonpublic Forums.
4. **Invitees described.** For purposes of Section 5(G)(3), invitees of the County or the School Division include officials and agencies of the State or Federal government, and State or regional organizations of which the County or the School Division are members such as the Virginia Association of Counties and the Thomas Jefferson Planning District.

## 6. **Rules Applicable to the Exterior and Interior Spaces at COB-5<sup>th</sup>.**

### A. **Parking Lots.**

- 1. **Location.** The parking areas at COB-5<sup>th</sup> are identified as the “Parking Lots” on Attachment B.
- 2. **Status.** The Parking Lots are open for Selective Access. For purposes of First Amendment analysis, the Parking Lots are Nonpublic Forums.
- 3. **Rules.** The following rules apply to persons using the Parking Lots:
  - a. **Permitted Uses.** The Parking Lots may be used by persons parking vehicles to conduct County Business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons parking when it is related to a use by an Organization at COB-McIntire as authorized by these Rules.
  - b. **Closing Any Parking Lot.** The County Executive may close any Parking Lot as follows:
    - 1. **Reasons for closing.** The County Executive may close any Parking Lot for any of the following reasons:
      - (a) **County or School Division business.** When they determine that the Parking Lot should be available or used only for County and School officers and employees and persons conducting County or School Division business, or when they otherwise determine to close it for any other County purpose.
      - (b) **Public threat.** When a credible threat is received that could adversely affect the safety or welfare of any person at the County Office Building or the threat pertains to damaging or destroying the County Office Building.

- (c) **Weather emergency.** When they determine that a weather emergency exists that warrants closing the Parking Lot.
  - (d) **Declared emergency.** When a local emergency is declared by the County pursuant to Virginia Code § 44-146.21 or a state of emergency is declared by the Governor.
  - (e) **Maintenance and repair.** When the Lower Parking Lot must be closed for maintenance and repair.
- 2. **Procedure.** The County Executive may close any Parking Lot either in writing or verbally, and their determination should be communicated to the Albemarle County Police Department and the Director. The County Executive should state the reason for closing the Parking Lot but their failure to do so does not invalidate their decision.
  - 3. **Duration of a closure.** The County Executive may close the Parking Lot in the circumstances described in Section 6(A)(3)(b) for a reasonable period before and after the actual use or necessity for closure. In addition, the duration of the closure is not required to be conterminous with the local or State emergency.

**B. Travelways and Internal Sidewalks.**

- 1. **Location.** The travelways and interior sidewalks at COB-5th are identified as the “Travelways” and “Internal Sidewalks” on Attachment B.
- 2. **Status.** The Travelways and Internal Sidewalks are open for Selective Access. For purposes of First Amendment analysis, the Travelways and Internal Sidewalks are Nonpublic Forums.
- 3. **Rules.** The following rules apply to persons using the Travelways and Internal Sidewalks:
  - a. **Permitted Uses of the Travelways and Internal Sidewalks.** The Travelways and Internal Sidewalks may be used by persons as means of ingress and egress to conduct County Business, invitees of the County or the School Division, persons attending a meeting of a Public Body, persons parking when it is related to an authorized use by an Organization, and persons otherwise lawfully parking at COB-5th, including to engage in Expressive Activity in Area 1.
  - b. **The County Executive may close Travelways and Internal Sidewalks.** The County Executive may close Travelways and Internal Sidewalks in the following circumstances:
    - 1. **Interference with County or School Division business.** When the County Executive determines that using any Travelway or Internal Sidewalk interferes, or may interfere, with County or School Division business.
    - 2. **Parking Lots closed.** When the Parking Lots are closed as provided in Section 6(A)(3)(b) and, as a result, any Travelway or Internal Sidewalk is not a required means of ingress and egress.
    - 3. **Declared emergency.** When a local emergency is declared by the County pursuant to Virginia Code § 44-146.21 or a state of emergency is declared by the Governor.

**C. Other Exterior Spaces.**

- 1. **Locations.** Any exterior spaces not otherwise identified in Sections 6(A) and 6(B) are regulated by this section and are referred to as “Other Exterior Spaces.”

2. **Status.** Other Exterior Spaces are open for Selective Access. For purposes of First Amendment analysis, the Other Exterior Spaces are Nonpublic Forums.
3. **Rule.** Other Exterior Spaces may be used may be used by persons as means of ingress and egress to conduct County Business, attend an event at COB-5<sup>th</sup> as authorized by these Rules, and while they are otherwise lawfully at the County Office Building.

#### **D. Interior Spaces.**

1. **Location.** Any space within the County Office Building at COB-5<sup>th</sup> is regulated by this section and is referred to as the “Interior Spaces.”
2. **Status.** As further described in subsection (3), below, some parts of the Interior Spaces are open for General Access and some parts are open for Selective Access. For purposes of First Amendment Analysis, when a Public Body is holding a public meeting either in Room A or Room B, those locations are Limited Public Forums. Any other Interior Space is a Nonpublic Forum.
3. **Rules.** The following rules apply to Interior Spaces:
  - a. **Room A and Room B when a Public Body is conducting a public meeting.** Room A or Room B are open to persons when a Public Body is conducting a public meeting in the room, but only for those persons participating in the public meeting in a non-disruptive way. Any person may engage in Expressive Activity if it does not actually disrupt the public meeting. See Attachments D (The First Amendment Rights of Speakers at Public Meetings) and E (Guidance on Whether Particular Speech or Behavior at a Public Meeting is Disruptive). Photography and audio recording are permitted. For First Amendment analysis, when a Public Body is holding a public meeting in either room, the location is a Limited Public Forum.
  - b. **Room A and Room B when a Public Body is not conducting a public meeting.** Room A and Room B are subject to the following:
    1. **On County Business Days; between 7:00 a.m. and 5:00 p.m.** On County Business Days between 7:00 a.m. and 5:00 p.m., Room A and Room B are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County Business and invitees of the County or the School Division. Photography and audio recording are permitted. For First Amendment analysis, Room A and Room B are Nonpublic Forums when they are not being used for a meeting by a Public Body pursuant to subsection (a).
    2. **On County Business Days; between 5:00 p.m. and 9:00 p.m.** On County Business Days between 5:00 p.m. and 9:00 p.m., Room A and Room B are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County Business and invitees of the County or the School Division. Photography and audio recording are permitted. For First Amendment analysis, Room A and Room B are Nonpublic Forums when they are not being used for a meeting by a Public Body pursuant to subsection (a).
  - c. **The Entrance Lobby and Hallways.** The Entrance Lobby and Hallways identified on Attachment B are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County or School Division business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons otherwise authorized to be in the County Office Building to attend an authorized use by an Organization. Photography and audio recording are permitted. For First Amendment analysis, the Entrance Lobby and the Hallways are Nonpublic Forums.

- d. **Department offices.** Department offices identified on Attachment B, including their lobbies, waiting areas, internal hallways, work spaces, and employee offices are open for Selective Access, which is limited to persons who are there to conduct County Business and invitees of the department or its employees. Photography is not permitted without the express permission of an officer or employee of that department. Audio recording is permitted to the extent authorized by State law. For First Amendment analysis, department offices are Nonpublic Forums.
  - e. **Stairwells, elevators, and bathrooms.** Stairwells, elevators, and bathrooms are open for Selective Access, which is limited to persons who are in the County Office Building to conduct County or School Division business, invitees of the County or the School Division, persons attending a meeting of a Public Body, and persons otherwise authorized to be in the County Office Building to attend an authorized use by an Organization. Photography and audio recording are permitted in stairwells and elevators. Photography is not permitted in bathrooms. Audio recording is permitted in bathrooms to the extent authorized by State law. For First Amendment analysis, stairwells, elevators, and bathrooms are Nonpublic Forums.
  - f. **Other interior spaces.** Any other interior spaces not described in this subsection, including any common area break rooms, closets, or other areas marked “Staff only” are not open to access by the public except as an invitee of a County or School Division officer or employee. Photography is not permitted without the express permission of an officer or employee of that department. Audio recording is permitted to the extent authorized by State law. For First Amendment analysis, the other interior spaces are Nonpublic Forums.
4. **Invitees described.** For purposes of Section 6(D)(3), invitees of the County or the School Division include officials and agencies of the State or Federal government, and State or regional organizations of which the County or the School Division are members such as the Virginia Association of Counties and the Thomas Jefferson Planning District.

## **7. Rules for Permitting Events at COB-McIntire and COB-5<sup>th</sup>.**

### **A. Purpose.**

These rules provide for the safe and peaceful enjoyment of, and the fair and equal access to, COB-McIntire and COB-5<sup>th</sup> by Organizations. To accomplish this, these rules are intended to ensure that Organizations’ events do not disrupt or otherwise interfere with the primary purposes of the County Office Buildings, which is to conduct County or School Division business.

These rules are not intended to exclude any activity or communication having particular content, but to coordinate multiple uses of limited spaces, and to ensure financial accountability for damage caused by any event.

### **B. Where and when Organizations may hold events.**

The Director may permit an Organization to hold an event in Lane Auditorium and Rooms 235, 241, and 246 in COB-McIntire, and in Room A in COB-5<sup>th</sup>, between 5:00 p.m. and 9:00 p.m. on Tuesdays, Wednesdays, and Thursdays that are County Business Days, and only when the room requested is not scheduled to be used to conduct County Business, or when it might otherwise conflict with, or adversely affect parking availability for, a public meeting scheduled to be held by the Albemarle County Board of Supervisors, the Albemarle County School Board, or the Albemarle County Planning Commission.

**C. Permit required; exemptions.**

Each Organization holding an event in Lane Auditorium or Rooms 235, 241, or 246 in COB-McIntire, or in Room A in a COB-5<sup>th</sup>, must first obtain a permit issued by the Director. A single permit may be obtained for multiple or recurring events.

Invitees of the County or the School Division such as officials and agencies of the State or Federal government, and State or regional organizations of which the County or the School Division are members such as the Virginia Association of Counties and the Thomas Jefferson Planning District, are exempt from the permit requirement.

**D. Application.**

An application for a permit must be requested and reviewed as follows:

1. **When to apply for a permit; waiving the application deadline.** Any Organization intending to conduct an event must apply to the Department of Facilities and Environmental Services for a permit at least 15 calendar days before the date of the event, but no more than six months before the date of the event.

The Director is authorized to consider an application for a permit filed less than 15 days before the date of the proposed event if the Director determines that waiving the application deadline will not pose a burden on, or a disruption to, the Department of Facilities and Environmental Services, and that good cause otherwise exists.

2. **Contents of the application.** The application must be on a form created and provided by the Department of Facilities and Environmental Services, and the applicant must provide the following information:
  - a. The name, address, email address, and telephone number of the person requesting the permit.
  - b. The name and address of the Organization the applicant represents.
  - c. A description of the Organization demonstrating that it meets the class of Organizations, as identified in the definition of the word in Section 2, that is eligible for a permit.
  - d. The name, address, email address, and telephone number of the person who will act as the event leader who will be responsible for managing or conducting the event.
  - e. The type of event intended to be held (*e.g.*, a meeting), including a description of the activities planned for the event.
  - f. The requested date and starting and ending times for the event.
  - g. The requested room, if known, *i.e.*, Lane Auditorium or Rooms 235, 241, or 246 in COB-McIntire, or Room A in COB-5<sup>th</sup>.
  - h. The approximate number of people attending the event.
  - i. Whether the applicant wants additional chairs, tables, or both, set up for the event.
  - j. Whether food or beverages (other than water) will be served at the event.
  - k. Verification of liability insurance coverage as provided in Section 7(D)(5)(d).

1. Other information the Director deems reasonably necessary to provide for administrative arrangements and County staff assistance and supervision.
3. **Fees and deposits.** The applicant must pay the applicable fees and deposit with the application. If the applicant has applied for a permit for multiple or recurring events, the applicant must pay the fees and deposit for the first event requested to be held with the application.
  - a. **Base Fee.** The base fee, which applies per room per event, is as follows:
    1. COB-McIntire Lane Auditorium and COB-5<sup>th</sup> Room A: \_\_\_\_\_
    2. COB McIntire Rooms 235, 241, and 246: \_\_\_\_\_
  - b. **Fee for set up.** In addition to the base fee, an applicant must pay \$\_\_\_\_ if it requests to have additional chairs, tables, or both, set up for the event.
  - c. **Deposit if food or beverages will be served.** If food or beverages (other than water) will be served at the event, the applicant must pay a deposit of \$\_\_\_\_, which will be returned to the applicant in whole or in part, depending on whether additional room cleaning is required because of the food or beverages served.
  - d. **Collection.** The Director may collect any unpaid or insufficient fee if food or beverages were served even though a deposit was not paid, and additional room cleaning was required because of the food or beverages served.

**E. Acting on a permit application.**

The Director will act on a permit application as follows:

1. **Approval deadline.** The Director will act on an application within seven days after he receives a complete application; provided that the Director and the applicant may agree to change the date by which the Director will act on the application. An applicant has no remedy if the Director fails to timely act and the Organization is unable to hold the event as requested in the application.
2. **Order of review.** The Director will review applications on a first come, first served basis.
3. **Approval criteria.** The Director will apply the following criteria to determine whether to approve an application and grant a permit:
  - a. The date, time, duration, and size of the event will not disrupt or conflict with the primary purpose of the County Office Building, which is to conduct County and School Division business.
  - b. The conduct or nature of the event will not disrupt the primary purpose the County Office Building, which is to conduct County and School Division business.
  - c. The conduct or nature of the event will not require diversion of police and fire and rescue personnel to properly police or respond to the event and the County Office Building in general.
  - d. The event will not interfere with another event for which a permit has been granted for a room on a particular date and time.
4. **Denial criteria.** The Director may deny an application for one or more of the following reasons:

- a. The conduct or nature of the event will disrupt the primary purpose of the County Office Building, which is to conduct County and School Division business.
- b. The conduct or nature of the event will require diversion of police and fire rescue personnel to properly police or respond to the event and the County Office Building in general.
- c. The event will conflict or interfere with another event for which a permit has been granted for a room on a particular date and time.
- d. The event would conflict with previously approved planned programs or activities organized, planned, or sponsored by the County or the School Division for the same date and time.
- e. The application contains materially false or misleading information.
- f. The applicant is legally incompetent to contract or to sue or to be sued, or the Organization is unable to be sued.
- g. The applicant or the person or Organization on whose behalf the application was made has: (i) on a prior occasion damaged any County-owned real property; (ii) has not paid in full for prior damage to any County-owned real property; or (iii) has any other unpaid debt owed to the County.
- h. The event is inconsistent with the customary uses of the County Office Building or cannot be accommodated in the requested room because it lacks the physical improvements required for the event.
- i. The event, or any activity planned or promoted to occur during the event, is prohibited by law.
- j. The event, or any activity planned or promoted to occur during the event, would present an unreasonable danger to the health, safety, or welfare of the applicant, the participants, the attendees, or any person in the County Office Building not participating in the event, or would present a risk of damage to the County Office Building.

The Director may not deny an application: (i) for political, social, or religious reasons; or (ii) because of the content of the views expressed in the application or intended to be expressed at the event.

5. **Permit granted; notice and conditions.** If the Director approves the application and grants the permit, the Director will promptly notify the applicant. The Director may impose reasonable conditions to ensure that the event does not disrupt County Business and to ensure that the County Office Building is not damaged. In addition, each permit is subject to the following standard conditions, copies of which must be provided to the permittee:

- a. **Permit is a revocable license.** The permit is a license to occupy the room or rooms applied for only during the dates and times approved, and for the events attendees to park in the Lower Parking Lot, to drive on and walk on the Travelways and Internal Sidewalks, and to use the Hallways, stairwells, elevators, and bathrooms.
  - 1. **Revocation criteria.** The Director may revoke the license at any time, and any fees and deposits will be promptly returned to the applicant. The permit may be revoked either before or during the permitted event if: (i) any information supplied by the permittee is discovered to be materially false or intentionally misleading; (ii) any material condition of the permit has been substantially violated; (iii) there is any continued violation of the conditions of the permit after the permittee or the permittee's agent or employee is notified of a violation of the permit by the Director; (iv) the permittee becomes unable to timely comply with the conditions of the permit; (v) the permit is for multiple or recurring events and the permittee fails to timely pay

any fees or deposits; (vi) the County Office Building is closed to the public because of weather conditions or a declared emergency; or (vii) unforeseen or emergency circumstances arise that would have warranted the Director to deny the application previously.

2. **Notice of revocation.** The Director will notify the permittee that the permit has been revoked as soon as possible. The notice may be provided in person, by telephone, or by email. The notice of revocation must include the reasons the permit was revoked.
- b. **Event attendees.** The permit entitles the permittee and its members and invitees to be in and at the County Office Building during the permitted period and for short periods before and after the permitted special event.
- c. **Duty to indemnify, hold harmless, and defend.** The permittee has the following duties:
  1. **Indemnification.** Defend, protect, indemnify fully, and hold the County of Albemarle and its boards, officers, employees, agents, and volunteers free and harmless from and against all claims, damages, expenses, loss, or liability of any kind resulting from any willful, reckless, or negligent acts or omissions of the permittee or the permittee's officers, agents, representatives, partners, employees, and invitees in connection with the permitted special event; and
  2. **Hold harmless.** At the permittee's own cost, risk, and expense, defend any and all claims and all legal actions that may be commenced or filed against the County of Albemarle and its boards, officers, employees, agents, and volunteers, and to pay any settlement entered into and to satisfy any judgment that may be entered against the County or its officers, employees, agents, or volunteers as a result of the willful, reckless, or negligent acts or omissions of the permittee or the permittee's officers, agents, representatives, partners, employees, or invitees in connection with the uses, events, or activities occurring under the special event permit.
- d. **Duty to maintain insurance.** The permittee must maintain in full force and effect on each day of the permitted event a policy of insurance from a reliable insurance company authorized to do business in the State.
  1. **The County as a named insured or additional insured.** The policy must include the "County of Albemarle, Virginia" and its boards, officers, employees, agents, and volunteers as named insureds or additional insureds.
  2. **Type and amount of insurance.** The policy must provide coverage that the Director, in consultation with the County's Risk Manager, determines to be necessary based on: (i) the estimated number of persons that will be attending the event; and (ii) the nature of the room that will be used during the event.
  3. **Certificate of insurance.** The permittee must provide a certificate of insurance to the Director before the permit is approved.
- e. **The Director may waive the conditions to indemnify, hold harmless, and defend, and to maintain insurance.** The Director may waive the conditions requiring the permittee to indemnify, hold harmless, defend, and to maintain insurance if the permittee demonstrates in writing to the satisfaction of the Director that it is financially unable to perform the requirements.
  1. **When an applicant is ineligible for a waiver.** A permittee is ineligible to obtain a waiver of the requirements to indemnify, hold harmless, defend, or hold harmless if there is a demonstrable history of personal injury or property damage claims attributable to the applicant, the applicant's associates, or its assigns or successors in interest in the conduct of previous events that were similar in nature to the proposed event.

2. **When the Director may reduce or waive the permittee's requirement to maintain insurance.** The Director may reduce or waive the permittee's requirement to maintain insurance if the permittee designs the event in cooperation with the Director to limit specific risks and dangers to the Organization's members and invitees, and damage to the County Office Building.

**F. Paying fees and deposits for multiple or recurring events.**

If the permittee's permit allows multiple or recurring events, the permittee must pay the fees and deposits required for each event at least seven days before the second and each subsequent event.

## **Appendices**

- A. Map of County Office Building (COB-McIntire)
- B. Map of County Office Building (COB-5<sup>th</sup>)
- C. County Code §§ 10-103 and 10-120
- D. The First Amendment and Speakers at Public Meetings
- E. Guidance on Whether Speech or Behavior at a Public Meeting is Disruptive