

ORDINANCE NO. 20-E()

AN EMERGENCY ORDINANCE TO AMEND THE CONTINUITY OF GOVERNMENT ORDINANCE BY ADDING THE JEFFERSON-MADISON REGIONAL LIBRARY SYSTEM, AND MAKING OTHER MINOR AMENDMENTS, TO SECTION 4

WHEREAS, on April 15, 2020, the Albemarle County Board of Supervisors adopted Ordinance No. 20-A(6), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster; and

WHEREAS, the Board desires to amend Ordinance No. 20-A(6) to add the Jefferson-Madison Regional Library system, and to make other minor amendments, to Section 4.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Section 4 of Ordinance No. 20-A(6) is amended as follows:

Sec. 4. Essential Governmental Functions

Under the county executive form of government, the “powers of the county as a body politic and corporate” are vested in the Board of Supervisors. *Virginia Code § 15.2-502*. Any actions of the Board in which it exercises its powers are essential governmental functions. By providing vital support for the Board, the activities of the Clerk of the Board and her office are also essential governmental functions.

The Board of Supervisors also finds that the essential governmental functions that must be performed in order to ensure the continuity of government during the COVID-19 disaster are those activities or functions of the County established by Virginia Code § 15.2-518 (departments of finance, social services, law enforcement, education, records, and health), those that the Board has previously deemed to be “necessary to the proper conduct of the business” of the County pursuant to Virginia Code § 15.2-518, the authorities that provide essential public services, the County public bodies that oversee the proper administration and enforcement of State laws and the County Code, and the other public bodies and offices that facilitate the proper administration and implementation of State laws and the County Code to the extent necessary and practicable during the COVID-19 disaster.

A. Essential governmental functions provided by County offices and departments. The following offices and departments provide essential governmental functions as described below:

1. County Executive’s Office. The County Executive is the administrative head of the County, whose duties include executing and enforcing all Board resolutions and orders, that all laws of the Commonwealth required to be enforced through the Board, or some other County officer subject to the control of the Board, are faithfully executed, and performing other duties as may be required by the Board and as may be otherwise required by law. *Virginia Code § 15.2-516*. The functions of the Office of Equity and Inclusion and the Communications and Public Engagement Office, which exist within the County Executive’s Office, are included in this designation. The Office of Management and Budget and the Project Management Office are also within the County Executive’s Office, but their functions are identified separately below.
2. County Attorney’s Office. The County Attorney is the legal advisor to County government whose duties are to advise the Board and “all boards, departments, agencies, officials and employees” of the County on civil matters, draft or prepare ordinances, and defend or bring actions in which the County or any of its boards, departments, agencies, officials, or employees are a party; and in any other manner advising or representing the County, its boards, departments, agencies, officials and employees. *Virginia Code § 15.2-1542(A)*.

3. Department of Finance. The Director of Finance's ~~Director's~~ duties include administering the financial affairs of the County, including the budget; assessing property for taxation; collecting taxes, license fees, and other revenues; being the custodian of all public funds belonging to or handled by the County; supervising the expenditures of the County and its subdivisions; disbursing County funds; keeping and supervising all accounts; and performing other duties as the Board of Supervisors requires. *Virginia Code § 15.2-519*.
4. Economic Development Office. ~~Under normal governmental operations, t~~This office is responsible for promoting the economic development of the County and the region, consistent with the County's Economic Development Strategic Plan, and providing staffing assistance to the Economic Development Authority. During the COVID-19 disaster, this office also is promoting the economic development of the County and the region and providing economic assistance to County businesses ~~are essential functions of this office~~, and its services will also include any additional State or Federal assistance or services programs, either on its own or in its work with the Economic Development Authority.
5. Department of Community Development. ~~Under normal governmental operations, t~~This ~~office~~ department oversees a wide range of functions related to the physical development of the County. ~~During the COVID-19 disaster, including~~ developing proposed plans for the physical development of the County, reviewing all types of land use-related applications, ensuring that its zoning, subdivision, and water protection regulations are current and continue to be reasonable, and enforcing the Albemarle County Zoning, Subdivision, and Water Protection Ordinances, and administering and enforcing the Virginia Uniform Statewide Building Code and other related codes are essential functions.
6. Department of Facilities and Environmental Services. This department maintains and operates the County's buildings, manages the lands owned by the County, manages County capital projects and administers related construction contracts, and oversees environmental-related County responsibilities including, but not limited to, ensuring the County's compliance with the County's Clean Water Act permit, and its obligations as a municipal separate storm sewer system (MS4) program.
7. Department of Fire Rescue. This department provides fire protection and emergency medical services and, through the Fire Marshal, administers and enforces the Virginia Fire Prevention Code.
8. Department of Human Resources. This department provides human resources support for the County and Albemarle County Public Schools. The department provides services in seven key human resources functional areas: (1) recruitment/staffing support; (2) classification and compensation; (3) benefits and leave administration; (4) training and development; (5) employee relations; (6) workplace safety; and (7) teacher licensure and certification.
9. Department of Parks and Recreation. This department protects, maintains, and operates the County's parks and provides numerous recreational programs, which during normal governmental operations, are essential to the public health and welfare. ~~During the COVID-19 disaster, ensuring that the County's parks are protected and maintained are essential functions.~~
10. Department of Social Services. This department provides a range of: (1) child welfare services including child protective services, family support, family preservation services, a foster care program, and adoption services; (2) economic assistance for those in need, including administering the supplemental nutritional assistance program (SNAP), the

- temporary assistance to needy families (TANF) program, energy assistance, and auxiliary grants; (3) self-sufficiency services, including services related to employment training, career services, and child care services; (4) health care services, including administering the Medicaid program; (5) adult and elder care services, including adult protective services; (6) housing assistance; and (7) language assistance. During the COVID-19 disaster, these services ~~will also include as essential functions~~ any additional State or Federal assistance or services programs.
11. Office of Management and Budget. This office, which is part of the County Executive's Office, has the following responsibilities: (1) developing and implementing the County's operating and capital budgets; establishing budget policies, and monitoring departmental and agency budgetary and program performance; (2) preparing the five-year Financial Plan, five-year Capital Improvement Plan, and the long range Capital Needs Assessment; (3) developing and managing the performance management system; and (4) managing the local government grants application and awards process.
 12. Police Department. This department provides law enforcement and community safety services.
 13. Project Management Office. This office, which is part of the County Executive's Office, provides planning, organizational, and management responsibilities for the County's project portfolio, including organizational projects, strategic plan objectives, and technology solutions. ~~During the COVID-19 disaster, one of this office's essential functions is having a~~ This office also plays a critical role in planning, organizing, and managing a range of projects related to the County's response to the COVID-19 disaster.
 14. Department of Information Technology. This department provides, manages, and supports the use of critical technology that allows the County to operate and communicate internally and with the public.
- B. Albemarle County Public Schools. Under the County Executive form of government, the County is required to have a "department of education." *Virginia Code § 15.2-518*. The "department of education" is composed of the Albemarle County School Board, the Superintendent of the "school division," and the "officers and employees thereof." *Virginia Code § 15.2-531*. Article VIII, Section 1 of the Constitution of Virginia states: "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained." Albemarle County Public Schools provide essential governmental functions.
- C. Authorities. The following authorities and their boards provide essential governmental functions:
1. Albemarle Conservation Easement Authority. The Albemarle Conservation Easement Authority ("ACEA") was created as a parks and recreational facilities authority by resolution adopted by the Board of Supervisors on November 20, 1989 pursuant to the Public Recreational Facilities Authority Act (*Virginia Code § 15.2-5600 et seq.*). The ACEA was called the Public Recreational Facilities Authority until its name was changed by resolution adopted by the Board of Supervisors on July 11, 2018. The ACEA's articles of incorporation state that its purpose is to accept, hold, and administer open-space land and interests therein under the Open-Space Land Act (*Virginia Code § 10.1-1700 et seq.*). *Amended Articles of Incorporation adopted July 11, 2018*. The types of interests held include open-space easements that are donated by landowners, easements acquired by the County under its Acquisition of Conservation Easements ("ACE") program, and easements created pursuant to

- Rural Preservation Developments allowed under the County's zoning regulations. ~~Monitoring and enforcing these easements are essential functions.~~ The functions of the ACEA include monitoring and enforcing these easements.
2. Albemarle County Broadband Authority. The Albemarle Broadband Authority ("ABBA") was created as a wireless service authority "to provide qualifying communications services as authorized by Article 5.1 (Virginia Code § 56-484.7:1 *et seq.*) of Chapter 15 of Title 56 of the Virginia Code." ~~Facilitating~~ One of the primary functions of ABBA is to facilitate the ongoing deployment of broadband infrastructure and services in the underserved areas of the County is an essential function.
 3. Albemarle-Charlottesville Regional Jail Authority. The Albemarle-Charlottesville Regional Jail Authority ("Jail Authority") was created as an authority under the Jail Authorities Law (Virginia Code § 53.1-95.2 *et seq.*) by agreement among the County, the County of Nelson, and the City of Charlottesville on November 15, 1995. The Jail Authority replaced the Regional Jail Board as the operator of the Albemarle-Charlottesville Joint Security Complex.
 4. Albemarle County Service Authority. The Albemarle County Service Authority ("ACSA") was created as an authority under the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The ACSA's articles of incorporation state that its purpose is to undertake projects for distributing and selling potable water to retail customers, collecting wastewater from retail customers, and delivering the wastewater to the Rivanna Water and Sewer Authority. *Amendment to the ACSA Articles of Incorporation, dated December 16, 1985; County Code § 2-701.*
 5. Economic Development Authority of Albemarle County, Virginia. The Economic Development Authority ("EDA"), officially identified as the "Economic Development Authority of Albemarle County, Virginia," was created as an industrial development authority (now, an economic development authority) by ordinance adopted by the Board of Supervisors on May 12, 1976 pursuant to the Industrial Development and Revenue Bond Act (Virginia Code § 15.2-4900 *et seq.*). *County Code § 2-600.* The EDA has all of the powers of such an authority under the Act. The EDA operates in cooperation with the County pursuant to a Memorandum of Understanding and the Albemarle County Economic Development Strategic Plan, also known as Project ENABLE (Enabling a Better Life Economically). ~~During the COVID-19 disaster, The functions of the EDA include promoting the economic development of the County as it is enabled to do pursuant to Virginia Code § 15.2-4900 et seq., providing economic assistance to County businesses within the scope of its enabling authority, and providing any services related to any additional State or Federal assistance or services program either on its own or in its work with the Economic Development Office, are essential functions.~~
 6. Rivanna Solid Waste Authority. The Rivanna Solid Waste Authority ("RSWA") was created on November 5, 1990 by the Solid Waste Organizational Agreement entered into between the County and the City of Charlottesville, together with a concurrent resolution of the Charlottesville City Council and the Albemarle County Board of Supervisors and the RSWA's articles of incorporation, all pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RSWA's articles of incorporation state that its purposes are to "develop a regional refuse collection and disposal system, as such terms are defined in Virginia Code Section 15.2-5101 of the Virginia Water and Waste Authorities Act, including development of systems and facilities for recycling, waste reduction and disposal alternatives with the ultimate goal of acquiring, financing, constructing, and/or operating and maintaining regional solid waste disposal areas, systems and facilities, all pursuant to the Virginia Water and Waste Authorities Act." *Concurrent*

Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated November 6, 2009.

7. Rivanna Water and Sewer Authority. The Rivanna Water and Sewer Authority (“RWSA”) was created on June 7, 1972 by the City of Charlottesville and the County pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RWSA’s articles of incorporation state that its purpose “is to acquire, finance, construct, operate and maintain facilities for developing a supply of potable water for the City of Charlottesville and Albemarle County and for the abatement of pollution resulting from sewage in the Rivanna River Basin, by the impoundment, treatment and transmission of potable water and the interception, treatment and discharge of wastewater, together with all appurtenant equipment and appliances necessary or suitable therefore and all properties, rights, easements or franchises relating thereto and deemed necessary or convenient for their operations. *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated May 5, 2017.* The RWSA operates five reservoirs at Ragged Mountain, Sugar Hollow, South Fork Rivanna, Totier Creek, Beaver Creek, along with five water treatment plants, and wastewater treatment plants.
- D. Public bodies existing under joint exercise of powers agreements. The following public bodies exist under joint exercise of powers agreements, and they and their boards exercise essential governmental functions:
 1. Charlottesville-Albemarle Convention and Visitors’ Bureau. The Charlottesville-Albemarle Convention and Visitors’ Bureau (“CACVB”) has existed in various forms for more than 20 years. Its current iteration was established by the County and the City on June 28, 2018, and it became effective July 1, 2018. Individually, both the County and the City are enabled by Virginia Code § 15.2-940 to “expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality.” The purpose of the CACVB is to jointly promote the resources and advantages of the County and the City, including marketing of tourism and initiatives that attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County. *Second Amended Agreement to Operate a Joint Convention and Visitors’ Bureau, dated October 2, 2019.* The County and the City contribute funds to support the CACVB’s facilities and operations from their respective transient occupancy tax revenues. During the COVID-19 disaster, the CACVB ~~provides an essential function to~~ also supports the County’s hospitality business sector.
 2. Emergency Communications Center. The Emergency Communications Center (“ECC”) was established by the County, the City of Charlottesville, and the University of Virginia on January 20, 1984. The ECC was established to provide a centralized dispatching facility for the respective parties’ law enforcement and emergency service providers operating in the County and the City, and to provide a 911 emergency system. *Agreement By and Among the County of Albemarle, Virginia, the City of Charlottesville, Virginia, and the Rector and Visitors of the University of Virginia, dated January 20, 1984.* The ECC also provides coordination and assistance in emergency management for the Emergency Operations Plan adopted by its participating agencies.
- E. Jefferson Madison Regional Library. The Jefferson Madison Regional Library (“JMRL”) system was established by an agreement entered into on August 11, 1972 (the current agreement is dated January 1, 2013) among the County, the City of Charlottesville, and the counties of Greene,

Louisa, and Nelson pursuant to the enabling authority in Virginia Code § 42.1-37 et seq. JMRL provides essential governmental functions by maintaining a regional free library system pursuant to the terms of the agreement.

- F. Other public bodies and offices. Other public bodies and offices of the County also exercise essential governmental functions. They include, but are not limited to, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, any advisory bodies established by the Board of Supervisors, and the office of the General Registrar.

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. Gallaway	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Ms. Price	_____	_____