

A regular day meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 17, 2019, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The night meeting was held at 6:00 p.m.

PRESENT: Mr. Norman G. Dill (arrived at 1:08 p.m.), Mr. Ned Gallaway, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Rick Randolph.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, County Attorney, Greg Kamptner, and Clerk, Claudette Borgersen.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:01 p.m., by the Chair, Mr. Gallaway.

Agenda Item No. 2. Pledge of Allegiance.
Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. Adoption of Final Agenda.

Ms. McKeel **moved** that the Board adopt the final agenda. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Gallaway and Ms. Mallek.

NAYS: None.

ABSENT: Mr. Dill.

Agenda Item No. 5. Brief Announcements by Board Members.

Mr. Gallaway recognized the attendance of the presiding security officers, Lt. Terry Walls and Officer Laura Proffitt, and County staff Doug Walker and Trevor Henry at the dais.

Ms. Palmer announced that household hazardous waste collection days would be held April 19 and April 20, 2019 at the Ivy Material Utilization Center on Dick Woods Road.

Ms. Palmer announced that the first three Saturdays in May would be bulky waste amnesty days at Ivy MUC and invited residents to bring materials there at no charge. She said May 4 would be for mattresses and furniture, May 11 was for appliances, and May 18 was for tires.

Mr. Palmer recognized that at the April 16 meeting, the Board had a short discussion and received information from the Police Department as to how to evacuate the room in case of an emergency. She asked Mr. Kamptner to address some public comments made about the Board not having publicized this portion of the meeting. Mr. Kamptner explained that he determined it was not a meeting because public business matters were not discussed or transacted.

Ms. Palmer recognized that one resident had commented: "Our safety (the Board's) was the public's concern." She suggested the Board place a sign outside the room the next time they hold a similar discussion so the public would know what was going on.

Agenda Item No. 6a. Proclamations and Recognitions: Recognition of Tammie Moses for Service on the Board of Equalization.

Ms. McKeel remarked that she was pleased that someone from the Jack Jouett District, who has been critical in the work they are trying to get done in the County, has been recognized.

Ms. McKeel read the Certificate of Appreciation to Tammie Moses as follows:

"In recognition of her valuable contributions on the Equalization Board as the Jack Jouett Magisterial District Representative. We as a community are strengthened and uplifted by those who step forward to volunteer their services in support of improving the quality of life of our residents. We offer our sincere appreciation to Tammie for her dedication and commitment in preserving the quality of Albemarle County. Signed and sealed this 17th day of April, 2019."

Mr. Peter Lynch, County Assessor, addressed the Board. He thanked Ms. Moses for her work on the Board of Equalization, which he explained consists of a panel with six members representing each of the magisterial districts and meeting 10 to 15 times per year to hear taxpayer appeals of their assessments. He said Ms. Moses has served for six years as both a voting member and secretary. He noted that Ms. Moses was a Certified Public Accountant (CPA), operates her own tax and accounting business, and has made time in her schedule to serve Albemarle County through her service on the Board of Equalization, the Albemarle County School Board's Long-Range Planning Committee, and as

Treasurer of her local PTA. He invited Robin Bolling, retired principal of Greer Elementary School, to comment.

Ms. Robin Bolling addressed the Board. She recognized the many hours of time Ms. Moses donates to the Greer community and in assisting her as a principal, which she estimates to equal over 100 hours a year.

Ms. Tammie Moses addressed the Board and said it has been a wonderful and rewarding opportunity to serve on the Board of Equalization. She expressed gratitude for the trust and confidence the Board has placed in her. She said she has been very pleased with the evolution of the property assessment process and that, under Mr. Lynch's guidance and tutelage, the Assessor's Office would continue to ensure a platform of fairness and integrity. She recognized the work of the assessor and staff, fellow board members, and the community and said she was humbled to think she has made a small difference in a small way to the community. She thanked Supervisors for their service to the community.

(Note: Mr. Dill arrived at the meeting at 1:08 p.m.)

Ms. Mallek commented that many area nonprofits benefit from the accounting work of Ms. Moses.

Ms. McKeel thanked Ms. Moses and noted that many appeals were conducted in the summer months when Ms. Moses may have had to put off vacations.

Agenda Item No. 6b. Proclamations and Recognitions: Proclamation Recognizing The Green Olive Tree.

Ms. Mallek read and **moved** to adopt the following proclamation recognizing the Green Olive Tree:

THE GREEN OLIVE TREE

WHEREAS, seven Crozet ladies came together in 1979 for Bible Study and fellowship, and out of this gathering grew the idea of starting a used clothing store to serve Crozet; and

WHEREAS, June Andrews, Nancy-Virginia Bain, Ruby Garnett, Sarah Rogers, Mary Shirley Willetts, Evelyn Doyle, and Grace Waller were blessed with good sense, compassionate hearts, and total dedicated to their project, named "The Green Olive Tree." The Green Olive Tree took root, thrived, and outgrew each of its succeeding locations supported by a large group of loyal volunteers over the years; and

WHEREAS, from its modest beginning The Green Olive Tree came to share its proceeds with over one hundred ministries and organizations around the world, giving away well over \$1,000,000 and tons of clothing has been exchanged; and

WHEREAS, not only have tons of clothing been exchanged, but The Green Olive Tree has become a community center where people can share love and support, ideas and worries, and come away refreshed and up-lifted; and

WHEREAS, The Green Olive Tree has served in the County faithfully for forty wonderful and generous years, and continues to prosper with the help of numerous volunteers and board members, all who serve without compensation.

NOW, THEREFORE BE IT RESOLVED, that we, the Albemarle County Board Supervisors, do hereby recognize the many valuable contributions of The Green Olive Tree during its forty years of service to Albemarle County and its residents and extends its appreciation and heartfelt thanks for their continued service and commitment to helping to make this a better County.

Signed this 17th day of April 2019.

The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Courtney Polk, Grants Manager at the Building Goodness Foundation (BGF), addressed the Board. She said BGF was a Charlottesville-based nonprofit that connects construction industry professionals who donate their time and expertise to local and international community construction projects. In the past few years BGF has recognized two needs: 1) a need for more skilled construction industry workers and 2) the need for increased opportunities for entrants into well-paying careers. A recent grant has allowed BGF to connect these two needs. She said the Partnership to Advance Youth Apprenticeship grant supports strategic partnerships between schools and employers for high school

students, beginning at age 16, with apprenticeships that have clear pathways to well-paying careers. She said they hope to receive grant approval that week and explained that the model requires four types of partners: K-12, post-secondary, employers, and an intermediary organization. The partners for whom they submitted the grant: Albemarle, Charlottesville, Greene, and Louisa schools, as well as Charlottesville Albemarle Technical Education Center (CATEC) for K-12, PVCC Workforce Development and the University of Virginia Facilities Management Apprenticeship Program for post-secondary, and the Foundation's network of local builders and the Central Virginia Apprenticeship Council as employers. She explained that the Foundation would serve in the intermediary role and should the grant be awarded, they would move forward with hiring and planning, though should they not obtain the grant, they would continue to seek funding for this initiative and to engage teachers, administrators, and parents on the needs for and on what would work for youth apprenticeships.

Mr. David Redding, of Eco-Village Charlottesville, addressed the Board. He stated that as a response to the changing and confusing recycling rules, on April 26 Eco-Village would begin accepting recyclables and assist residents to determine what could be recycled. He noted that they now have a battery-powered tricycle that gets 1,832 mpg and was called the Elf. He stated that several Eco-Village residents have volunteered to serve on various committees, although they have not received word as to when these committees would meet, and he asked the Board to furnish this information. He invited Supervisors to attend their meeting later that night of the Sierra Club.

Mr. Sean Tubbs, of the Piedmont Environmental Council (PEC), addressed the Board. He thanked the Board for its allocation of \$6 million in FY21 to the Capital Improvement Fund for the quality-of-life bike and pedestrian projects throughout the community. He said PEC looks forward to seeing how this public investment would be implemented in the coming years to bring the Comprehensive Plan's visions into reality. He thanked the Board for taking transit seriously and for encouraging better relationships among the area's major providers. He added that he was also looking forward to the Regional Transit Partnership meeting on April 26 where a funding agreement with Charlottesville Area Transit would be discussed. He expressed hope that this would build trust and better partnerships moving forward. He said he has been taking the number 10 and 7 buses to get around to learn how urban Albemarle looks without a car and to see barriers.

Mr. Tubbs said the Comprehensive Plan, Jefferson Area Bike/Pedestrian Plan, and Small Area plans recognize potential land uses, though these ideas would have to be woven together into partnerships and collaborations among the many entities and individuals in the community. He said he would address some of this as it pertains to the Rio Road Small Area Plan at the Greenfield Terrace rezoning later that night. He said he was looking forward to the report on capital projects at this meeting so that he could continue to track implementation and raise awareness as to where these investments are as these ideas sometimes get lost and put on a shelf, though he hopes they could elevate them when rezonings come up. Addressing Mr. Redding's comments about notification of community meetings, he said he was involved with the Transportation Sector Committee that met late in March and was awaiting the next, which has not yet been scheduled.

Mr. Chris Mayer, resident of Charlottesville and Executive Director of the Local Energy Alliance Program (LEAP), addressed the Board. He congratulated the Board for its passage of the budget and for embarking on the process of committing to a climate action goal and implementation plan. He said he sees this initiative as being linked to many other issues such as affordable housing and economic development. He said that a reduction in the reliance of fossil fuels would make the County's economy more efficient, resilient, dynamic, and would benefit economic development. He explained that the economy would be more efficient because residents and businesses would spend less on energy bills, more resilient because residents and businesses would not be as severely impacted when electricity prices surge higher or when service was knocked out, and more dynamic because County businesses that provide and support renewable energy and energy efficiency would be strengthened and employment increased.

Mr. Mayer noted that County staff was currently reviewing how to implement the Commercial Property Assessed Clean Energy Program, which would accomplish all the benefits he has mentioned. He asked that staff be given sufficient resources to implement the program. From an affordable housing perspective, LEAP too often hears from County low income and elderly residents with \$300 energy bills. He stated that the impact that wintertime energy bills have on residents, particularly those with low incomes, could be improved by LED light bulbs, weather-stripping of doors and windows, and insulation. He said LEAP has collaborated with 82 households to save energy with window and insulation improvements, which make their homes more affordable while also reducing climate harming emissions. He explained that LEAP utilizes money from a Dominion Resources utility program to provide energy efficiency updates to the County's low-income residents at no charge. He reiterated his support for the County's climate action goal, and he reminded the Board of the linkage between affordable housing and a resilient local economy and offered LEAP's assistance. He then provided the Clerk with a copy of LEAP's annual report.

Addressing questions posed about the dates of meetings for climate action, Ms. Palmer said that Lance Stewart, Director of Facilities, was working diligently on the scheduling and she hopes it would be finished by next week.

Agenda Item No. 8. Consent Agenda.

Mr. Randolph **moved** that the Board approve the Consent Agenda. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.
NAYS: None.

Ms. Mallek requested that Supervisors receive emails indicating the dates of climate action meetings. Ms. Palmer commented that she was sure Mr. Stewart would be able to share the dates.

Item No. 8.1. Ordinance to Amend County Code Chapter 8, Licenses.

The Executive Summary forwarded to the Board states that the Board has directed the County Attorney’s Office to conduct a comprehensive review and recodification of the County Code. Chapter 8 of the County Code governs the County business license requirement, tax and fees. It outlines who is required to obtain a business license, what license tax or fee applies to various businesses, and how the Finance Director is to administer and enforce business license requirements.

Ahead of a public hearing on March 6, 2019, staff had prepared a proposed ordinance recodifying Chapter 8. The proposed ordinance was described in the accompanying Executive Summary (Attachment A). On final review before the March 6 public hearing, Finance staff identified certain relatively minor issues with the existing draft ordinance that required further review and possible revision. At staff’s recommendation, the Board held the public hearing as scheduled on March 6, but deferred final action, pending resolution of the outstanding issues. After further review and discussion, Finance staff and the County Attorney’s Office are now returning with a proposed final draft ordinance for adoption.

Staff would refer back to the March 6 Executive Summary (Attachment A) for a more detailed explanation of the proposed ordinance generally. Proposed revisions made since March 6 include:

- 1. Consolidating thresholds - Staff proposes deleting current § 8-101 so that the applicable thresholds are consolidated. Specifically, staff proposes:
 - a. Deleting current § 8-101(A), which is already covered by new § 8-200, and
 - b. Combining § 8-101(B) into the new § 8-500.
- 2. Applicable license fee or license tax - Staff proposes adding new language to § 8-300 to clarify that it applies to the applicable license fee or license tax.
- 3. Removing license transfers - Staff proposes deleting § 8-303, an unused provision allowing the transfer of business licenses
- 4. Eliminating “reporting” requirement - Staff proposes revising § 8-400 to § 8-401 to clarify that a full “report” is not required, only a completed application showing the amounts on which the tax is based.
- 5. Pending cross-reference - New § 8-502 had cross-referenced a section in Chapter 15 that has yet to be recodified. Staff replaced that with a more generic cross-reference to Chapter 15.
- 6. Purchases - The proposed ordinance replaces “gross expenditures” (a term not used in the *Virginia Code*’s uniform ordinance) with “purchases,” which *Virginia Code* § 58.1-3716 recognizes as the basis of the tax on wholesalers and wholesale merchants.

No significant budget impact is expected.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment B).

By the above-recorded vote, the Board adopted the following ordinance:

ORDINANCE NO. 19-8(1)

AN ORDINANCE TO AMEND CHAPTER 8, LICENSES, 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 8, Licenses, is hereby amended and reordained as follows:

By Amending:

8-100 Purpose.

By Amending and Renumbering/Renaming:

<u>Old</u>	<u>New</u>	
8-102	8-101	Powers and duties of the d Director of f Finance.
8-103	8-102	Definitions.
8-104	8-103	Violations and penalties.
8-201	8-300	License application.

8-202	8-300	Information to be provided on license application.
8-204	8-301	Prerequisites to issuance of license.
8-205	8-302	Privilege of engaging in business may be exercised only by person licensed.
8-207	8-303	Presentation or display of license or license receipt <u>Retaining and showing license or license receipt; providing subcontractor information.</u>
8-208	8-304	Revocation of license.
8-300	8-400	Submittal of r <u>Reporting of gross receipts or gross expenditures purchases.</u>
8-301	8-401	Estimated gross receipts or gross expenditures purchases because of failure to maintain adequate records <u>report.</u>
8-302	8-402	Estimated gross receipts or gross expenditures purchases for beginning business.
8-305	8-403	Amounts excluded from gross receipts.
8-306	8-404	Amounts deducted from gross receipts or gross expenditures purchases.
8-307	8-208	Duty to maintain and produce records of gross receipts <u>Recordkeeping and audits.</u>
8-400	8-500	Levy of license tax.
8-402	8-501	License fee.
8-408	8-502	Collection fees on delinquent license tax.
8-500	8-600	Assessment when license tax not previously assessed <u>Omitted license taxes.</u>
8-503	8-601	Correction of <u>Correcting an</u> erroneous assessment.
8-504	8-602	Correction of <u>Correcting an</u> assessment based on estimated gross receipts or gross expenditures purchases.
8-505	8-603	Refund of license tax if business terminated.
8-600	8-800	Alcoholic beverages.
8-601	8-700	Bondsmen.
8-602	8-701	Building or savings and loan associations <u>Savings institutions and State-chartered credit unions.</u>
8-603	8-702	Contractors, developers, electricians, plumbers, steamfitters and speculative builders.
8-605	8-703	Pawnbrokers; limitation on numbers of licenses issued in County.
8-606	8-704	Public service corporations.
8-607	8-705	Vending machine or coin-operated device operators <u>Amusement machines.</u>
8-609	8-706	Carnivals and circuses.
8-610	8-707	Fortunetellers, clairvoyants and practitioners of palmistry or phrenology.
8-611	8-708	Peddlers and itinerant merchants.
8-612	8-709	Show and sale.
8-613	8-710	Peddlers at wholesale.
8-615	8-711	Financial, real estate, and professional services.
8-616	8-712	Repair, personal, business, amusement and other services.
8-617	8-713	Retailers or retail merchants <u>sales.</u>
8-618	8-714	Wholesalers or wholesale merchants <u>sales.</u>
8-619	8-715	Renting of houses, apartments or commercial property.
8-620	8-716	Federal research and development contractors.

By Adding:

8-200	License requirement.
8-201	When license application and license tax are due; penalties.
8-202	Situs of gross receipts.
8-203	Extensions for assessments and collections.
8-204	Administrative appeals to the Director of Finance.
8-205	Administrative appeal to the Tax Commissioner.
8-206	Judicial review of determination of Tax Commissioner.
8-207	Rulings.
8-801	Going-out-of-business sales.

By Repealing:

8-101	Applicability.
8-200	General.
8-203	Application due date.
8-206	Transfer of license.
8-303	Gross receipts attributed to single definite place of business; activities outside of definite place of business.
8-304	Gross receipts attributed to more than one definite place of business.
8-401	Date license tax due and payable.
8-404	Failure to obtain license does not relieve tax liability.
8-405	Effect of payment of license tax on tax liability of officers and employees.
8-406	Penalty on delinquent license tax or license fee.
8-407	Interest of delinquent license tax or license fee.
8-501	Assessment when license tax previously under-assessed.
8-502	Assessment when license tax not assessed or under-assessed; fraudulent intent.
8-506	Credit or refund if overpayment of license tax.
8-507	Licensee initiated correction of assessment; appeals and rulings.
8-614	Certain peddlers, itinerant merchants and peddlers at wholesale exempt from license tax.

Article 1. Business Licenses

Division 1. Administration

Sec. 8-100 Purpose.

The purpose of this article is to require all persons engaging in a business in the County to obtain a license, to establish the sole means by which the County imposes a license fee or levies a license tax for the privilege of engaging in a business, to provide for collecting license fees and license taxes, and to impose penalties for failure to comply with the provisions of this article.

(3-15-73, §§ 1, 2; 4-21-76; Ord. 96-11(1), 11-13-96, §§ 11-1, 11-1.1, 11-4; Code 1988, §§ 11-1, 11-1.1, 11-4; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3703.

Sec. 8-101 Powers and duties of the Director of Finance.

In administering and enforcing this chapter, the Director of Finance has all powers and duties conferred on directors of finance by general law, including but not limited to Virginia Code § 15.2-500 *et seq.*; and on commissioners of revenue and treasurers by general law, including but not limited to Virginia Code §§ 58.1-3100 *et seq.* and 58.1-3900 *et seq.*

(3-15-73, § 22; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-22; Code 1988, § 11-22; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 15.2-519 *et seq.*, § 58.1-3100 *et seq.*, § 58.1-3900 *et seq.*

Sec. 8-102 Definitions.

All terms defined in Virginia Code § 58.1-3700.1 have the same definitions for purposes of this article. In addition, the following definitions apply to this article:

Contractor. The term “contractor” shall be as defined in Virginia Code § 58.1-3714.

Locality means a city, county or town of the State other than the County.

Person means individuals, firms, co-partnerships, corporations, companies, associations, or joint stock associations, and includes any trustee, receiver or assigned personal representative thereof carrying on or continuing a business, profession, trade, or occupation, but does not include a trustee, receiver, or other representative duly appointed by a court to liquidate assets for immediate distribution, or a sergeant or sheriff, or any deputy, selling under authority of process or writ of a court of justice.

Retailer or retail merchant means any person or merchant who conducts retail sales, as that term is defined in 23 Virginia Administrative Code (“VAC”) 10-500-10.

Services shall be as defined in 23 VAC 10-500-10.

Wholesaler or wholesale merchant means any person or merchant who conducts wholesale sales, as that term is defined in 23 VAC 10-500-10.

(3-15-73, § 1; 6-13-73; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-2; Code 1988, § 11-2; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3700.1, § 58.1-3724; 23 VAC 10-500-10.

Sec. 8-103 Violations and penalties.

- A. *Failure to obtain required license unlawful.* It is unlawful for any person to engage in a business within the County without first obtaining a license required by this article. Any violation of this subsection is punishable as a class 2 misdemeanor.
- B. *Willful failure to file return or making false statement with intent to defraud.* It is unlawful for any person to willfully fail or refuse to file a required return for license tax purposes, or to make any false statement with the intent to defraud in any return. Any violation of this subsection is punishable as: (i) a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less; or (ii) a class 1 misdemeanor if the amount of tax lawfully assessed in connection with the return is more than \$1,000.00.
- C. *Violation of any provision of this article.* It is unlawful for any person to violate any provision of this article not otherwise subject to subsections (A) or (B). Any violation of this subsection is punishable as a class 2 misdemeanor.

(3-15-73, § 26; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-23; Code 1967, § 11-6; Ord. 96-11(1), 11-13-96, § 11-51; Code 1988, §§ 11-23, 11-51; Ord. 98-A(1) 8-5-98)

State law reference--Va. Code §§ 58.1-3700, 58.1-3916.1.

Division 2. License Requirement, Situs of Gross Receipts, Appeals, and Recordkeeping

Sec. 8-200 License requirement.

Each person engaged in a business subject to this article shall obtain a license as follows:

- A. *Requirement to obtain license.* Every person shall apply for and obtain a license for each business when engaging in a business in the County if: (i) the person has a definite place of business in the County; (ii) there is no definite place of business anywhere and the person resides in the County; or (iii) there is no definite place of business in the County but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Virginia Code § 58.1-3715, or public service corporation.
- B. *Separate license required.* A separate license is required for each definite place of business and for each business.
- C. *License when two or more businesses or professions carried on at same place of business.* A person engaged in two or more businesses carried on at the same place of business may elect to obtain one license for those businesses if all of the following criteria are satisfied: (i) each business is subject to licensure at the location and has satisfied any requirements imposed by State law or other provisions of the County Code or any uncodified ordinance; (ii) all of the businesses are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses at the highest rate; and (iii) the taxpayer agrees to supply any information the Director of Finance may require concerning the nature of the several businesses and their gross receipts.
- D. *When license requirements waived.* Notwithstanding the foregoing, the license requirement is waived for any business with gross receipts not exceeding \$25,000.00.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-201 When license application and license tax are due; penalties.

Each person subject to a license tax shall apply for a license and pay the license tax as follows:

- A. *When license application is due.* Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in the County on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the Director of Finance.
- B. *When license tax is due.* The tax shall be paid with the license application in the case of any license tax not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before June 15 of the license year; provided that each motor vehicle dealer who separately states the amount of the license tax applicable to each sale of a motor vehicle and adds the tax to the sales price of the motor vehicle shall pay the tax on or before the twentieth day of the month following the close of each calendar quarter.
- C. *Extensions.* The Director of Finance may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of 10 percent of the portion paid after the due date.
- D. *Penalty for failure to timely file an application or pay the license tax.* The Director of Finance will impose a penalty for failure to timely file an application or pay the license tax as follows:
 - 1. *When late penalty imposed.* A penalty of 10 percent of the tax may be imposed by the Director of Finance upon the failure of any person to file an application or the failure to pay the tax by the appropriate due date. The Director of Finance shall impose only the late filing penalty if both the application and license tax payment are late; provided that the Director may impose both penalties if the Director determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the Director of Finance, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless, or intentional disregard of the law by the taxpayer, the Director shall not impose a late payment penalty with the additional tax. If any assessment of tax by the Director of Finance is not paid within 30 days, the Director may impose a 10 percent late payment penalty.
 - 2. *When late penalty not imposed.* If the failure to file or pay was not the fault of the taxpayer, the Director of Finance shall not impose a late penalty, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

- a. *Acted responsibly defined.* "Acted responsibly" means that: (i) the taxpayer

exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

- b. *Events beyond the taxpayer's control defined.* "Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the Director who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

E. *Interest on late payments.* The Director of Finance shall charge interest on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the Director is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax collected pursuant to this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Virginia Code § 58.1-3916.

1. *When interest does not accrue.* No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year.
2. *When interest not refunded or charged.* No interest shall be refunded or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-202 Situs of gross receipts.

The situs of gross receipts is determined as follows:

A. *General rule.* When the license tax is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this County. If activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which the activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

1. *Contractors.* The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Virginia Code § 58.1-3715.
2. *Retailers or wholesalers.* The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares, and merchandise are made to customers. Any wholesaler who is subject to a license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
3. *Businesses renting tangible personal property.* The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of the property is managed.
4. *Services.* The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any

definite place of business, then to the definite place of business from which the services are directed or controlled.

- B. *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule in subsection (A) occurred at, or were controlled from, the definite place of business. Gross receipts attributable to a definite place of business in another locality shall not be attributed to the County solely because the other locality does not impose a tax on the gross receipts attributable to the definite place of business in the other locality.
- C. *Agreements.* The Director of Finance may enter into agreements with any other locality concerning the manner in which gross receipts are apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement.
1. *Apportionment agreement when methodology applied by localities could result in taxes on more than 100 percent of taxpayer's gross receipts.* Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of the County or one or more other localities in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected localities, the Director shall make a good faith effort to reach an apportionment agreement with the other localities involved.
 2. *Advisory opinion may be requested if apportionment agreement not reached.* If an agreement cannot be reached, either the Director or the taxpayer may seek an advisory opinion from the Department of Taxation pursuant to Virginia Code § 58.1-3701; notice of the request shall be given to the other party.
 3. *Judicial relief may be sought if apportionment agreement not reached.* Notwithstanding Virginia Code § 58.1-3993, when a taxpayer demonstrates to a court that the County and one or more localities have assessed taxes on gross receipts that may create a double assessment within the meaning of Virginia Code § 58.1-3986, the court shall enter any orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

State law reference-Va. Code § 58.1-3703.1

Sec. 8-203 Extensions for assessments and collections.

Assessments and collections may be extended as follows:

- A. *Extension to assess by agreement.* Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the Director of Finance and the taxpayer have consented in writing to its assessment after time prescribed, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.
- B. *Extension to assess because of fraud or failure to apply.* Notwithstanding Virginia Code § 58.1-3903, the Director of Finance shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.
- C. *Extension to collect when assessment period extended or stayed.* The period for collecting any local license tax shall not expire: (i) prior to the period specified in Virginia Code § 58.1-3940; (ii) two years after the date of assessment if the period for assessment has been extended pursuant to this section; (iii) two years after the final determination of an appeal for which collection has been stayed pursuant to County Code § 8-204(A); or (iv) two years after the final decision in a court application pursuant to Virginia Code § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-204 Administrative Appeals to the Director of Finance.

Any person assessed with a license tax as a result of an appealable event as defined in this section may file an administrative appeal (an "appeal") of the assessment with the Director of Finance. The taxpayer may also file an appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the County, with the Director of Finance. Any appeal must be filed in good faith. Any appeal is also subject to the following:

- A. *When the appeal must be filed.* The taxpayer shall file an appeal of an assessment within one year

after the last day of the tax year for which the assessment is made, or within one year after the date of the appealable event, whichever is later. The taxpayer may file an appeal of the classification applicable to the taxpayer's business at any time; provided that the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year; and further provided that any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

- B. *Contents of the appeal.* The appeal must be in writing and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments or classification, the amount in dispute, the remedy sought, each alleged error in the assessment or classification, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention.
- C. *Conference and request for additional information.* The Director may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The Director shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.
- D. *Notice of right of appeal and procedures.* Every assessment made by the Director pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an appeal and the specific procedures to be followed in the County, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal. To facilitate appeals of the classification applicable to a taxpayer's business, the County shall maintain on its website the specific procedures to be followed in the County to appeal the classification and the name and address to which the appeal should be directed.
- E. *Suspension of collection activity during appeal.* Provided a timely and complete appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the Director shall be suspended until he issues a final determination, unless the Director: (i) determines that collection would be jeopardized by delay as defined in this section; (ii) determines that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) determines that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with County Code § 8-201(E), but no further penalty shall be imposed while collection activity is suspended.
- F. *Procedure in event of nondecision.* Any taxpayer whose appeal to the Director has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the Director, elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with the provisions of County Code § 8-205. The Tax Commissioner shall not consider an appeal filed pursuant to this section if he finds that the absence of a final determination by the Director of Finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by Director to make his determination.
- G. *Terms defined.* For purposes of this division:
 - 1. *Amount in dispute*, when used with respect to taxes due or assessed, means the amount specifically identified in the appeal or application for judicial review as disputed by the party filing such appeal or application.
 - 2. *Appealable event* means an increase in the assessment of a license tax payable by a taxpayer, the denial of a refund, or the assessment of a license tax where none previously was assessed, arising out of the Director of Finance's: (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of an erroneous assessment attendant to the filing of an amended application for a license. An appealable event includes a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the County, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the County.
 - 3. *Frivolous* means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is: (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.
 - 4. *Jeopardized by delay* means a finding, based upon specific facts, that a taxpayer designs

to: (i) depart quickly from the County; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-205 Administrative appeal to the Tax Commissioner.

Any person assessed a license tax, or who received a determination from the Director of Finance, in an administrative appeal pursuant to County Code § 8-204 that is adverse to the position asserted by the taxpayer in that appeal, may appeal the assessment or determination to the Tax Commissioner.

- A. *When the appeal must be filed.* The appeal shall be filed with the Tax Commissioner within 90 days after the date of the determination by the Director.
- B. *Contents of the appeal.* The appeal shall be in a form as the Tax Commissioner may prescribe.
- C. *Procedure.* The taxpayer shall serve a copy of the appeal upon the Director of Finance. The Tax Commissioner shall permit the Director to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days after receipt of the taxpayer's application, unless the taxpayer and the Director are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Virginia Code § 58.1-1821. The Tax Commissioner, pursuant to Virginia Code § 58.1-1822, may issue an order correcting the assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.
- D. *Suspension of collection activity during appeal.* On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection (C), the Director shall suspend collection activity with respect to the amount in dispute relating to any assessment until a final determination is issued by the Tax Commissioner, unless the Director of Finance: (i) determines that collection would be jeopardized by delay as defined in this division; (ii) determines, or is advised by the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) determines that the appeal is frivolous as defined in this division. Interest shall accrue in accordance with the provisions of County Code § 8-201(E), but no further penalty shall be imposed while collection activity is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to this section is filed and served on the necessary parties within 30 days after the notice of the appeal is served on the Director pursuant to subsection (C).
- E. *Implementing the determination of the Tax Commissioner.* Promptly upon receipt of the final determination by the Tax Commissioner in an appeal under this section, the Director of Finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer in accordance with the provisions of this section.
 1. *When specific amount of tax is due.* If the determination of the Tax Commissioner states a specific amount of tax due, the Director shall certify the amount and issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this division, within 30 days after the date of the determination of the Tax Commissioner.
 2. *When specific amount of refund is due.* If the determination of the Tax Commissioner states a specific amount of refund due, the Director shall certify the amount and issue a payment to the taxpayer for the amount due, together with interest accrued pursuant to this division, within 30 days after the date of the determination of the Tax Commissioner.
 3. *When specific amount of tax due is not stated, or Director required to undertake a new or revised assessment.* If the determination of the Tax Commissioner does not state a specific amount of tax due, or otherwise requires the Director to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Director shall promptly commence the steps necessary to undertake the new or revised assessment, and provide that assessment to the taxpayer within 60 days after the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director shall certify the new assessment and issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this division, within 30 days after the date of the new assessment.
 4. *When specific amount of refund due is not stated, or Director required to undertake a new or revised assessment.* If the determination of the Tax Commissioner does not state a specific amount of refund due, or otherwise requires the Director to undertake a new or revised assessment that will result in an obligation by the County to make a refund of taxes previously paid, the Director shall promptly commence the steps necessary to undertake a new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the assessment or determination to the taxpayer within 60 days after the date of the

determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Director shall certify the new assessment or refund amount and issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days after the date of the new assessment or determination of the amount of the refund.

Sec. 8-206 Judicial review of determination of Tax Commissioner.

After the Tax Commissioner issues a final determination pursuant to County Code § 8-205, the taxpayer or the Director of Finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Virginia Code § 58.1-3984. In any judicial proceeding to review the determination of the Tax Commissioner, the burden is on the party challenging the determination, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it. In addition:

- A. *Suspending payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.* On receipt of a notice of intent to file an application for judicial review pursuant to this section and Virginia Code § 58.1-3984, and upon payment of the amount of the tax relating to any assessment by the Director that is not in dispute together with any penalty and interest then due with respect to the undisputed portion of the tax, the Director shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that: (i) the taxpayer's application for judicial review is frivolous, as defined in this division; (ii) collection would be jeopardized by delay, as defined in this division; or (iii) suspending collection would cause substantial economic hardship to the County. For purposes of determining whether substantial economic hardship to the County would arise from suspending collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the County by different taxpayers that allege common claims or theories of relief.
 - 1. *When court may require taxpayer to pay amount in dispute, or portion thereof, or provide surety.* Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspending collection would result in substantial economic hardship to the County, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.
 - 2. *When suspending collection activity is not required.* Suspending collection activity is not required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the Director.
 - 3. *When the requirement to suspend collection activity ceases.* The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days after service of the notice of intent to file the application.
 - 4. *When the requirement to suspend collection activity does not apply.* The requirement to suspend collection activity does not apply to any appeal of a license tax that is initiated by the direct filing of an action pursuant to Virginia Code § 58.1-3984 without prior exhaustion of the appeals provided by County Code §§ 8-204 and 8-205.
- C. *Suspending payment of disputed amount of refund due upon County's notice of intent to initiate judicial review.* The Director's obligation to pay any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to County Code § 8-205 is suspended if the County serves upon the taxpayer, within 60 days after the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to Virginia Code § 58.1-3984 and pays to the taxpayer the amount of the refund not in dispute, including tax and accrued interest. Payment of the refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the County's application for judicial review is frivolous, as defined in this division.
 - 1. *When suspending refund activity is not required.* Suspending refunding activity is permitted if the County's application for judicial review fails to identify with particularity the amount in dispute.
 - 2. *When the requirement to suspend the obligation to refund ceases.* The requirement to suspend the obligation to make a refund ceases unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days after service of the notice of intent to file the application.
- D. *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of County Code § 8-201(E), but no further penalty shall be imposed while collection action is suspended.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-207 Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling from the Director of Finance regarding the application of the license tax to a specific situation. In addition, the taxpayer or authorized representative may request a written ruling from the Director regarding the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the County.

- A. *Information provided by the taxpayer.* Any person requesting a ruling must provide all facts relevant to the situation at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer.
- B. *When ruling may be invalidated.* Any misrepresentation, or any change in the applicable law or the factual situation as presented in the ruling request, invalidates the ruling issued.
- C. *When ruling may be revoked.* The Director may revoke or amend a ruling prospectively if: (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based; or (ii) the Director notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based.
- D. *Effect of good faith reliance on invalidated ruling.* Any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-208 Recordkeeping and audits.

Each person subject to a license tax shall maintain and produce records as provided herein:

- A. *Maintenance.* Each person shall maintain sufficient records, including books of account and other information to enable the Director of Finance to verify the correctness of the tax paid for the license years assessable or to enable the Director to ascertain what was the correct amount of tax that was assessable for each of those years.
 - 1. *Additional records for trailer camps or parks.* Each trailer camp or park, or the manager thereof, shall maintain a registration book and shall register all trailers using, occupying, or present in, the trailer camp or park, which book shall be available for inspection at all times. The term "trailer camp or park" means any site, lot, field, or tract of land upon which is located one or more trailers, or is held out for the location of any trailer, and shall include any building, structure, tent vehicle, or enclosure used or intended for use as a part of the equipment for the trailer camp or park.
 - 2. *Separate records and accounts for each business.* Each person engaged in two or more businesses which are subject to more than one rate or computed on more than one basis shall maintain separate records and accounts for each ~~such~~ business.
- B. *Production.* All records, books of accounts, and other information required by subsection (A) to be maintained shall be open to inspection and examination by the Director in order to allow him to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County. The Director shall provide the person with the option to conduct the audit in the person's local business office, if the records are maintained there. If the records are maintained outside the County, the person shall send copies of the appropriate records and books to the Director upon demand.
- C. *Retention period.* All records, books of accounts, and other information required to be maintained pursuant to this section shall be retained for a period of five years after the license year for which the records, books of account, and other information pertain.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-76; Code 1988, § 11-76; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1(A)(9).

Division 3. License Application, Issuance, and Revocation

Sec. 8-300 License application.

Each person required to obtain a license shall submit a written application to the Director of Finance and shall pay the applicable license fee or license tax.

- A. *Application form and contents.* The application shall be submitted on a license application form provided by the Director of Finance. The application shall state the person's correct name and trade name, if any, the correct physical address and mailing address, if different, the nature of the

business to be pursued, and the place where the business will be pursued. The application shall also contain any other information required by the Director. The application shall be properly and fully executed by the applicant.

- B. *Sworn statement from applicant.* If the license tax is based upon the gross receipts or (in the case of wholesalers or wholesale merchants) purchases of the business to be licensed, the Director of Finance shall require a sworn statement from the applicant of the amount of such gross receipts or (in the case of wholesalers or wholesale merchants) purchases, except in the case of a beginning business as provided in County Code § 8-402.

(3-15-73, § 4; Ord. 96-11(1), 11-13-96, § 11-6; Code 1988, § 11-6; Ord. 98-A(1), 8-5-98)
(3-15-73, § 5; Ord. 96-11(1), 11-13-96, § 11-7; Code 1988, § 11-7; Ord. 98-A(1), 8-5-98, § 8-202)

State law reference-Va. Code § 58.1-3703.1(A)(2)(a).

Sec. 8-301 Prerequisites to issuance of license.

The Director of Finance shall not issue a license to an applicant pursuant to this article until the applicant has produced satisfactory evidence that all delinquent business license, real estate, personal property, meals, transient occupancy, severance, and admissions taxes owed by the business to the County which have been properly assessed by the County against the applicant have been paid.

(3-15-73, § 13; Ord. 96-11(1), 11-13-96, §§ 11-4.1, 11-20; Code 1988, § 11-20; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3700.

Sec. 8-302 Privilege of engaging in business may be exercised only by person licensed.

Each license issued pursuant to this article confers a personal privilege to engage in business, and the privilege may be exercised only by the persons licensed.

(3-15-73, § 20; Ord. 96-11(1), 11-13-96, § 11-5; Code 1988, § 11-5; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3700.

Sec. 8-303 Retaining and showing license or license receipt; providing subcontractor information.

Each license or license receipt issued shall be presented or displayed as provided herein:

- A. *Retaining and showing the license receipt; generally.* Each person who obtains a license shall keep the license receipt issued by the Director of Finance in a convenient place. The person shall show the license receipt when required to do so by any authorized enforcement officer of the County.
- B. *Showing license and providing subcontractor information; contractors, electrical contractors, plumbers, steam fitters, building wreckers, developers, speculative builders.* Each person who is a contractor, electrical contractor, plumber, steam fitter, building wrecker, developer, or speculative builder who proposes to do work in the County for which a license is required by this article, or pursuant to a contract let by a department, bureau, or office of the County, shall, upon making application for the license or upon the award of the contract, show to the proper County official the license issued pursuant to this article authorizing him to engage in the business for the license year, or in which the contract is awarded, and shall provide to that official a list of his subcontractors and the amounts of those subcontracts. If any of the subcontracts have not been closed or awarded at the time of applying for the license required by this article or the award of the contract, he shall furnish the list in writing immediately upon awarding the subcontract or contracts.

(3-15-73, § 5; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-11; Code 1967, § 11-13; 4-21-76; 3-10-82; Ord. 8-11-93; Ord. 96-11(1), 11-13-96, § 11-21; Code 1988, § 11-21; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-304 Revocation of license.

The Director of Finance may revoke any license issued pursuant to this article upon the failure of the licensed person to comply with any requirement of this article. When the Director revokes a license, there shall be no refund of any license fee or tax already paid.

(3-15-73; § 13, 66; Ord. 96-11(1), 11-13-96, §§ 11-19, 11-20; Code 1988, § 11-20; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3700.

Division 4. Determining Gross Receipts

Sec. 8-400 Reporting gross receipts or purchases.

Each person subject to a license tax shall report the amount of gross receipts or (in the case of wholesalers or wholesale merchants) purchases as provided herein:

- A. *Reporting due by March 1; generally.* Except as provided in subsection (B), each person whose license is measured by gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall report to the Director of Finance, not later than March 1 of the license year, the amount of his gross receipts or (in the case of wholesalers or wholesale merchants) purchases for the preceding license year.
- B. *Reporting due following each calendar quarter; certain motor vehicle dealers.* Each motor vehicle dealer who separately states the amount of the license tax applicable to each sale of a motor vehicle and adds such tax to the sales price of the motor vehicle shall report to the Director on or before the twentieth day of the month following the close of each calendar quarter his gross receipts, trade-in allowances, and taxes collected from the sale of motor vehicles.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; Code 1988, § 11-13; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-401 Estimated gross receipts or purchases because of failure to report.

If a person fails to report the amount of his gross receipts or to supply other requested information as provided herein, the Director of Finance shall estimate the taxpayer's gross receipts or (in the case of wholesalers or wholesale merchants) purchases on the basis of the best evidence he can obtain, and shall make an assessment on the basis of that determination.

(3-15-73; § 8; 3-10-82; 5-11-83; 4-20-88; Ord. of 3-20-91; Ord. 96-11(1), 11-13-96, § 11-13; Code 1988, § 11-13; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3903.

Sec. 8-402 Estimated gross receipts or purchases for beginning business.

Each person beginning a business which is subject to a license tax pursuant to this article that is based in whole or in part on gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall estimate the amount of the gross receipts he will receive or (in the case of wholesalers or wholesale merchants) the purchases he will make between the date of beginning business and the end of the then current license year, and his license tax for the then current year shall be computed on that estimate.

- A. *Amending the estimate.* The Director of Finance may, at any time he determines appropriate, require any person to amend his estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases.
- B. *Correcting an erroneous estimate.* The Director may require any person who provides an erroneous estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases to correct it.
- C. *Credit when overestimate.* The Director shall provide to each person who overestimates gross receipts or (in the case of wholesalers or wholesale merchants) purchases a credit upon his license tax payable the following year.

(3-15-73, § 9; Ord. 96-11(1), 11-13-96, § 11-9; Code 1988, § 11-9; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3703.1.

Sec. 8-403 Amounts excluded from gross receipts.

For purposes of determining a license tax, gross receipts shall not include any exclusion or deduction listed in Virginia Code § 58.1-3732, and shall be subject to all limitations of Virginia Code § 58.1-3732.2.

(3-15-83, § 65; 6-13-73; 5-15-75; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-18; Ord. 97-11(1), 5-7-97, § 11-18; Code 1988, § 11-18; Ord. 98-A(1), 8-5-98; Ord. 07-8(1), 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1-3732, 58.1-3732.2.

Sec. 8-404 Amounts deducted from gross receipts or purchases.

For purposes of determining a license tax, the following shall be deducted from a person's gross receipts or (in the case of wholesalers or wholesale merchants) purchases:

- A. *Definite place of business in another locality.* The gross receipts or (in the case of wholesalers or wholesale merchants) purchases attributable to any definite places of business of the person in any other locality.
- B. *Exclusions for nonprofit organizations.* Those receipts, contributions, and membership dues for nonprofit organizations excluded from local license taxation pursuant to Virginia Code § 58.1-3703(C)(18).

(3-15-83, § 65; 6-13-73; 5-15-75; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-18; Ord. 97-11(1), 5-7-97, § 11-18; Code 1988, § 11-18; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 58.1-3708(B), 58.1-3732.

Division 5. License Tax and License Fee

Sec. 8-500 Levy of license tax.

For each and every year beginning with January 1 of each year and ending December 31 following, unless otherwise expressly excepted in this article, and until otherwise changed, an annual license tax is hereby levied on each person who is: (i) required to obtain a license; and (ii) whose gross receipts in the County in a license year from a business subject to licensure are equal to or greater than \$100,000.00. The Director of Finance shall collect the annual license tax.

(3-15-73, § 3; Ord. 96-11(1), 11-13-96, § 11-3; Code 1988, § 11-3; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3703(A)

Sec. 8-501 License fee.

Each person who is required to obtain a license but not required to pay a license tax based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases, shall pay a license fee of \$50.00. The license fee must be paid with the license application.

(Ord. 96-11(1), 11-13-96, § 11-4.2; Code 1988, § 11-4.2.; Ord. 98-A(1), 8-5-98; Ord. 16-8(1), 7-13-16)

State law reference-Va. Code § 58.1-3703(A).

Sec. 8-502 Collection fees on delinquent license tax.

The collection fees provided in Chapter 15 shall apply to each person chargeable pursuant to this chapter having delinquent taxes or other delinquent charges.

(Ord. 94-11(2), 11-2-94; Ord. 96-11(1), 11-13-96, § 11-22.1; Code 1988, § 11-22.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3958.

Division 6. Correcting Tax Assessments

Sec. 8-600 Omitted license taxes.

The Director of Finance shall list and assess omitted license taxes pursuant to Virginia Code § 58.1-3903.

(3-15-73, §§ 16, 18, 19; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-15; Code 1988, § 11-15; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3903.

Sec. 8-601 Correcting an erroneous assessment.

The Director of Finance shall correct any erroneous license tax assessments pursuant to Virginia Code § 58.1-3981.

(3-15-73, § 17; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-16; Code 1988, § 11-16; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3981.

Sec. 8-602 Correcting an assessment based on estimated gross receipts or purchases.

Each person subject to County Code § 8-402 who provides an estimate of gross receipts or (in the case of wholesalers or wholesale merchants) purchases is obligated to correct the estimate when actual gross receipts or (in the case of wholesalers or wholesale merchants) purchases are available. The Director of Finance shall adjust the person's estimated tax liability to actual liability at the conclusion of the base year, and assess the person with any additional license tax found to be due after the end of the base year, and shall at the same time correct the estimate for the then current license year, until a full year of operation has been completed.

(3-15-73, § 9; Ord. 96-11(1), 11-13-96, § 11-9; 3-15-73, § 7; 4-21-76; 3-10-82; 4-13-88; 4-20-88; Ord. 3-20-91; Ord. 94-11(9), 8-3-94; Ord. 96-11(1), 11-13-96, § 11-12; Code 1988, § 11-12; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3703.1.

Sec. 8-603 Refund of license tax if business terminated.

Any person whose license tax is based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases shall be entitled to a refund if the person goes out of business before the end of the current license year, subject to Virginia Code § 58.1-3710 and all of the following:

- A. *License tax based on gross receipts or purchases for preceding year.* The license tax for the current license year shall be based on gross receipts or (in the case of wholesalers or wholesale merchants) purchases obtained throughout the preceding calendar or fiscal year.
- B. *Going out of business not connected with violation of law.* The reason for going out of business is connected in any manner with the violation of any State law or local ordinance or of the violation of any rules and regulations made pursuant thereto.
- C. *When interest on refund allowed.* A person is entitled to interest on the refund of a license tax pursuant to this section, provided that the refund is made ~~not~~ more than 30 days after: (i) the date of the payment that created the source of refund; or (ii) the date of the person's application for a refund, whichever is later. Interest on the refund shall be paid at the rate of 10 percent per year.
- D. *County may apply refund to other indebtedness.* If a person seeking a refund is indebted to the County or any department or office thereof, or is indebted to any State constitutional office of the County for a local levy, the refund, or so much the refund as is necessary, shall first be applied to such indebtedness.

(3-15-73, § 17; 4-21-76; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-16; Code 1988, § 11-16; Ord. 98-A(1), 8-5-98; Ord. 17-8(2), 8-2-17)

State law reference--Va. Code § 58.1-3703.1.

Division 7. Schedule of Taxes

Sec. 8-700 Bondsmen.

Each person who, for compensation, enters into any bond or bonds for others, whether as a principal or surety, shall obtain a revenue license in the amount of \$150.00, which shall not be prorated or transferred. Except as otherwise provided in this section, bondsmen's licenses shall be subject to Virginia Code § 58.1-3724.

(Ord. 96-11(1), 11-13-96, § 11-31; Code 1988, § 11-31; Ord. 98-A(1), 8-5-98; Ord. 07-8(1), 10-3-07, effective 1-1-08)

State law reference-Va. Code §§ 58.1-3724

Sec. 8-701 Savings institutions and State-chartered credit unions.

Each savings institution or State-chartered credit union having its main office in the County is subject to a license tax of \$50.00.

(3-15-73, § 46; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-32; Code 1988, § 11-32; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3730.

Sec. 8-702 Contractors.

Each contractor, as defined in Virginia Code § 58.1-3714, is subject to a license tax as follows:

- A. *Amount.* The license tax is \$0.16 for each \$100.00 of gross receipts from the business conducted during the preceding fiscal or calendar year. The gross receipts shall include all of the work done by the contractor, whether it was done by contract, subcontract, day labor, or time and material.
- B. *When license tax or license fee paid to another locality; exemption and exceptions.* Each contractor who has paid a local license tax or license fee to another locality in which his principal office or branch office is located is exempt from obtaining a license and from paying the applicable license tax or fee to this the County, as provided in County Code §§ 8-500 and 8-501, for conducting business within the County unless:
 - 1. *Amount of business in County exceeds \$25,000 but is less than \$100,000.* The amount of business done by the contractor in the County exceeds \$25,000.00 but is less than \$100,000.00, in which case the contractor is subject to the license fee provided in County Code § 8-501; or

2. *Amount of business in County is equal to or greater than \$100,000.* The amount of business done by the contractor in the County is equal to or greater than \$100,000.00, in which case the contractor is subject to the license tax provided in County Code § 8-500 at the rate established in subsection (A). The amount of business done in the other locality in which the license tax or fee is paid may be deducted by the person from the gross receipts reported to this County.

- C. *Reporting.* The Director of Finance is authorized to require periodic reports as he deems necessary of all persons claiming exemption under subsection (B).

(3-10-82; Ord. 96-11(1), 11-13-96, § 11-55; Code 1967, § 44-14; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-58; Code 1988, §§ 11-55, 11-58; Ord. 98-A(1), 8-5-98; Ord. 16-8(1), 7-13-16)

State law reference-Va. Code §§ 58.1-3706(A)(1), 58.1-3714, 58.1-3715.

Sec. 8-703 Pawnbrokers; limitation on number of licenses issued in County.

The Director of Finance shall not issue licenses for the operation of more than 10 pawnshops in the County. The Director shall notify the County Sheriff of each license issued for a pawnshop.

(3-15-73, § 38; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-40; Code 1988, § 11-40; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 54.1-4000.

Sec. 8-704 Public service corporations.

Each telephone, telegraph, water, heat, light, or power company (except electric suppliers, gas utilities and gas suppliers as defined in Virginia Code § 58.1-400.2 and pipeline distribution companies as defined in Virginia Code § 58.1-2600) is subject to a license tax of one-half of one percent on the gross receipts of the company accruing from sales to the ultimate consumer in the County, subject to allowable deductions provided by State law. The charges for long distance telephone calls shall not be included in gross receipts of any telephone company for purposes of license taxation.

(3-10-82; Ord. 96-11(1), 11-13-96, § 11-46.1; Code 1988, § 11-46.1; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3731.

Sec. 8-705 Amusement machines.

A license tax of \$200 is hereby imposed for the operation of ten or more coin-operated amusement machines. For the operation of less than ten coin-operated amusement machines, a license tax of \$100 is hereby imposed on the operator. The term "amusement operator" shall be as defined in and limited by Virginia Code 58.1-3720. Notwithstanding the situs requirements of Virginia Code § 58.1-3707, the license tax is imposed on the amusement operator when his coin-operated machines are located in this County. In addition:

- A. *Gross receipts tax imposed.* A gross receipts tax is hereby imposed on any amusement operator, as defined in Virginia Code § 58.1-3720, on the share of the receipts actually received by the operator from coin machines operated in the County, subject to the limitations in Virginia Code § 58.1-3706.
- B. *Exemption.* The license tax imposed by this section does not apply to any coin-operators exempt under Virginia Code § 58.1-3721.

State law reference-Va. Code §§ 58.1-3720, 58.1-3721.

Sec. 8-706 Carnivals and circuses.

Each carnival or circus is subject to a license tax of \$500.00 per day of operation; provided that each circus or carnival which is sponsored by a local nonprofit organization operated for charitable and benevolent purposes is subject to a license tax of \$25.00 per day of operation.

- A. *When license tax is to be paid.* The license tax shall be paid in full when the carnival or circus applies for a license for all of the days the carnival or circus will operate in the County.
- B. *Amateur carnivals and circuses not subject to license tax; license required.* Each carnival or circus which is produced, operated, or owned primarily by amateurs who are residents of the County or of the City of Charlottesville, and the gross income of which inures exclusively to the benefit of a school, church, or fire department, or of any locally sponsored nonprofit organization operated for charitable and benevolent purposes, shall not be subject to any license tax. However, the carnival or circus shall apply for and receive a license pursuant to this chapter.
- C. *Amusement rides included within scope of license.* Any license issued pursuant to this section includes the operation of ferris wheels, merry-go-rounds, and other amusement rides.

(10-17-68; 2-18-71; 4-21-76; 11-14-79; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-49; Code 1988, § 11-49;

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

State law reference--Va. Code § 58.1-3728.

Sec. 8-707 Fortunetellers, clairvoyants and practitioners of palmistry or phrenology.

Each person who, for compensation, pretends to tell fortunes or assume to act as a clairvoyant or to practice palmistry or phrenology, is deemed a fortune-teller, and is subject to a license tax of \$500.00 per year. Any person who engages in business as a fortune-teller without the license required shall be guilty of a Class 3 misdemeanor.

(Code 1967, § 11-6; Ord. 96-11(1), 11-13-96, § 11-51; Code 1988, § 11-51; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3726.

Sec. 8-708 Peddlers and itinerant merchants.

Each peddler or itinerant merchant is subject to a license tax of \$500.00 per year; provided that each peddler or itinerant merchant who sells or offers for sale in person or by their employees meats, milk, butter, eggs, poultry, game, vegetable, fruits, or other edible family supplies of a perishable and edible nature is subject to a license tax of \$50.00 per year. Except as otherwise provided in this section, Virginia Code §§ 58.1-3717 and 58.1-3719 apply.

(3-15-73, § 33; 4-13-88; Ord. of 3-20-91; Ord. 96-11(1), 11-13-96, § 11-60; Code 1988, § 11-60; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3717.

Sec. 8-709 Show and sale.

Each person engaged in show and sale is subject to a license tax as follows:

- A. *Seven day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a seven day period is subject to a license tax of \$50.00.
- B. *Thirty day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a 30 day period is subject to a license tax of \$150.00.
- C. *Three hundred sixty-five day period.* Each person engaged in a show and sale for an unspecified number of shows and sales within a 365 day period is subject to a license tax of \$600.00.
- D. *Sponsorship.* Any County resident, County business, or nonprofit community organization may act as a sponsor for a show and sale after obtaining the required license.
- E. *License is in lieu of itinerant merchant's license.* A license issued for a show and sale is in lieu of an itinerant merchant's license which would be otherwise required of any seller who participated in the show and sale under the sponsorship of a person or organization described in subsection (D).
- F. *Show and sale defined.* For purposes of this article, the term "show and sale" means an offering of goods at a specific location by exhibitors who do not have established places of business in the County and who would otherwise be classified as itinerant merchants.

(9-10-80; Ord. 96-11(1), 11-13-96, § 11-60.1; Code 1988, § 11-60.1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 58.1-3717.

Sec. 8-710 Peddlers at wholesale.

Each peddler at wholesale is subject to the same license tax rate as imposed under County Code § 8-714 on a wholesale merchant selling similar goods, wares, or merchandise in the County at one definite place of business. Except as otherwise provided in this section, Virginia Code §§ 58.1-3718 and 58.1-3719 apply to peddlers at wholesale.

(3-15-73, § 39; 4-13-88; Ord. 3-20-91; Ord. 96-11(1), 11-13-96, § 11-62; Code 1988, § 11-62; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3718.

Sec. 8-711 Financial, real estate, and professional services.

Each person engaged in a financial, real estate, or professional service is subject to a license tax of \$0.58 for each \$100.00 of gross receipts.

Financial, real estate, and professional services include, but are not limited to, those services identified in 23 VAC 10-500-390, 23 VAC 10-500-430, and 23 VAC 10-500-450, respectively.

(Ord. 96-11(1), 11-13-96, § 11-65; Ord. 97-11(1), 5-7-97, § 11-65; Code 1988, § 11-65; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3706(A)(3); 23 VAC 10-500-380, 390, 430, 450.

Sec. 8-712 Repair, personal, business, and other services.

Each person engaged in a repair, personal, business, or other service is subject to a license tax of \$0.36 for each \$100.00 of gross receipts.

- A. *Classification includes any services not financial, real estate, or professional.* Any services that are not classified as financial, real estate, or professional are classified as “repair, personal, business, and other services”.
- B. *Services within this classification.* Repair, personal, business, and other services include, but are not limited to, those services listed in 23 VAC 10-500-500.

(3-15-73, §§ 39.1, 53; 4-21-76; 3-10-82; 11-14-84; 4-13-88; Ord. 96-11(1), 11-13-96, § 11-66; Code 1988, § 11-66; Ord. 98-A(1), 8-5-98; Ord. 00-8(1), 10-11-00; Ord. 17-8(1), adopted 6-14-17, effective 8-1-17)

State law reference-Va. Code §§ 58.1-3706; 23 VAC 10-500-500.

Sec. 8-713 Retail sales.

Except as provided in subsection (A) and in Virginia Code § 58.1-3706(E), each person engaged as a retailer or retail merchant is subject to a license tax of \$0.20 for each \$100.00 of gross receipts.

- A. *Direct retail sales; lower rate.* Each person engaged as a retailer or retail merchant is subject to a license tax of \$0.10 for each \$100.00 of gross receipts for direct retail sales.
- B. *Direct retail sale defined.* For purposes of this section, a “direct retail sale” means a retail sale made to a remote buyer ordering by telephone, internet, or mail, in which the item(s) sold is/are shipped by common carrier or by the U.S. Postal Service.

(3-15-73, § 55; 4-21-76; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-68; Code 1988; § 11-68; Ord. 98-A(1), 8-5-98; Ord. 06-8(1), adopted 5-3-06, effective 1-1-07; Ord. 07-8(1), adopted 10-3-07, effective 1-1-08; Ord. 17-8(2), 8-2-17)

State law reference-Va. Code § 58.1-3706(A)(2).

Sec. 8-714 Wholesale sales.

Except as provided in Virginia Code § 58.1-3703(C) each person engaged as a wholesaler or wholesale merchant is subject to a license tax of five cents for each \$100.00 of purchases.

(3-15-73, § 56; 3-10-82; Ord. 96-11(1), 11-13-96, § 11-69; Code 1988, § 11-69; Ord. 98-A(1), 8-5-98)

State law reference-Va. Code § 58.1-3716.

Sec. 8-715 Renting houses, apartments, or commercial property.

Each person engaged in the business of renting houses, apartments or commercial property in the County is subject to a license tax of \$0.20 for each \$100.00 of gross receipts from the rental of all commercial establishments, apartment units, or dwelling units. ~~B.~~ For purposes of this section, the following definitions apply:

- A. *Business of renting houses and apartments defined.* “Business of renting houses and apartments” means the rental of a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, boardinghouses, rooming houses, or other facilities offering guest rooms rented out for continuous occupancy for fewer than thirty (30) consecutive days.
- B. *Dwelling units defined.* “Dwelling units” means one or more rooms in a dwelling house or apartment designed for occupancy by one family for living purposes and having cooking facilities.

(3-15-73, § 61; 5-15-75; Ord. 96-11(1), 11-13-96, § 11-71; Code 1988, § 11-71; Ord. 98-A(1), 8-5-98; Ord. 17-8(1), adopted 6-14-17, effective 8-1-17)

State law reference-Va. Code § 58.1-3703(C)(7).

Sec. 8-716 Federal research and development contractors.

Each person, person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of: (i) computer and electronic systems; (ii) computer software; (iii) applied sciences; (iv) economic and social sciences; and (v) electronic and physical sciences

in the County is subject to a license tax of three cents per \$100.00 of the federal funds received in payment of the contracts upon documentation provided by the person, firm, or corporation to the Director of Finance confirming the applicability of this section.

(Ord. 16-8(1), 7-13-16)

State law reference-Va. Code § 58.1-3706(D)(1).

Article 2. Other Licenses

Sec. 8-800 Alcoholic beverages.

Pursuant to and subject to Virginia Code § 4.1-205, a County license tax is hereby imposed on persons licensed by the Virginia Alcoholic Beverage Control Board to manufacture, bottle, or sell alcoholic beverages in the County, except for temporary licenses authorized by Virginia Code § 4.1-211.

A. *Tax rates.* The following annual tax rates shall apply:

1. *Distiller's license.* For each distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750.00; if more than 36,000 gallons manufactured during such year, \$1,000.00; and no license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits or both during the license year.
2. *Winery license.* For each winery license, \$50.00.
3. *Brewery license.* For each brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250.00, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000.00.
4. *Beer bottler's license.* For each beer bottler's license, \$500.00.
5. *Wholesale beer license.* For each wholesale beer license, \$75.00.
6. *Wholesale wine license.* For each wholesale wine license, \$50.00.
7. *Retail wine and beer license.* For each retail on-premises wine and beer license for a hotel, restaurant, or club, and for each retail off-premises wine and beer license, \$37.50.
8. *Retail beer license.* For each retail on-premises beer license for a hotel, restaurant or club, and for each retail off-premises beer license, \$25.00.
9. *Fruit distiller's license.* For each fruit distiller's license, \$500.00.
10. *Mixed beverage restaurant license.* For each mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons, the tax is:
 - a. \$200.00 for areas seating 50 to 100.
 - b. \$350.00 for areas seating 100 to 150 persons.
 - c. \$500.00 for areas seating more than 150 persons.
 - d. \$350.00 for private, nonprofit clubs operating a restaurant located on the premises of those clubs.

B. *State license required for County license to issue.* No County license shall be issued pursuant to this chapter to any person who does not hold or secure simultaneously the proper State license.

C. *Beer defined.* For purposes of this section, the term "beer" is defined as it is in Virginia Code § 4.1-100.

(3-15-73, § 25; 4-21-76; Ord. 96-11(1), 11-13-96, § 11-27; Code 1988, § 11-27; Ord. 98-A(1), 8-5-98; Ord. 14-8(1), 9-3-14; Ord. 15-8(1), 7-1-15; Ord. 16-8(1), 7-13-16)

State law reference-Va. Code §§ 4.1-205, 4.1-233.

Sec. 8-801 Going-out-of-business sales.

Any person who is advertising or conducting a sale for the purpose of discontinuing a retail business, or is modifying the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, must first obtain a special sale permit from the Director of Finance pursuant to Virginia Code § 18.2-223, and must comply with Virginia Code § 18.2-224. The fee for each special sale permit is \$65.00.

State law reference-Va. Code § 18.2-223 and § 18.2-224.

Item No. 8.2. Community Development Block Grant.

The Executive Summary forwarded to the Board states that Albemarle County received a CDBG Planning Grant to support preliminary design work for the redevelopment of the Southwood Mobile Home Park. The grant requires that the County complete a number of actions necessary to apply for and receive a future CDBG construction grant. The use of CDBG funds is considered a “federal action,” which requires that the local governing body receiving the funds adopt and comply with several regulations, both general assurances and those specific to the proposed project.

The following Plans and Certifications are general requirements.

Non-Discrimination Policy - The County has adopted a policy on Equal Opportunity which can be found in the County's Personnel Policy Manual (P-21). Attachment A is a certification consistent with the County's current policy that it will not discriminate against the listed protected classes.

Local Business and Employment Plan - The County must approve a plan to designate the project area boundaries for the purpose of utilizing, to the greatest extent possible, businesses and lower-income residents located in the project area to carry out the CDBG-funded activities. The proposed Plan (Attachment B) designates the entire County as the project area and requires that the public be notified of this through publication of an advertisement in a local, widely-circulated newspaper. While the Plan can cover any project, the ad soliciting Section 3 businesses and individuals will be project-specific.

Fair Housing Certification - This certification (Attachment C) states that the County will take at least one action annually to affirmatively further fair housing. The action must be from a list of VDHCD-approved actions or must otherwise be approved by the VDHCD.

Section 504 Complaint Procedures - The County has previously adopted and published the County's intent to comply with Section 504 regarding handicapped accessibility. The Director of Human Resources is designated as the Section 504 Coordinator. The County is also required to have a procedure for any complaint related to Section 504. Attachment D is a revised complaint procedure which identifies responsibilities by positions rather than specific individuals. As noted, this procedure is specific to federally- funded housing and community development programs.

The following Certification is project-specific but cannot be completed until the project design is completed and the impact on existing residential units is known. It is being provided for information only at this time.

Residential Anti-Displacement and Relocation Assistance Plan Certification (Attachment E) - This certification states that the County will notify the public and advise the State in the event that a CDBG-funded activity will result in the demolition or conversion of residential units. Furthermore, should displacement occur, the County and/or the development owners will provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

There are no budget impacts associated with the approval of these items. The cost of the required Local Business and Employment Plan advertisement is a CDBG grant-eligible expenditure, which is reimbursable upon the execution of the CDBG contract.

Staff recommends that the Board: 1) approve the Local Business and Employment Plan (Attachment B) and the Section 504 Complaint Procedure (Attachment D); and 2) authorize the County Executive to execute the Non-Discrimination Policy (Attachment A), the Local Business and Employment Plan (Attachment B), and the Fair Housing Certification (Attachment C).

By the above-recorded vote, the Board approved the Local Business and Employment Plan and Section 504 Complaint Procedure, and authorized the County Executive to execute the Non-Discrimination Policy, the Local Business and Employment Plan and the Fair Housing Certification:

LOCAL (SECTION 3) COUNTY BUSINESS AND EMPLOYMENT PLAN

ATTACHMENT B

1. The *County of Albemarle* designates as its Local (Section 3) County Business and Employment Project Area the County of Albemarle.
2. The *County of Albemarle*, its contractors, and designated third parties shall in utilizing Community Improvement Grant (CIG) funds utilize businesses and lower income residents of the Local (Section 3) County in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for construction, non-construction, materials, and supplies the *County of Albemarle*, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the Local (Section 3) County are:
 - (a) The *County of Albemarle* shall identify the contracts required to conduct the CIG activities.
 - (b) The *County of Albemarle* shall identify through various and appropriate sources including:

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the business concerns within the Local (Section 3) County which are likely to provide construction contracts, non-construction contracts, materials, and services which will be utilized in the activities funded through the CIG.
 - (c) The identified contractors and suppliers shall be included on bid lists used to obtain bids, quotes or proposals for work or procurement contracts which utilize CIG funds.
 - (d) To the greatest extent feasible the identified business and any other project area business concerns shall be utilized in activities which are funded with CIGs.
4. The *County of Albemarle* and its contractors and subcontractors shall take the following steps to encourage the hiring of lower income persons residing in the Local (Section 3) County:
 - (a) The *County of Albemarle* in consultation with its contractors (including design professionals) shall ascertain the types and number of positions for both trainees and employees which are likely to be used to conduct CIG activities.
 - (b) The *County of Albemarle* shall advertise through the following sources

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the availability of such positions with the information on how to apply.
 - (c) The *County of Albemarle*, its contractors, and subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements, and shall maintain a record of the status of such inquiries and applications.
 - (d) To the greatest extent feasible, the *County of Albemarle*, its contractors, and subcontractors shall hire lower income project area residents in filling training and employment positions necessary for implementing activities funded by CIGs.
5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1968*, the *County of Albemarle* shall keep, and obtain from its contractors and subcontractors, *Registers of Contractors, Subcontractors and Suppliers* and *Registers of Assigned Employees* for all activities funded by CIGs. Such listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

SECTION 504 COMPLAINT PROCEDURE

For Federally-funded Housing and Community Development Programs

The County of Albemarle has adopted the following complaint procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Department of Housing and Urban Development's (HUD) 24CFR 8.53(b) implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794). Section 504 states, in part, that "no otherwise qualified handicapped individual . . . shall solely be reason of his handicap, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. . . ."

Complaints regarding alleged discrimination in the implementation of Community Development Block Grant funded programs should be addressed to: Director of Community Development, 401 McIntire Road, Charlottesville, VA 22902, who shall assist the designated Section 504 Coordinator with Section 504 compliance efforts.

1. A complaint should be filed in writing or verbally containing the name and address of the person filing it and briefly describing the alleged violation of the regulations.
2. A complaint should be filed within **fifteen (15) days** after the complainant becomes aware of the alleged violation. Alleged violations occurring prior to the adoption of this complaint procedure will be handled on a case-by-case basis.
3. An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the Section 504 Coordinator or his/her designee in a manner that is informal but thorough allowing opportunities for all parties to submit evidence relative to the complaint.
4. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by the Section 504 Coordinator and/or the Director of Community Development and a copy forwarded to the complainant no later than **forty-five (45) days** after its filing.
5. The Section 504 Coordinator shall maintain the files and records of the County of Albemarle related to the complaints filed.
6. The complainant can request reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within **ten (10) days** and addressed to County Executive, 401 McIntire Road, Charlottesville, VA 22902.
7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as filing of a Section 504 complaint with HUD. Utilization of this complaint procedure is not a prerequisite to the pursuit of other remedies.
8. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the County of Albemarle complies with Section 504 and HUD regulations.

Non-Discrimination Policy

ATTACHMENT A

The *County of Albemarle* or any employee thereof will not discriminate against an employee or applicant for employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability. Administrative and personnel officials will take affirmative action to insure that this policy shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training.

FAIR HOUSING CERTIFICATION

ATTACHMENT C

Fair Housing Certification

Compliance with Title VIII of the Civil Rights Act of 1968

Whereas, the *County of Albemarle* has been offered and intends to accept federal funds authorized under the Housing and Community Development Act of 1974, as amended, and

Whereas, recipients of funding under the Act are required to take action to affirmatively further fair housing;

Therefore, the *County of Albemarle* agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its project funded with Community Development Block Grant funds. The action taken will be selected from a list provided by the Virginia Department of Housing and Community Development.

Item No. 8.3. B201900219AI Monticello High School Stadium Lighting Special Exceptions.

The Executive Summary forwarded to the Board states that the applicant requests special exceptions (SE) for the replacement of six lighting fixtures on existing light poles at Monticello High School's athletic stadium (see Attachment A). The athletic stadium lighting was initially installed before the County adopted the lighting ordinance (County Code § 18-4.17) in 1998 and is non-conforming. The lighting ordinance requires that the replacement of non-conforming lighting comply with current regulations. The requested special exceptions will bring the lighting into compliance. This lighting has been installed prior to permit and special exception approval.

1. SE request to waive the outdoor lighting standards requiring the use of full cutoff luminaires for outdoor lighting at an existing athletic facility, pursuant to County Code §18-4.17.5; and
2. SE request to modify (increase) the maximum permissible height for existing poles supporting outdoor luminaires at an athletic facility from sixty-five (65) feet to eighty (80) feet for existing light poles, pursuant to County Code §18-4.17.5.

Please see Attachment B for full details of staff's analyses and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the two special exceptions with the conditions of approval specified therein.

By the above-recorded vote, the Board adopted the following Resolution to approve the two special exceptions with the conditions of approval specified therein:

RESOLUTION TO APPROVE SPECIAL EXCEPTIONS TO MODIFY AND WAIVE OUTDOOR LIGHTING REQUIREMENTS FOR B201900219AI MONTICELLO HIGH SCHOOL STADIUM LIGHTS

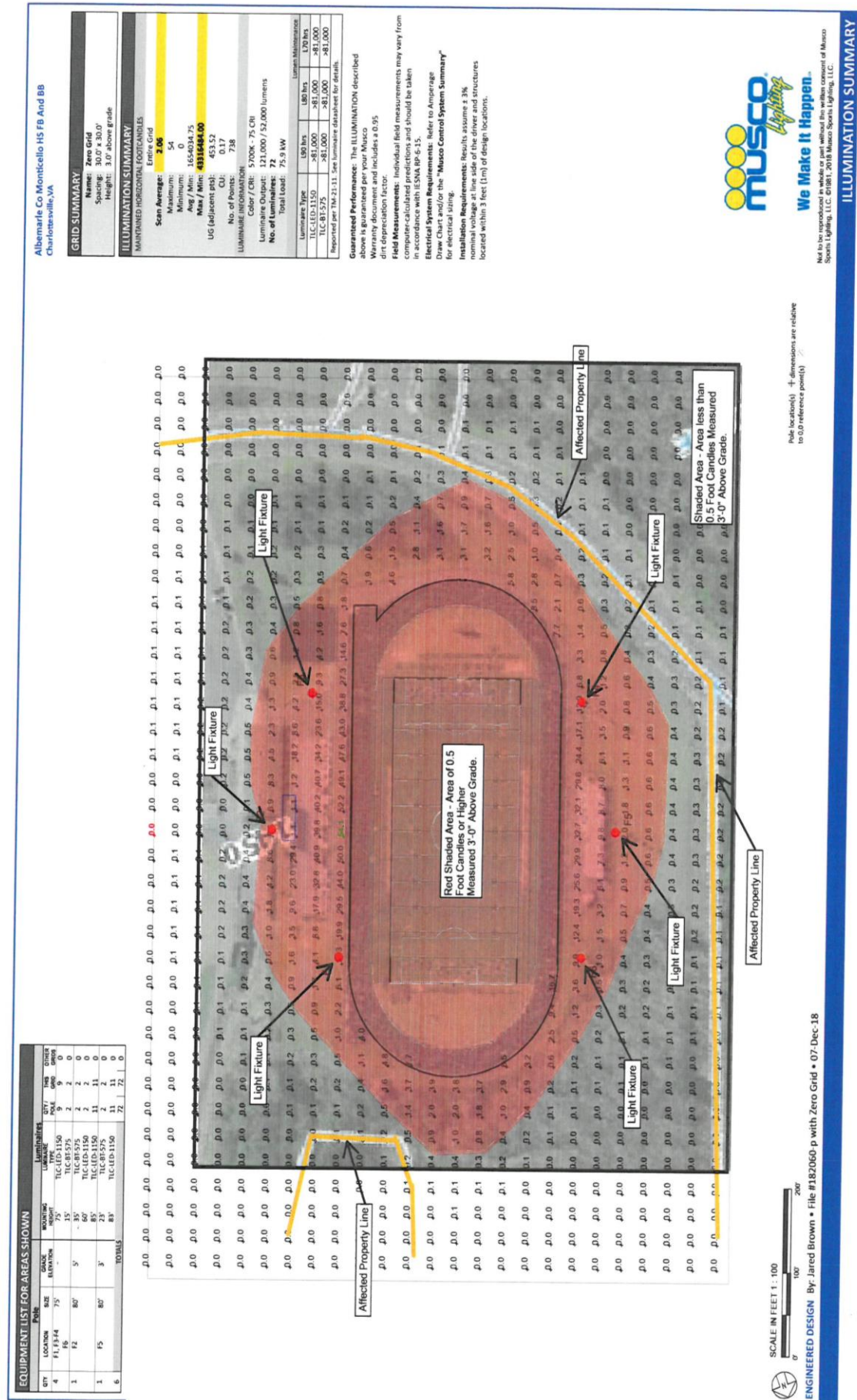
WHEREAS, the Owner of Tax Map Parcel 09100-00-00-00200 (the "Property") submitted a request for two special exceptions in conjunction with B201900219AI Monticello High School Stadium lights to waive the outdoor lighting standards requiring the use of full cutoff luminaires for the proposed outdoor lighting at an athletic facility, and to modify (increase) the maximum permissible height for proposed poles supporting outdoor luminaires at an athletic facility, as shown on the pending plans under review by the County's Department of Community Development.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception requests and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-4.17.5 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exceptions for B201900219AI Monticello High School Stadium lights as described above, subject to the condition(s) attached hereto.

* * *

B201900219Al Monticello High School Stadium Lights – Special Exception Conditions

1. The maximum permissible height of the poles supporting outdoor luminaires at the Monticello High School athletic facility shall be eighty (80) feet.
2. All outdoor lighting shall meet the specifications included on the Illumination Summary sheet provided by Musco Lighting dated December 7, 2018.



Item No. 8.4. Acquisition of Conservation Easements (ACE) Ranking Order for FY18-19 Applicant Class.

The Executive Summary forwarded to the Board states that pursuant to sections A.1-110(G) and A.1-110(H) of the ACE Ordinance, the Board of Supervisors reviews the list of parcels ranked by the ACE Committee and identifies parcels on which it desires to acquire conservation easements. Each conservation easement identified by the Board for purchase is appraised by an independent appraiser chosen by the County.

On October 31, 2018, six new applicants enrolled in the FY18-19 applicant class. Staff recently evaluated each of the properties from this applicant pool according to the ACE Ordinance ranking evaluation criteria. These objective criteria include: open space resources; threat of conversion to developed use; natural, scenic and cultural resources; and County fund leveraging from outside sources. Based on the results of the evaluation, staff has determined the eligibility of the properties and has ranked them in order (see Attachments A and B). These results were presented to the ACE Committee, which unanimously approved the proposed ranking at its March 11, 2019 meeting.

Of the six properties that recently enrolled:

- one did not score enough points to reach the eligibility threshold (McKie),
- another is ineligible because it is a commercial property with plans for further expansion (Camp Holiday Trails), and
- a third withdrew because the owners did not agree to mandatory stream buffers and livestock exclusion (Rudeen Land Trust).

This left three properties that scored enough points to be eligible for ACE funding (JD Land Holdings, Edelberg, and Harlow). With an estimated \$831,012 of County funding available for this class (following the acquisition of FY17-18 easements), the County should have sufficient funding to acquire easements on all three properties. Therefore, the ACE Committee recommends that the Board authorize appraisals of the JD Land Holdings, Edelberg, and Harlow properties.

The acquisition of easements on these three properties would eliminate 12 development rights and would protect:

- 1) 421 acres of farm and forestland
- 2) approximately 16,000 feet of riparian buffers, including 5,700 on the Hardware River
- 3) 356 acres of "prime" farm and forestland
- 4) 2 properties that are within 1/4 mile of land currently under easement
- 5) 2 properties that are in a Rural Historic District
- 6) 3 properties that are working family farms or forestland
- 7) 1 property that faces economic hardship and threat of development
- 8) 1 property that has an important natural heritage resource worthy of protection

If the County acquires all three (3) ACE easements from last year's applicant pool, it will leave approximately \$831,012 to acquire new easements from the FY18-19 pool. This amount of funding reflects a combination of re-appropriated County funds and grants awarded from the VDACS Office of Farmland Preservation (OFP). OFP holds the County's grant money until the County submits for reimbursement for 50% of the acquisition, appraisal, and closing costs. Funding for the purchase of these conservation easements would come from the CIP-Community Development-Conservation budget (line-item 4 -9010-81010-481020-580409-1240).

The ACE Committee and staff recommend that the Board: 1) Approve the final ranking order for the FY18-19 applicant pool as shown on Attachments A and B; 2) Authorize appraisals of the following properties: JD Land Holdings, Edelberg, and Harlow.

By the above-recorded vote, the Board approved the final ranking order for the FY18-19 applicant pool, as set out below and authorized appraisals of the following properties: JD Land Holdings, Edelberg, and Harlow.

Ranking Order of ACE Applicants from FY18-19

(20 points are needed to qualify for ACE Funding)

Enrollment Date: October 31st, 2018

Applicant	Tax Map	Acres	Tourism	Points	Status
J.D. Land Holdings (Keene)	TM 113, Parcel 11A	300.00 acres	no	38.30	eligible
Edelberg, Zach (Barboursville)	TM 37, Parcel 5B3	18.00 acres	yes	24.69	eligible
	TM 37, Parcel 5B5	53.58 acres			
	Total	71.58 acres			
Harlow, Larry (Old Lynchburg Road)	TM 89, Parcel 87	49.69 acres	no	20.00	eligible
<hr/>					
Rudeen Land Trust (Buck Mountain)	TM 17, Parcel 35F	28.19 acres	no	32.94	<i>withdrawn</i>
	TM 17, Parcel 35F2	2.01 acres			
	TM 17, Parcel 39	14.35 acres			
	Total	44.55 acres			
Camp Holiday Trails (Ragged Mountain Reservoir)	TM 75, Parcels 47C	70.38 acres	yes	26.22	<i>ineligible</i>
McKie, Martin (Keswick)	TM 81, Parcel 11D	32.20 acres	yes	10.16	<i>ineligible</i>
Totals	6 properties	568.40 acres			

Notes:

- 1) Tourism funds (the hotel tax) are available for properties with “tourism value”, which is determined by the presence of specific elements from the ranking evaluation criteria that have tourism value, including: contains historic resources or lies in a historic district; lies in the primary Monticello viewshed; adjoins a Virginia scenic highway, byway or entrance corridor; lies on a state scenic river; provides mountaintop protection.
- 2) Over the last few years, easements have typically been 20-35% of appraised land value depending on location, suitability for development, and retained building and development rights.

Item No. 8.5. Capital Projects Status Report-1st Quarter CY2019, ***was received for information.***

Agenda Item No. 9. Potter’s Craft Cider Performance Agreement.

The Executive Summary forwarded to the Board states that Potter’s Craft Cider was founded in Albemarle County in 2011. In October 2018, staff learned of Potter’s Craft, LLC’s intention to expand its production facility and open a tasting room. Staff contacted the Virginia Department of Agriculture and Consumer Services (VDACS) to determine if such an expansion could be supported by a grant from the Governor’s Agriculture and Forestry Industries Development Fund (AFID). In November 2018, staff from VDACS and the County visited property owned by Potter’s Craft, LLC to gather additional information. Based on a projected capital investment of \$1,560,000, the creation of 12 full-time equivalent jobs (FTE), and a commitment to purchasing 2,572,060 pounds of Virginia-grown apples, VDACS informed the County that the company’s expansion plans qualified for a grant of up to \$50,000 (see Attachment A).

AFID grants are performance-based incentives that are subject to claw-back provisions over a three-year performance period. AFID grants require a dollar to dollar match from the locality where the business investment will be located. Recipients of AFID grants must submit annual progress reports to document their progress towards estimated growth targets for three categories: capital investment, job creation, and purchase of Virginia-grown products.

Staff from various departments worked together to analyze the impacts generated by the potential expansion plans of Potter’s Craft, LLC. First, staff from the Economic Development Department determined Potter’s Craft Cidery falls within a target industry because it is a primary business generating revenue from outside our region and its plans are consistent with the goals, objectives, and strategies of Project ENABLE. Next, staff from the Finance Department calculated the estimated capital investment would generate an additional \$10,000 per year in tax revenue. Finally, staff from the Community Development Department identified support for the company’s expansion plans in several chapters of the Comprehensive Plan; statements of support within the chapters on Historic, Cultural, and Scenic Resources, Economic Development, and the Rural Area were particularly strong.

Therefore, staff recommends the County match the full amount of the \$50,000 grant offered by VDACS to support the expansion plans of Potter’s Craft Cidery. More specifically, staff recommends the Board of Supervisors match \$30,000 of the grant through the Economic Opportunities Fund and recommends the Economic Development Authority match the remaining \$20,000 of the grant opportunity through its own budget. Potter’s Craft, LLC has already accepted the Performance Agreement terms (Attachment A).

As a matching grant opportunity, \$30,000 from the Economic Opportunities Fund would be appropriated to the Economic Development Authority. The Economic Development Authority would then add \$20,000 from its own budget to fully match the \$50,000 grant.

Staff recommends that the Board: 1) adopt the attached Resolution approving the Agreement (Attachment B), and 2) direct the County Executive's Office to finalize the arrangements by working with the Economic Development Authority.

Mr. J.T. Newberry, Economic Development Coordinator, stated that he would present an AFID grant opportunity for Potter's Craft Cider. He explained that the grant was a program through the Governor's office and the Virginia Department of Agriculture and Consumer Services (VDACS) that helps agriculturally-based businesses that add value to agricultural products, which in this case involves the processing of Virginia grown apples. He noted that the grant was subject to claw-back provisions. He said the company was based in Free Union that is currently on Wild Air Farm, does not have an area for a public tasting room, and they travel throughout the Mid-Atlantic to conduct pop-up tastings. He said they would move production operations to an 8,500-square-foot production facility in an area along Route 29 South at the corner of Arrowhead Valley Road at the location of an historic structure that they would rehabilitate. He said AFID grants are structured across three categories: capital investment, jobs, and the amount of Virginia-grown product that was processed. He said the capital investment would be \$1.6 million and would create 12 jobs, and they pledge to purchase over \$500,000 of Virginia apples, many of which would come from Albemarle County growers. He said the program requires a one-to-one match, with the state offering a \$50,000 matching grant opportunity.

Mr. Newberry reported that staff found this to be consistent with several chapters of the Comprehensive Plan, including Historic Cultural Scenic Resources, Economic Development, rural area strategies, as well as aligns with Project ENABLE. He explained that the business produces cider locally, sells outside the area, imports the money back into the County, and has been an industry (agribusiness) targeted for Albemarle through a regional study. He said staff recommends that the County contribute \$30,000 from the Economic Opportunity Fund, with the Economic Development Authority (EDA) to add \$20,000, as the EDA's Board voted to approve the performance agreement at its meeting on April 16, 2019.

Ms. Palmer asked if the jobs are new to the company or new to this operation and for the number of current employees the company has. Mr. Newberry responded that the draft agreement speaks to the baseline for jobs. He said there are currently three full-time jobs associated with this grant, with the performance agreement to require five full-time positions at a wage of \$50,000/year and outlines how the seven full-time equivalent jobs would be required to meet the performance target.

Ms. Palmer remarked that the company's average salary was \$51,000, although some may earn much less. She asked what types of positions would be involved. Mr. Newberry responded that Project ENABLE talks about offering career ladder opportunities and this presents an opportunity to create a range of jobs. He said the jobs would involve tasting room operations and other activities such as the production facility. He noted that a company representative was present tonight and could provide more information.

Ms. Palmer remarked that it sounds like the jobs to be offered are service and hospitality related. Mr. Newberry responded that it was those jobs and manufacturing jobs associated with the production facility.

Ms. Mallek added that a multimillion-dollar company would have jobs at different levels, with different career ladder positions that offer places for people to begin and gain better skills.

Ms. Palmer said she was very much in favor of this and would vote for it but was trying to obtain more information, given the kinds of questions she has been asked by citizens, so that she could better communicate with residents about the operations of the facility.

Mr. Tim Edmond, co-founder of Potter's Craft Cider, addressed the Board. He explained that all the jobs are new; existing jobs are spelled out in the performance agreement, and job creation of 12 full-time equivalent positions represent growth required by the agreement. He added that there would be production and tasting room managers plus tasting room and production staff. He said that although not stipulated in the agreement, they would offer full benefits including health and vacation benefits.

Ms. Palmer asked for confirmation that the full-time equivalent positions are not seasonal. Mr. Edmond confirmed they are not seasonal positions.

Ms. Mallek asked if they would maintain the orchard in Free Union. Mr. Edmond confirmed that they would.

Mr. Dill expressed support for this and noted that his store sells some of the cidery's product, although not in amounts sufficient to represent a conflict of interest. He noted that there are two nearby local cideries and wondered whether the County considered impacts on these local competitors, which could affect the economic dynamics. Mr. Newberry responded that staff did not analyze the impacts on competition; they maintain confidentiality about projects, and they are not looking at the negative impacts at any point in the process for the grant application.

Mr. Randolph remarked that their existing tasting room was located in the City and the move to the County represents a net gain. He continued that it was not the role of the Board to determine competitiveness and market conditions on any industry or business, as this was a private decision, while the Board's role was to facilitate business growth in the County. He disclosed that he would abstain from the vote, as a significant other of one of his daughters works for Potters Cidery, though he was not under a legal obligation to do so.

Mr. Newberry added that these businesses work well together and agricultural businesses such as breweries, cideries, and wineries benefit from a cluster effect. Mr. Dill remarked that he understands that but considered whether support for a local business takes business away from another local business.

Ms. Palmer agreed with Mr. Dill that this was an important thing to consider and wondered whether they were picking winners and losers. She added that she contacted another local cidery to obtain feedback about this and expressed understanding of the cluster effect.

Ms. McKeel commented that her understanding was that businesses were thrilled about this, as the cluster effect brought in more business.

Ms. Palmer said she would like to have a discussion at a future date to learn how performance agreements are administered and monitored by staff. She expressed her support for having public discussions about performance agreements so that everyone understands what they are doing.

Mr. Newberry stated that a work session would be held on May 15, 2019 to prepare for the joint meeting with the Economic Development Authority (EDA) in June and included on the agenda would be a discussion on staff capacity to administer the growing number of agreements.

Mr. Gallaway commented that the EDA and Office of Economic Development are resources to local businesses, which involves reaching out to the Board of Supervisors to request support for grants. He asked Roger Johnson to comment.

Mr. Roger Johnson, Director of Economic Development, explained that the County offers equal opportunity through equal access to anyone who seeks support, provides their analysis demonstrating a project that was consistent with the Comprehensive Plan, Project ENABLE, and meets the community goals.

Ms. Palmer clarified that she was not suggesting the Board was picking winners and losers but that this was a standard argument used. She recalled from the reading materials that the County reached out to the cidery and asked if this was the case. Mr. Newberry responded that he was contacted by the state and was asked to join on a site visit.

Ms. Palmer **moved** that the Board adopt the proposed Resolution in Attachment B and direct the Office of the County Executive to finalize the arrangements by working with the Economic Development Authority. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

ABSTAIN: Mr. Randolph.

**RESOLUTION APPROVING AN AGREEMENT BETWEEN
THE COUNTY OF ALBEMARLE, THE ALBEMARLE COUNTY
ECONOMIC DEVELOPMENT AUTHORITY, AND
POTTER'S CRAFT, LLC, dba POTTER'S CRAFT CIDER.**

WHEREAS, the Board finds it is in the best interest of the County to enter into an Agreement with the Albemarle County Economic Development Authority and Potter's Craft, LLC, dba Potter's Craft Cider, to support the local expansion of Potter's Craft, LLC's operation, which is expected to lead to the creation of new local jobs and the purchase of local and state-wide agricultural and forestal products.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute an Agreement between the County of Albemarle, the Albemarle County Economic Development Authority, and Potter's Craft, LLC, dba Potter's Craft Cider, to support the expansion of Potter's Craft, LLC's operation, once the Agreement has been approved as to substance and form by the County Attorney.

**GOVERNOR'S AGRICULTURE & FORESTRY INDUSTRIES DEVELOPMENT
FUND**

PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** (the "Agreement") made and entered this 20th day of May, 2019, by and among the **COUNTY OF ALBEMARLE, VIRGINIA** (the "Locality") a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), and **POTTER'S CRAFT, LLC dba POTTER'S CRAFT CIDER** (the "Company"), a Virginia corporation authorized to transact business in the Commonwealth, and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF ALBEMARLE, VIRGINIA** (the "Authority"), a political subdivision of the Commonwealth.

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$50,000 from the Governor's Agriculture & Forestry Industries Development Fund (an "AFID Grant") through the Virginia Department of Agriculture and Consumer Services ("VDACS") for the purpose of inducing the Company to construct and improve an agriculture and/or forestry processing/value-added facility using Virginia-grown products in the Locality (the "Facility"), thereby making a significant Capital Investment, as hereinafter defined; creating a significant number of New Jobs and FTEs, as hereinafter defined; and purchasing a significant amount of Virginia-grown agricultural and forestal products, as hereinafter defined.

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment, New Jobs and FTEs, and purchase of Virginia-grown agricultural and forestal products;

WHEREAS, the Locality, the Authority and the Company desire to set forth their understanding and agreement as to the payout of the AFID Grant, the use of the AFID Grant proceeds, the obligations of the Company regarding Capital Investment, New Job creation, purchase of Virginia-grown agricultural and forestal products, and the repayment by the Company of all or part of the AFID Grant under certain circumstances;

WHEREAS, the construction and operation of the Facility will entail a capital expenditure of approximately \$1,560,000, of which approximately \$350,000 will be invested in machinery and equipment, approximately \$120,000 will be invested in tangible personal property (FFE), approximately \$400,000 will be invested in the construction of a new building, and approximately \$690,000 will be invested to improve the site and building;

WHEREAS, the construction and operation of the Facility will further entail the creation of 5 New Jobs and 7 Full-Time Job Equivalents (FTEs) at the Facility;

WHEREAS, the construction and operation of the Facility will further lead to the purchase of Virginia-grown agricultural and forestal products in the following amount: \$519,794 or 2,572,060 pounds of Virginia-grown apples and other Virginia-grown fruits over the performance period (see Appendix A for details); and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment, New Jobs, and purchase of Virginia-grown agricultural and forestal products constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the AFID Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Definitions.

For the purposes of this Agreement, the following terms shall have the following definitions:

“Capital Investment” means a capital expenditure by the Company in taxable real property, taxable tangible personal property, or both, at the Facility. The Capital Investment must be in addition to the capital improvements at the Facility as of January 16, 2019. The total capital expenditure of \$1,560,000 is referred to in this Agreement as the “Capital Investment.”

“Maintain” means that the New Jobs and FTEs created pursuant to the AFID Grant will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs and FTEs will be treated as Maintained during periods in which such positions are not filled due to temporary reductions in the Company’s employment levels in connection with recruitment for open positions or strikes or other work stoppages.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are paid by the Company for the employee, and for which the Company pays an average annual wage of at least \$51,000. Each New Job must require a minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as New Jobs. The New Jobs must be in addition to the 3 full-time jobs at the Facility as of January 16, 2019.

Full-Time Equivalent positions (FTEs) are part-time and seasonal positions created by the project on a predictable, annual basis, which do not meet the definition of New Job. For the purposes of the AFID Grant, these positions should be converted into full-time equivalent (FTE) positions based on one FTE equaling 1,680 hours per year with an average annual wage of \$33,142.86. The new FTEs must be in addition to the 3 FTEs at the Facility as of January 16, 2019.

“Performance Date” means April 30, 2022. If the Locality, in consultation with the Authority and the Secretary of Agriculture and Forestry, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may agree to extend the Performance Date by up to 15 months. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company, and the Secretary of Agriculture

and Forestry. The date to which the Performance Date has been extended hereunder shall be the "Performance Date" for the purposes of this Agreement.

"Targets" means the Company's obligations to make Capital Investments at the Facility of at least \$1,560,000, to create and Maintain at least 5 New Jobs and 7 FTEs at the Facility, and to purchase at least \$519,794 or 2,572,060 pounds of Virginia-grown agricultural and forestal products as defined in Appendix A, all as of the Performance Date.

"Virginia Code" means the Code of Virginia of 1950, as amended.

Section 2. Targets.

The Company will develop and operate the Facility in the Locality, make a Capital Investment of at least \$1,560,000, create and Maintain at least 5 New Jobs and 7 FTEs , and purchase \$519,794 or 2,572,060 pounds of Virginia-grown agricultural and forestal products (see Appendix A), at the Facility, all as of the Performance Date. If the dollar amount of new purchases of Virginia-grown agricultural and forestal products is not met, the Company can still achieve the purchase target by demonstrating they substantively achieved the same volume of Virginia-grown agricultural and forestal products they proposed in Appendix A.

The average annual wage of the New Jobs and FTEs will be at least \$40,583.

The average prevailing wage in the locality in 2019 is \$53,838.

Section 3. Disbursement of AFID Grant.

By no later than May 31, 2019, the Locality will request the disbursement to it of the AFID Grant. If not so requested by the Locality by May 31, 2019, this Agreement will terminate. The Locality and the Company will be entitled to reapply for an AFID Grant thereafter, based upon the terms, conditions, and availability of funds at that time.

The AFID Grant in the amount of \$50,000 will be paid to the Locality, upon its request. Within 30 days of its receipt of the AFID Grant proceeds, the Locality will disburse the AFID Grant proceeds to the Authority. Within 30 days of its receipt of the AFID Grant proceeds, the Authority will disburse the AFID Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the Facility. The Company will use the AFID Grant proceeds to make building improvements, as permitted by Section 3.2-304(C) of the Virginia Code.

Section 4. State and Local Government Incentives.

See Appendix B for definition of "break-even point." With regard to the Facility, the Commonwealth expects to provide incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
AFID Grant	\$50,000

The Locality expects to provide the following incentives, as matching grants or otherwise, for the Facility:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Local Cash Grant – Albemarle County Board of Supervisors	\$30,000
Local Cash Grant – Albemarle County Economic Development Authority	\$20,000

The proceeds of the AFID Grant shall be used for the purposes described in Section 3. The proceeds of the Locality's Cash Grants may be used by the Company for any lawful purpose.

Section 5. Repayment Obligation.

(a) *Determination of Inability to Comply:* If the Locality or the Secretary of Agriculture and Forestry (the "Secretary") determines at any time before the Performance Date (a "Determination Date") that the Company is unlikely to meet and Maintain at least fifty (50) percent of its Targets by and through the Performance Date (i.e., by making a Capital Investment of at least \$780,000 in the Facility, to creating and Maintaining at least 2 New Jobs and 3.5 FTEs at the Facility, or purchasing at least \$259,897 of Virginia-grown agricultural and forestal products by the Performance Date), and if the Locality or the Secretary shall have promptly notified the Company of such determination, the entire AFID Grant and Local Cash Grants must be repaid by the Company to the Authority. Such a determination by the Locality or the Secretary will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates the Company will be unable or is unwilling to satisfy the Targets for the AFID Grant and Local Cash Grants.

(b) *Repayment of AFID Grant and Local Cash Grants:* For purposes of repayment, the AFID Grant is to be allocated as \$16,666.67 (33%) for the Company's Capital Investment Target, \$16,666.67 (33%) for its New Jobs and FTEs Target, and \$16,666.66 (33%) for its purchase of Virginia-grown agricultural and forestal products. If the Company has met at least ninety percent (90%) of each of the three Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion of the AFID Grant. If the Company has not met at least ninety percent (90%) of each of the three of its Targets at the Performance Date, the Company shall repay to the Authority that part of the AFID Grant that is proportional to the Target or Targets for which there is a shortfall. For example, if at the Performance Date, the Capital Investment is only \$1,170,000, only 2 New Jobs and 5.25 FTEs have been created and Maintained, and only \$389,845.50 or 1,929,045 of Virginia-grown agricultural and forestal products have been purchased, the Company shall repay to the Authority twenty-five percent (25%) of the moneys allocated to the Capital Investment Target (\$4,166.67), twenty-five percent (25%) of the moneys allocated to the New Jobs and FTEs Target (\$4,166.67), and twenty-five percent (25%) of the moneys allocated to the purchase of Virginia-grown agricultural and forestal products Target (\$4,166.66). Whether the New Jobs and FTEs Target has been met will be determined by comparing the anticipated payroll (5 New Jobs and 7 FTEs at an average annual wage of at least \$40,583) to the actual number of New Jobs and FTEs and the actual average annual wage reported at the Performance Date. Repayment of the Local Cash Grants, which also shall be made to the Authority, shall be allocated and calculated in the same manner.

(c) *Repayment Dates: Such repayment shall be due from the Company to the Authority within thirty days of the Performance Date or the Determination Date, as applicable.* Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality (repayments of AFID Grant proceeds and Local Cash Grant proceeds attributable to the Locality) and shall be repaid by the Locality (AFID Grant proceeds) promptly to VDACS for redeposit into the AFID fund. The Locality and the Authority shall use their best efforts to recover all such funds, including legal action for breach of this Agreement. The Locality shall assume primary responsibility for filing and prosecuting any such legal action, and the Authority shall cooperate with the Locality's efforts. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums hereunder unless said sums have been received by the Authority from the Company.

Section 6. Company Reporting.

The Company shall provide, at the Company's expense, detailed verification reasonably satisfactory to the Locality, the Authority, and VDACS of the Company's progress on the Targets. Such progress reports will be provided annually, starting May 31, 2020, and at such other times as the Locality, the Authority, or VDACS may reasonably require. The first progress report will cover the period from January 16, 2019 to April 30, 2020, the second progress report will cover the period from May 1, 2020 to April 30, 2021, and the third and final progress report will cover the period from May 1, 2021 to April 30, 2022.

With each such progress report, the Company shall report to VDACS the amount paid by the Company in the prior calendar year in Virginia corporate income tax. The Company hereby authorizes the Director of Finance for the Locality to release to the Authority and the Locality the Company's confidential tax information and data so that the Authority may verify the payments made. VDACS has represented to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VDACS solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

With each progress report, the Company shall report to VDACS the number of New Jobs and FTEs created and Maintained during the reporting period. The information provided will be verified by VDACS with the Virginia Employment Commission. For FTEs, the Company is responsible for assembling and distributing the documentation necessary to verify such positions, including individuals' names, hours worked, and salaries. If requested by VDACS, the Company shall provide to VDACS copies of the Company's quarterly filings with the Virginia Employment Commission covering the period from the date of this Agreement through the Performance Date. In accordance with the Virginia Code Section 60.2-114, VDACS is entitled to receive the Company's employment level and wage from the Virginia Employment Commission.

With each progress report, the Company shall also report to VDACS the amount purchased and the purchase price paid by the Company, or the fair market value of the Virginia-Grown Agricultural or Forestal Products utilized, through the prior year.

The Locality and Company agree to retain all books, records, data and other documents relative to this agreement for a period of three (3) years after the end of this agreement, or until audited by the Commonwealth of Virginia, whichever is sooner. VDACS and its authorized agents, and/or

state auditors (both the Auditor of Public Accounts and/or VDACS Internal Auditor) shall have full access to and the right to examine any of said materials and records relating to this agreement during this period.

Section 7. Notices.

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

if to the Company, to:

with a copy to:

Potter's Craft Cider
2882 Free Union Road
Charlottesville, VA 22901
Attention: Tim Edmond

Attention: _____

if to the Locality, to:

with a copy to:

Roger Johnson
Economic Development Office
401 McIntire Road
Charlottesville, VA 22902

Attention: _____

if to the Authority, to:

with a copy to:

Rod Gentry, Chairman
Economic Development Authority
401 McIntire Road
Charlottesville, VA 22902
Attention: Jennifer Schmack

Elton Oliver, Secretary-Treasurer
Economic Development Authority
401 McIntire Road
Charlottesville, VA 22902
Attention: Jennifer Schmack

if to VDACS, to:

with a copy to:

Secretary of Agriculture and Forestry
Office of Governor
Commonwealth of Virginia
1111 East Broad Street
Richmond, Virginia 23219
Attention: AFID

Chauntele D. Taylor
AFID Compliance Coordinator
Va Dept. of Agriculture & Consumer Services
102 Governor St., Room 317
Richmond, Virginia 23219
Attention: AFID

Section 8. Miscellaneous.

(a) *Entire Agreement; Amendments.* This Agreement constitutes the entire agreement among the parties hereto as to the AFID Grant and may not be amended or modified, except in writing,

signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority, and the Secretary of Agriculture and Forestry.

(b) *Governing Law; Venue; Attorney's Fees and Costs:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Albemarle County Circuit Court and such litigation shall be brought only in such court. If the Locality files suit against the Company for any reason arising out of this Performance Agreement, the Company shall be liable for attorney's fees and costs.


(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

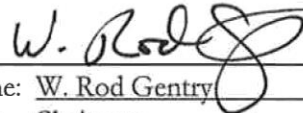
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IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement
as of the date first written above.


COUNTY OF ALBEMARLE, VIRGINIA

By 
Name: Jeffrey Richardson
Title: County Executive
Date: 5/17/19

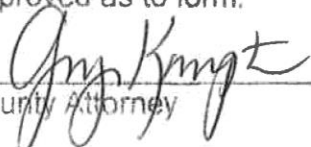
**ECONOMIC DEVELOPMENT
AUTHORITY OF THE COUNTY OF
ALBEMARLE, VIRGINIA**

By 
Name: W. Rod Gentry
Title: Chairman
Date: 5/20/19

**POTTER'S CRAFT, LLC dba
POTTER'S CRAFT CIDER**

By 
Name: Tim Edmond
Title: Member
Date: 5/16/19

Approved as to form:


County Attorney

APPENDIX A

Purchases of Virginia-grown Products:

	Current \$ Value	Current Volume (pounds)	Year 1 \$ Value	Year 1 Volume (pounds)	Year 2 \$ Value	Year 2 Volume (pounds)	Year 3 \$ Value	Year 3 Volume (pounds)	Net New \$ Value	Net New Volume (pounds)
Total of all Ag Products Purchase	\$90,272	436,780	\$149,456	727,944	\$247,424	1,213,184	\$396,380	1,941,708	\$522,444	2,572,496
Apples	\$87,272	436,360	\$145,456	727,280	\$242,424	1,212,120	\$387,880	1,939,400	\$513,944	2,569,720
Non-Apple Fruit**	\$500	200	\$1,000	400	\$2,000	800	\$5,000	2,000	\$6,500	2,600
Hops	\$2,500	220	\$3,000	264	\$3,000	264	\$3,500	308	\$2,000	176
Total Virginia Ag Products Purchase	\$87,722	436,540	\$146,356	727,640	\$244,224	1,212,840	\$392,380	1,941,200	\$519,794	2,572,060
Apples	\$87,272	436,360	\$145,456	727,280	\$242,424	1,212,120	\$387,880	1,939,400	\$513,944	2,569,720
Non-Apple Fruit**	\$450	180	\$900	360	\$1,800	720	\$4,500	1,800	\$5,850	2,340
Hops	\$0	-	\$0	-	\$0	-	\$0	-	\$0	-
Percentage that is Virginia- Grown	97%	99%	97%	99%	98%	99%	98%	99%	99%	99%

**Apples purchases were calculated at \$.20 per pound, all other fruits at an average of \$2.50 per pound, and hops at \$11.36 per pound, noting that market fluctuations may cause these prices to vary slightly in any given year*

***Non-apple fruit represents raspberries, blackberries, peaches, grapes and plums*

APPENDIX B

Break-Even Point Definition:

VDACS has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on incentives, including but not limited to the AFID Grant.

Agenda Item No. 10. 2019 Resident Survey Concept Outline.

The Executive Summary forwarded to the Board states that since 2002, the County has contracted with survey consultants to conduct a reliable and valid County-wide resident survey biennially. The survey results have been used by staff, elected officials and other stakeholders for community planning and resource allocation, program improvement and policy making.

At the March 6, 2019 Board meeting staff presented the Board with information related to:

- the intent to work with UVA’s Weldon Cooper Center for Survey Research (CSR) to complete the 2019 biennial resident survey.
- Strategies for increasing the response rate.
- Expected timing of the survey.

Following this presentation, the Board directed staff to develop a concept outline for the survey (Attachment A) and return to receive input.

Staff has formed a survey staff team comprised of representation from the Community Development Department, the Office of Management and Budget, Communications and Public Engagement, the Office of Equity and Inclusion, and Albemarle County Public Schools.

The survey team used information and input from a variety of sources, including:

- The County’s Leadership Council (comprised of local government department heads)
- County staff subject matter experts on various topics (housing, climate/environment, transportation, etc.)
- Resources provided by CSR

There is no budget impact related to this executive summary. Funding for the 2019 Citizen Survey was included in the FY 19 budget.

Staff recommends that the Board receive the information provided in Attachment A and provide feedback/input to staff on topical areas.

Ms. Siri Russell, Director of the Office of Equity and Inclusion, presented. She introduced Mr. Andrew Knuppel, Senior Planner, who would assist with the presentation. She reminded the Board that they held a recent discussion on this topic, and she has returned with additional information, including a conceptual outline that lays out the topics they hope to learn about through the survey. She asked the Board to provide feedback and direction after her presentation. She noted that Weldon Cooper would design the questions and they are seeking Board input on what they hope to learn. She said they hope to customize the survey with increased specificity and to make it actionable, resident focused, and representative. She noted that there would be two versions, with one being random and address based on 5,000 households, and another that was open to any County resident on the website. She said they hope to offer versions in Spanish, Mandarin, and Arabic. She explained that Weldon Cooper would furnish a "draft survey" to the County so that subject matter experts and staff could view the actual questions, followed by a pre-test community panel, then release of the survey over a six-week period and a final report.

Mr. Andrew Knuppel continued the presentation. He said he was part of the staff survey team that identified general topics. He pointed out the focus today was to determine whether staff are asking the right questions. He explained that they consider the many functions and services provided by the County, including social services, schools, community development, communications and public engagement, and others. He said they hope to gauge the community's attitudes and supplement census bureau data in order to create actionable outcomes that are responsive to community needs. He said the survey would consist of three topic categories, with the first being Assets and Services, which includes broadband, education, public safety, parks and recreation, schools, and some of the Board's strategic priorities related to parks and amenities and broadband. He said the second category of questions relate to development and the environment, which focuses on continuing investment in development areas and infrastructure as well as climate change, protection of natural resources, and the creation of housing choices. He said the third category would gauge community civic health and perception of local government, including the effectiveness, involvement, and accessibility of County engagement efforts, feelings of inclusiveness, and trust in the government to provide services equitably, honestly, and in a transparent manner. He concluded and invited questions.

Ms. Palmer remarked that for solid waste and recycling services, the Board had a discussion in its last meeting and requested that staff get the committee the questions from the previous time the Board put this out. She asked if they were able to find these questions to start the discussion and added that since they would not hold a regular meeting in May, they would not be able to address this. Ms. Russell responded that she communicated with Andy Lowe following the Solid Waste Alternatives Advisory Committee (SWAAC) meeting and would share with him materials from the previous survey, which she noted was available online. She confirmed that there would be an opportunity for further input, as the draft report would not be finished until September and the finalized version would not be ready until October. Ms. Palmer asked if the Board would see the questions before they are finalized. Ms. Russell responded, "yes".

Ms. McKeel said she likes the idea that there would be questions about transit. She expressed an interest in learning how the public perceives economic development, as she has spoken with residents who feel it has to do with shopping centers or smokestacks and believes they have to educate people more about economic development.

Mr. Dill remarked that some see economic development as representing more traffic, while others see it as representing higher wages.

Mr. Randolph said he hopes they would ask a question about the inadequacy of road shoulders in Albemarle County, which was non-conducive to cycling, and lead to cyclists taking up a large portion of the road. He asked that they include a question to gauge residents' assessment of air and water quality, considering that 63% of the County's waterways are not swimmable or available for fishing. He said he would also like to learn how residents obtain internet service, as this information would be helpful to the Albemarle Broadband Authority. He added that there was no countywide profile on internet service.

Ms. Palmer asked if this survey would pick out groups that would answer many different surveys. Ms. Russell responded that this was not that survey, although they hope to use it in the future.

Ms. Mallek remarked that though many categories have questions about affordability, this was missing from the tax questions and she would like affordability to be included. She stated that the infrastructure category was mostly school related and asked that it also include sidewalks, libraries, etc. She remarked that many respondents would agree they want additional services and suggest they include a question that asks if they are willing to pay more for these services. She asked if the responses could be broken down by magisterial district. Ms. Russell confirmed they could be broken down by district.

Mr. Dill asked how this survey would differ from past ones and if different aspects would be stressed. Ms. Russell responded that the survey would be more customized, would drill down by magisterial district and rural vs. urban, and provide the County with more to work with.

Mr. Dill recalled that the last survey was a national one, which made it easier to determine how Albemarle compares to other communities and asked if the customization would make it more difficult to compare the County to other communities. Ms. Russell confirmed that the NCS survey enables them to benchmark against 500 counties, though there could be significant benefits to benchmarking against themselves to mark their own progress. She said that Weldon Cooper would pull questions from previous surveys so they could mark changes over time and look at the long view.

Ms. Mallek remarked that she could hardly wait, as the last detailed survey was six to eight years ago and the more recent surveys provided less value.

Mr. Randolph pointed out that a more local survey would be more reliable and valid than the last survey, which had the minimum number of respondents to be considered valid. He added that the previous survey was highly suspect and hopefully this will be more robust and meaningful.

Ms. Palmer asked how they would get more people to respond. Ms. Russell responded that Weldon Cooper would use a tailored design method, which was designed to increase the number of respondents, and would work closely with the Communications and Public Engagement Department to promote the survey, as well as with the Office of Equity and Inclusion. She pointed out that by creating the survey in several languages, they would be able to reach out and target different groups to increase the response rate.

Ms. Mallek recalled that last year's survey of Crozet residents for the master plan received a response rate of over 30% by following the suggestions of Weldon Cooper. She pointed out that follow-up postcards and radio announcements helped to increase the response rates.

Mr. Gallaway commented that he would like to gauge the confidence level that residents have in the management of the County by the Board and staff. He remarked on the importance of obtaining a stratified sample of citizens for items such as housing and transit. He pointed out that the responses of those who have a need for affordable housing may differ from those who do not have a need and who may consider the tax impact aspect. He questioned whether the redevelopment of Rio Road/Route 29 needs to be included in the survey, as the County has already received a great deal of feedback during the public process and would continue to do so, unless they are trying to get at something different.

Ms. McKeel agreed with Mr. Gallaway that they need to consider the length of the survey

Ms. Palmer agreed with Mr. Gallaway's comment that responses would depend on individual economic situations, and she asked if the survey would ask respondents for their economic bracket. Mr. Gallaway remarked that part of this would be determined by how they select the participants. Ms. Russell remarked that they have conveyed the County's interest in having this level of specificity to Weldon Cooper, which responded that they could and would accommodate this. She added that her expectation from the survey would be that the County would know all of this information, i.e., where people live, economic status, background, etc., and would have a fairly robust profile for each category.

Recess. The Board recessed at 2:16 p.m. and reconvened at 2:27 p.m.

(Note: The next two agenda items were heard concurrently.)

Agenda Item No. 11a. **Legislative Item:** 2019 Legislative Update.

The Executive Summary forwarded to the Board states that each year the Board of Supervisors considers and adopts its legislative priorities. The Board adopted four legislative priorities for the 2019 General Assembly session pertaining to courts, notices of zoning violations, carrying certain firearms in public places, and monuments and memorials.

Two of the Board's four legislative priorities will become law on July 1, 2019. The bills addressing the Board's four priorities are summarized below. Attachment A provides a summary of all of the new legislation that may have the greatest interest to the Board and to the County.

Passed HB 2239 Court buildings; ownership, location and jurisdiction. Amends §§ 15.2-1638, 16.1-69.35, 16.1- 77, and 16.1-123.1 of the Code of Virginia and adds § 16.1-69.35:01 to allow courthouses to be located on property owned jointly by a county and city. Other changes allow Albemarle County to locate its general district courts immediately across the street from the county courthouse and clarifies certain jurisdictional issues in cases where a county general district court is established in a city. (*Patron: Bell, Robert B.*)

HB 1698 Zoning Appeals, Board of; written order, certified mail. Amends § 15.2-2311 of the Code of Virginia to authorize a locality to send a zoning administrator's written order using certified mail. Current law allows an order to be sent only by registered mail. (*Patron: Fariss*)

Failed HB 2377 War veterans; removal or upkeep of monument or memorial. This bill would have amended § 15.2-1812 of the Code of Virginia to enable a locality to remove or provide for the upkeep, maintenance, or contextualization of any monument or memorial for war veterans located in its public space, regardless of when erected. Current law makes it unlawful to disturb or interfere with such

monuments or memorials or to prevent citizens from taking proper measures and exercising proper means for the protection, preservation, and care of such monuments or memorials. (*Patron: Toscano and others*)

SB 1482 Prohibition on carrying of certain firearms in public places; County of Albemarle and City of Charlottesville; penalty. This bill would have amended § 18.2-287.4 of the Code of Virginia to add the County of Albemarle and the City of Charlottesville to the list of localities in which it is unlawful for a person to carry certain firearms in public places. (*Patron: Deeds*)

There is no budget impact.

No action is required at this time, however, staff welcomes any feedback from the Board.

Agenda Item No. 11b. **Legislative Item:** Proposed 2020 Legislative Priorities.

The Executive Summary forwarded to the Board states that Each year the Board considers and approves its legislative priorities. The Board then meets with the County's local delegation from the General Assembly to discuss these priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties (VACo), and the Virginia Municipal League (VML). Other initiatives are sometimes added prior to the General Assembly session.

This is the first of at least three anticipated Board discussions to develop its priorities for the 2020 General Assembly session.

Six legislative priorities are proposed for discussion:

- Impact fees
- Regulating carrying specified loaded weapons in public areas
- Equal taxing authority
- Providing in-kind resources to volunteer firefighting and emergency service providers
- Civil penalties for open burning violations
- Expanding the powers of land bank entities

These six priorities, along with initiatives carried over from last year, are explained in Attachment A.

There are no specific, identifiable budget impacts.

Staff recommends that the Board review the 2020 Proposed Legislative Priorities and recommend any additions it determines to be appropriate, to be brought back at a later date so desired by the Board for submission to the TJPDC, VACo and VML.

Mr. Greg Kamptner, County Attorney, said this presentation would begin with a review of the 2019 General Assembly session although not all the bills have been finalized. He reported that the bill that dealt with the vote required for certain Board of Zoning Appeals (BZA) decisions has been returned by the Governor to the General Assembly with proposed amendments that would allow a local option to maintain the current level of vote required for certain actions, which was rejected by a 48–50 vote. He said the Governor has until May 3, and David Blount has sent a letter to the Governor's office on behalf of the County suggesting the bill be vetoed. He said the bill's patron felt that this heightened vote requirement for those types of decisions was a quirk in the law, and as the basis for preserving this vote requirement, the County has added some examples that the General Assembly has imposed on governing bodies. He continued that the bills the County was following would take effect July 1, with some having delayed effective dates.

Ms. Mallek asked if Supervisors should conduct a letter-writing campaign on the BZA bill. She remarked that having two people be able to overturn a zoning decision has a huge impact on the County. Mr. Kamptner said he would share the letter that was sent to the Governor. He said the Virginia Supreme Court recognizes that the granting of variances, regardless of the vote, was an incursion on the exercise of legislative power.

Mr. Kamptner reminded the Board that it settled on its 2019 legislative priorities several months ago and that two of them has been successful. He said that HB2239 amended several provisions of the Virginia Code, one of which would enable the General District Court to relocate across the street into the City. He said the other bill allows certified mail in addition to registered mail for notifications of zoning ordinance matters, as requested by Community Development. He said this would return state law to where it was three years ago, as the patron of the original bill recognized that this had not been intended.

Mr. Kamptner reviewed two unsuccessful Board priorities. He said the first would have given local authority over dealing with war memorials and monuments in public spaces, while the second would have added Albemarle County to the list of localities enabled to regulate certain types of firearms in public places. He noted that he has highlighted several bills that deal with animal control and reminded the Board it recently amended Chapter 4. He said the bills increases protections for animals and increases and provides penalties for animal cruelty, shelter, and dogs running at large. He said they would have to make a couple of amendments to the County Code to implement these, which he would likely bring to the

Board at its June 19 meeting. He said the staff would enter into a three-month closed period from July–September while they rewrite the County Code, during which they would not be able to make new ordinance changes. He noted that the proposal to require school buses to have a stop arm could wait until school was back in session, at which time they could accelerate it.

Ms. McKeel remarked that Jim Foley had informed her they would have to put out an RFP, which could take a long time, and if they do not get to this quickly, school would have started. Mr. Kamptner responded that they plan to get this measure to the Board on June 19, and it would represent a very simple fix to the County Code.

Ms. Mallek asked if the RFP could be issued prior to the ordinance change. Mr. Kamptner responded that they could start working on this at any time.

Ms. Palmer asked for confirmation that changes to the Animal Control Ordinance would be brought before the Board in June and take effect in July. Mr. Kamptner confirmed this.

Ms. Mallek asked for confirmation that the changes made by the General Assembly would not overturn the changes made by the Board to the County ordinance. Mr. Kamptner reminded the Board that the areas where they go beyond the bare minimum in the State Code were pursued under the additional enabling authority, they have with respect to animal cruelty.

Mr. Kamptner stated that elected officials would have a new state-required obligation to receive both FOIA and COIA training, some of which would be online. He continued that there was a second clause dealing with enhanced penalties for destroying records and improper closed meeting certifications. He said this was part of a bill that went through a number of iterations and raised flags with local government attorneys because the governing body would have been better off if their local attorneys were not in the room during closed meetings, which created a ridiculous situation, so the governing body could be fined up to \$1,000 for an improper certification of a closed meeting that involves a discussion topic that was not part of the closed meeting motion.

Mr. Kamptner remarked that there has been little success with bills that involve environmental issues, including those of interest to the Board in the fall dealing with bags and bottles and things like that. He said that two transit-related bills sponsored by Poindexter that dealt with transit sector emissions and greenhouse gas emissions required the General Assembly to authorize the state to join these partnerships with other states by a two-thirds vote of each House of the General Assembly and prohibits localities from participating in these types of partnerships. He explained that Virginia was about to join a nine-state plus District of Columbia partnership until these bills passed.

Ms. Mallek and Mr. Randolph described this legislation as a poison pill against the Regional Greenhouse Gas Initiative.

Mr. Kamptner said there were a number of technical changes to land use laws which granted additional authority for requiring sidewalks and other minor provisions. He said the bills to expand real property tax exemptions to additional classes of people passed; but, the bills to expand taxing authority of counties to put on equal footing with cities failed.

Mr. Kamptner presented four slides to explain changes to the proffer laws. He noted that Virginia localities fall under one of three base sources of authority. He said there was also Code §15.2-2303.4, which deals with new residential development rezonings, and with this bill there would be two schemes. He explained that there would be the current version and a developer's option to proceed under the pre-2016 legislation. He commented that this would be a quagmire for those who deal with the development process, as there would be questions as to whether certain topics may be discussed with developers, though it was better than what they have today.

Mr. Randolph stated that the use of the language "governing body" automatically removes any magisterial body. He asked if this means that a planning commission could have a discussion with a developer about potential offers and that community advisory councils (CACs) could have discussions about potential proffers without running afoul of state law. Mr. Kamptner responded that generally they could. He said the idea of accepting an unreasonable proffer, even though the applicant wanted to do it, should it later be determined to be unreasonable, would get thrown out. He characterized this as a very positive change. He added that the current bill sets the process in place where a proffer was unreasonable, "if". He explained that the specifically attributable language was always problematic, as he does not think the General Assembly was paying attention to what the word "specifically" means, and that was not the way for the past 100+ years the courts and localities have dealt with how a condition and a proffer are fashioned to deal with an impact. He said that a proffer was reasonable if there was an essential nexus that was related to it and roughly proportional. He stated that mathematical precision was not required, which they thought that Code §15.2-2303.4 was required, which reduces the evidentiary burden the County would ask of the development community in the form of studies.

Mr. Randolph remarked that it would be critical that all of the CACs be briefed on this.

Mr. Kamptner said that some localities have announced they would not consider any residential rezoning applications that have proffers.

Mr. Kamptner pointed out that signed proffers are conclusive evidence that they are reasonable and appropriate, which was a big help for localities. He said the General Assembly has clarified that if an

action was brought against a local governing body challenging a decision, the applicant has to provide this to the Board before it makes a decision. He said the existing law with similar language has been in place for several years, and no applicant has raised this assertion. He explained that the remedy given by the court for an unreasonable proffer offers more flexibility, as rather than striking the unreasonable proffer, there was now the ability to amend the proffer to bring it into compliance. He described this as not being a perfect fix but a step forward from where they have been in the past three years. He noted that the current language states they are in jeopardy of violating the statute if they suggest, and nobody knows the meaning of "suggest," whereas the new law expressly recognizes that parties could have conversations – though verbal discussions may not be used as evidence if there was a challenge. He remarked that Community Development staff would need to be mindful of this when sending written comments to applicants. Mr. Kamptner added that depending on when the application is filed, there would now be three tiers that determines which law applies.

Ms. Palmer asked that this information be provided to the Board.

Mr. Kamptner reviewed electric scooter legislation. He said that scooters would be subject to the general rules of the road and localities may adopt ordinances that prohibit driving on sidewalks, parking in areas that impede pedestrian movement, and that regulate scooters for hire.

Ms. Mallek asked for confirmation that they must wait until January 2020 before they may prohibit parking on the sidewalk. Mr. Kamptner responded that he thinks so.

Mr. Kamptner pointed out that Arlington County has the authority to impose a cigarette tax under special legislation.

Ms. McKeel remarked that if Albemarle County could impose a cigarette tax, they could use the money to reimburse the fire department for calls to put out brush fires along the side of the road and at gas stations where people have flicked their cigarette butts. She noted that Albemarle County spends a lot of money in response to fires, especially cigarettes. Mr. Kamptner suggested that they earmark a potential cigarette tax for this as a way to increase the likelihood this legislation would be passed next year. Ms. McKeel and Ms. Palmer expressed support for this approach.

Mr. Richardson said that he would be interested to know the daytime vs. nighttime population of the County, as the County was an economic engine for the region. He said this was important to know to determine the increased daytime population's effects on urban infrastructure, key transportation corridors, litter, and emergency services response. He suggested that they examine their tax structure and look for opportunities to diversify the tax base beyond residential property taxes to adequately address problems associated with urbanization.

Ms. Palmer informed Mr. Richardson that prior to his tenure, the Board had conversations with state legislators about how they group communities together to prove they need additional taxing authority. Mr. Richardson added that he has not seen any data and would like to examine it further.

Mr. Gallaway commented that he hopes there would be push out to Community Development, the CACs, and the Planning Commission about the proffer law changes. Mr. Kamptner confirmed this.

Ms. Palmer said she would email her list of questions and asked if the solar bill that passed requires a decommissioning plan. Mr. Kamptner responded that it was a very lengthy bill and he could give a summary, although he was focusing on net energy metering, for which there was a small level of progress with respect to that.

Mr. Randolph commented that the Board imposed a decommissioning condition on the application it approved for Sol Unesco, though now this has become state law.

Ms. Palmer remarked that she thought this was a great addition to the state law.

Ms. McKeel noted that they have had permission to regulate parking on secondary roads for several years, as well as permission to establish technology opportunity zones. She asked where they stand on these now. Mr. Kamptner responded that he has been told the parking issue was being studied. He said they have some projects that are probably ripe to serve as the first zones to be created, though they are not there yet.

Ms. Mallek pointed out that the locus must be ready in order to activate.

Ms. McKeel recalled that the Police Chief had made a request about parking last year, and she has not heard anything new. Mr. Kamptner offered to follow up.

Mr. Kamptner addressed bills to impose impact fees. He said they had two failed bills and noted that proffers addressed impacts only for property that was going through a rezoning. He said that Albemarle County has lands with 50-year-old zoning in development areas, despite the many ways in which the County and planning principles have changed. He stated that the Comprehensive Plan was used to evaluate reactive projects that come forward; they are not proactively implementing the Comprehensive or the Master Plans. He said by the time we go through another extensive process to update the Comprehensive Plan very little will have changed on the ground. He said impact fees eliminate the disincentive for the County to consider proactive rezoning. He said that if they could upzone a property to what a developer wants, they would not have the fear of losing the incremental amount of

cash that addresses the impacts. He said it also eliminates the incentive for developers to pursue by-right development. He said the existing zoning designation may or may not be appropriate, but it was the more economical way for those houses to be developed.

Ms. McKeel remarked that she thinks the wrong people are lobbying for this and they need to get the right people to lobby for it. Mr. Kamptner remarked that the General Assembly was asking for new urban and transit-oriented forms of development, but they have to create a way forward and there are competing state policies.

Ms. McKeel added that it would be interesting to sit down with local developers and talk about this, and they could potentially get a coalition together to make a difference with the General Assembly.

Mr. Randolph stressed that the coalition should be bipartisan, and there could be movement in the Senate; but, in the House there are rural counties that do not understand what impact fees would mean and they are reactive to any kind of change. He said this would be a gradual process for which they must be realistic and persistent, and it could rise over the next four years as the clear way for developers and counties to approach this but through impact fees.

Mr. Kamptner next reviewed the firearms and monuments bills the Board prioritized. He remarked that the Board recognized it would take multiple years to pursue. He pointed out next was equal taxing authority with cities regarding the cigarette tax and the emission tax the Board is already in the position that they have a meals tax and the transient occupancy tax that were capped differently than those of cities. He noted the cigarette tax, as stated previously, failed again this year. He said he reviewed the enabling authority for the transient occupancy tax and saw a list of localities that had little tweaks to the general enabling authority's caps and application of funds. He stated that if they could identify purposes to justify it, there may be an avenue for success. He invited David Blount to speak to this.

Mr. David Blount, Thomas Jefferson Planning District Commission, addressed the Board. He acknowledged that overall, the equal taxing authority question was challenging for local governments as there have only been a few that he has seen approved. He said he feels it would have to be something that was real, here, and now that was specific and ready to go.

Mr. Gallaway asked for Mr. Blount's input on Ms. McKeel's idea to impose a cigarette tax to pay for fire department calls to put out roadside fires caused by discarded cigarette butts. Mr. Blount responded that they have done some work in the area of a cigarette tax this past year and would have more discussion about it this coming year. He said he does not think this angle has been brought up before.

Mr. Richardson asked Mr. Blount if he was seeing local governments collaborate with key community partners, such as chambers of commerce and universities, to request taxing authority. Mr. Blount recounted how Halifax County requested permission to have an add-on for an income tax, which may have ended up as a sales tax, and worked with the school division, chamber of commerce, and citizen groups to make a specific ask to address dilapidated school buildings. He explained that they prepared for over a year, made a good presentation to the legislature, and agreed to have a sunset provision after sufficient revenues has been generated to address the need. He agreed that broad support for these initiatives would be beneficial.

Ms. McKeel stated that the new leadership at the chamber was very interested in these issues and could be a powerful voice. She said she recently sent Elizabeth Cromwell an email asking her if she would like to participate in a work session with the Regional Transit Partnership to discuss business needs in the community for transit.

Mr. Kamptner next addressed the ability to provide in-kind resources to volunteer fire and rescue companies. He explained that the Board was enabled to make charitable contributions to the volunteers, but they could not provide in-kind services, such as contract management services for capital projects and assistance in preparing proposals, which would let the County's cash contribution go further for those volunteer companies that may not have the capacity to manage their own contracts or to prepare proposals. He said in-kind services could be allowed within a narrow area, such as for events, and the amendment would have a narrow focus.

Ms. Mallek asked if there has been progress in researching whether volunteer departments could be given the ability to participate in the federal tax deductions that are permitted for teachers. Mr. Kamptner responded that this issue would be addressed later in his presentation.

Mr. Kamptner addressed civil penalties for open burning violations. He remarked that there has been a shift from making these Code violations misdemeanors to civil penalties and there has been more routine, regular, consistent, and enhanced enforcement underway. He stated that some General District Court judges are reluctant to convict those who may have innocently violated a burn ordinance. He said they had preliminary discussions about the establishment of a code civil enforcement compliance team to enforce various parts of the County Code in a civil way, and this measure would be consistent with that approach.

Ms. Mallek noted that civil fines has to reach \$20,000 before anything happens and asked if this would be part of the proposal. Mr. Kamptner responded that the cap was generally \$5,000 and those cases are fairly rare. He said the majority of cases are abated before they go to court, many come into compliance once they get to court, although there are a few that go to the level of criminal enforcement.

Ms. McKeel remarked that there has been one case in the Jack Jouett District that has gone on for 10 years, and now they are starting all over again.

Ms. Palmer asked Mr. Kamptner if civil or criminal penalties are more effective in these situations. Mr. Kamptner responded that he would want to come back with more information, though his observation has been that if they have a civil enforcement team, then they are more apt to proceed to correct the violation through available means. He stated that his office may impose misdemeanor charges but not felony charges.

Mr. Kamptner next reviewed affordable housing. He said the recently hired housing planner has suggested that they obtain enabling authority to expand the ability of land bank entities, which addresses abandoned, vacant, and tax delinquent properties, to also serve as a tool to help with affordable housing. He said this would be brought back to the Board at a later date.

Mr. Kamptner addressed homestays. He said the Department of Finance has proposed that homestay platforms, i.e., Airbnb, etc., be required to make annual reports to the locality and was awaiting Board action on the pending homestay ordinance.

Mr. Kamptner addressed a bill to change the eligibility requirements to obtain an antique motor vehicle license. He said it was delayed last year due to concerns as to how it might affect antique vehicle clubs and car owners and would carry over. He said staff will work with the Board and have a discussion on the matter next month.

Mr. Kamptner reviewed the matter of a proposed tax deduction for public safety volunteers. He said the staff ran out of time to work on this last year but would look at it this year and reach out to departments for ideas.

Mr. Kamptner offered to work to schedule a date and time to conduct the annual meeting with legislators and candidates, with July or August as likely months.

Ms. Mallek asked about enabling authority to establish a tree or canopy ordinance in order to address situations like they have in Crozet where hundreds of trees have been bulldozed and there has been a public outcry over it. Mr. Kamptner responded that the existing legislation that deals with Planning District 8 was not as great as he thought and has very prescriptive enabling authority. He offered to look at this and remarked that the additional 10% was for fairly low-density development. He said the drop-off between current enabling authority and the Planning District 8 enabling authority for urban areas was not that significant in terms of percentage for tree canopy. Ms. Mallek noted that some localities are imposing fees based on the number of trees cut down. She explained that developers are cutting down trees for convenience and replacing them with much smaller saplings that would take many years to grow.

Ms. Mallek asked for the status of enabling authority to require documentation before demolition of historic properties, which has been discussed for many years in the County. Mr. Kamptner asked for more detail and said they do have some enabling authority. Ms. Mallek responded that the committee has been told they cannot. Mr. Kamptner remarked that it was voluntary. Ms. Mallek stated that it was a minimal burden to require that photos be taken prior to obtaining a permit.

Mr. Dill asked if this would be based on age or historic significance. Ms. Mallek responded that it was both.

Ms. Mallek asked Mr. Kamptner for the status on enabling authority to encourage reporting of glass recycling. Mr. Kamptner said he could not find any applicable definitions as to what was or what was not proprietary in the context of the reporting requirement and would do more research.

Ms. Palmer remarked that they recently learned that the Thomas Jefferson Planning District Commission (TJPDC) was supposed to compile an annual record of what has been recycled in each county to comply with a state requirement to recycle a certain percentage of waste. She said they received letters from County Waste and van der Linde expressing that they considered their numbers to be proprietary and would no longer furnish this data. Ms. Palmer asked Mr. Kamptner if legislation was needed to require haulers to provide this information and for a definition of proprietary, though he has not been able to find a definition of proprietary. She asked the Board if there was agreement that they should direct staff to look into the matter.

Ms. Mallek, Ms. Palmer, and Mr. Dill expressed support to have Mr. Kamptner look into this matter.

Mr. Dill commented that the reason the haulers do not want to divulge their information was because it told what their market share was, as communities crack down if market share becomes too high.

Ms. Palmer added that they are not recycling if they do not have a market for it, yet contracts with local communities require them to recycle, and this makes it easier for them to do whatever they want to do. She noted that the Chinese recycling market has gone away, and the idea was to stimulate new local markets for these materials, which the state has been trying to do for glass. She asked the Board if there was support for them to conduct a letter-writing campaign expressing support for recycling initiatives. Ms. Mallek asked Ms. Palmer to send her a draft of a letter.

Ms. Mallek asked if the County has the authority to do anymore with property tax for the very elderly. She said that those with a military pension or who do not have a mortgage do not qualify for the Aged and Disabled Property Tax Waiver sliding scale. Ms. McKeel remarked that it was probably the cap, which has not been changed in years, and that need to be addressed. Mr. Kamptner responded that they may just need to fix the ordinance and he offered to take a look at this.

Ms. Mallek proposed a tax on ticket admissions with the proceeds to be used for things like a convention center. She stated they would have to collaborate with the University of Virginia and Charlottesville City Council. Ms. McKeel and Mr. Dill expressed support for having this further investigated. Mr. Kamptner remarked that 17 cities in Virginia imposes an admission tax, but he does not know if any counties have enabling authority.

Mr. Randolph recalled that former Supervisor Dennis Rooker had looked into this on his committee, and it was ruled out because the state has a prohibition on it being applied to counties.

Mr. Gallaway suggested that if Board members have more items for consideration that they forward them to Mr. Kamptner in advance of the next review. Mr. Kamptner commented that he would be coming back to the Board again on May 15 to review legislative items.

Agenda Item No. 12. Closed Meeting.

At 3:46 p.m., Mr. Dill **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- under Subsection (1), to discuss and consider appointments to the Agricultural and Forestal District Advisory Committee, Charlottesville-Albemarle Convention and Visitors Bureau, the Solid Waste Alternatives Advisory Committee, the Rivanna Solid Waste Authority, and the Rivanna Water and Sewer Authority, for which there are pending vacancies or requests for reappointments; and
- under Subsection (3), to discuss the acquisition of real property in the Crozet area for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board; and
- under Subsection (6), to discuss and consider the investment of public funds in an affordable housing project in the northern portion of the Scottsville Magisterial District and an economic development project in Crozet where, if made public initially, would adversely affect the financial interest of the County; and
- under Subsection (7), to consult with legal counsel and briefings by staff members pertaining to probable litigation between the County, the Board, and a Virginia corporation where consultation or briefing in an open meeting would adversely affect the litigating posture of the County and the Board; and
- under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to a volunteer rescue squad.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway, and Ms. Mallek.
NAYS: None.

Agenda Item No. 13. Certify Closed Meeting.

At 6:01 p.m., the Board reconvened into open meeting, and Mr. Dill **moved** that the Board of Supervisors certify by a recorded vote that to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway, and Ms. Mallek.
NAYS: None.

Agenda Item No. 14a. Boards and Commissions: Vacancies and Appointments.

Mr. Randolph **moved** that the Board make the following appointments/reappointments:

- **reappoint** Mr. Bruce Vlk to the Agricultural and Forestal District Advisory Committee with said term to expire April 17, 2023.
- **appoint** Ms. Diantha McKeel to the Charlottesville-Albemarle Convention and Visitors Bureau (CACVB) Executive Committee with said term to expire Dec 31, 2019.
- **appoint** Ms. Christine Putnam to the Solid Waste Alternative Advisory Committee

- (SWAAC) with said term to expire May 31, 2023.
- **reappoint** Mr. Jeff Richardson to the Rivanna Solid Waste Authority (RSWA) with said term to expire April 2021.
- **reappoint** Mr. Jeff Richardson and Mr. Gary O'Connell to the Rivanna Water & Sewer Authority (RWSA) with said term to expire April 2021.
- **appoint** Ms. Diantha McKeel as the alternate to the Thomas Jefferson Planning District Commission Regional Housing Partnership Executive Committee with said term to expire December 31, 2019.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.

NAYS: None.

Agenda Item No. 15. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Nancy Carpenter, resident of Charlottesville, addressed the Board. She said a tenant, resident of The Crossings, who has been a beneficiary of the County's subsidized project-based voucher, was at risk of eviction and becoming homeless. She recounted how it was the story of this individual, along with those of some others, which compelled a previous Republican-leaning Board to fully fund some project-based vouchers. At that time, the full approvals for the HUD project-based vouchers were not in, and there was a chance that nine County residents would have to stay outside during the heat of the summer and into the winter. She explained that during the current recertification period, this individual was in the hospital and undergoing rehabilitation and was not able to conduct business. She asked that the Board find a resolution to keep this individual housed. She remarked that as a middle-aged woman, the individual would be subject to potential physical harm or exploitation on the streets. She asked to set up a meeting with County staff, including Mr. Richardson, to resolve this issue.

(Note: The next two agenda items were discussed concurrently:)

Agenda Item No. 16. **Public Hearing: SP201900001 Amendment to Greenfield Terrace.**

PROJECT: SP201800019 Greenfield Terrace Apartments and SP201900001 Amendment to Greenfield Terrace.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL(S): 04500-00-00-15700; 04500-00-00-15800.

LOCATION: Greenfield Terrace: undeveloped area at the end of the cul-de-sac. Approx. 420' from the intersection of Greenfield Terrace and Berkmar Drive, and approx. 310' from the intersection of Station Lane and Rio Road W.

PROPOSAL: Amend existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800 from the existing SP. New SP201800019 to build 33 multifamily residential dwelling units in a new 39,000 sq. ft. three-story building on Tax Map Parcels 04500-00-00-15700 and 04500-00-00-15800.

PETITION: Amendment to existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800. New SP to allow R-15 (15 du/acre) multifamily residential units under Section 23.2.2.9 of the Zoning Ordinance. 33 multifamily residential units are proposed on two parcels (TMP 45-157 and TMP 45-158) on a total of 1.96 acres at a density of 16.84 du/acre. Special Exception request to waive the 20' buffer requirement for adjacent lots zoned residential per 18-21.7(c). Special Exception request to use 18-4.19 residential setbacks instead of 18-4.20 commercial setbacks per 18-21.7(a) and (b).

ZONING: Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/ acre).

OVERLAY DISTRICT(S): Airport Impact Area; Entrance Corridor; Steep Slopes- Managed.

COMPREHENSIVE PLAN: Flex Area within Rio29 Small Area Plan – area intended to allow a flexibility of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 2-5 stories, built close to the street, with pedestrian access and relegated parking.

Agenda Item No. 17. **Public Hearing: SP201800019 Greenfield Terrace Apartments.**

PROJECT: SP201800019 Greenfield Terrace Apartments and SP201900001 Amendment to Greenfield Terrace.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL(S): 04500-00-00-15700; 04500-00-00-15800.

LOCATION: Greenfield Terrace: undeveloped area at the end of the cul-de-sac. Approx. 420' from the intersection of Greenfield Terrace and Berkmar Drive, and approx. 310' from the intersection of Station Lane and Rio Road W.

PROPOSAL: Amend existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800 from the existing SP. New SP201800019 to build 33 multifamily residential dwelling units in a new 39,000 sq. ft. three-story building on Tax Map Parcels 04500-00-00-15700 and 04500-00-00-15800.

PETITION: Amendment to existing SP200000074 to remove Tax Map Parcel 04500-00-00-15800. New SP to allow R-15 (15 du/acre) multifamily residential units under Section 23.2.2.9 of the Zoning Ordinance. 33 multifamily residential units are proposed on two parcels (TMP 45-157

and TMP 45-158) on a total of 1.96 acres at a density of 16.84 du/acre. Special Exception request to waive the 20' buffer requirement for adjacent lots zoned residential per 18-21.7(c). Special Exception request to use 18-4.19 residential setbacks instead of 18-4.20 commercial setbacks per 18-21.7(a) and (b).

ZONING: Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/ acre).

OVERLAY DISTRICT(S): Airport Impact Area; Entrance Corridor; Steep Slopes- Managed.

COMPREHENSIVE PLAN: Flex Area within Rio/29 Small Area Plan – area intended to allow a flexibility of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 2-5 stories, built close to the street, with pedestrian access and relegated parking.

(Advertised in the Daily Progress on April 1 and April 8, 2019.)

The Executive Summary forwarded to the Board states that at its meeting on March 19, 2019, the Planning Commission voted to recommend approval of SP201900001 and SP201800019 with staff-recommended conditions, and recommended approval of the two requested special exceptions. The Planning Commission's staff report, action letter, and minutes are attached (Attachments A, B, and C).

The Planning Commission voted 6-0 to recommend approval of SP201900001 and SP201800019 with the conditions set forth in the staff report. In addition to the two special use permits, there were two special exceptions that the Planning Commission recommended approval for. The first special exception is to waive the commercial buffer requirement per County Code § 18-21.7(c), and the second special exception is to use County Code § 18-4.19 residential setbacks instead of County Code § 18-4.20 commercial setbacks. The Planning Commission did not request any changes. Staff's analysis of the two special exceptions are attached (Attachments A6 and A7).

There have been no revisions to the application, and there have been no substantive revisions to the special use permit conditions for SP201800019. The conditions were removed from SP201900001, as they are not applicable to that special use permit. A condition has been added to the special exemptions to limit the buffer disturbance to one area.

Staff recommends that the Board adopt the attached Resolutions to approve SP201900001, SP201800019, and the two special exceptions (Attachments D-F).

Ms. Tori Kanellopoulos, Planner, explained that this was a public hearing for a special use permit to establish 33 multi-family residential dwelling units on two parcels totaling 1.96 acres, located on Greenfield Terrace adjacent to the intersection of a public street with Station Lane, a private street. She said it was approximately 420 feet from the intersection of Greenfield Terrace and Berkmar Drive, 310 feet from the intersection of Station Lane and Rio Road West, and a six-minute walk from Northside Library. There are five adjacent townhomes on Station Lane, an existing daycare and office use, and several professional and medical offices along Greenfield Terrace. She said the property was zoned Commercial/Office (CO), which allows multi-family residential uses by special use permit; adjacent parcels are zoned CO, R4 and R6 residential. She stated that it was designated flex in the Rio/29 Small Area Plan, and properties with this designation may include residential, commercial, retail, office, institutional, and employment uses.

Ms. Kanellopoulos stated that this special permit was consistent with the Comprehensive Plan and the proposal requires two motions and, therefore, two applications. She explained that SP2019-00001 needs to be approved first to allow SP2018-00019 to be a new and separate special use permit with no carryover conditions. She said the second application would establish the 33 multi-family residential units in a three-story, 39,000-square-foot building with one and two-bedroom rental units. She said that special use permits in commercial office zoning allow for residential units at R15 density; the applicant has proposed to use affordable units for a density bonus to allow a density of 16.84 units/acre, which would be considered at the site planning stage. She said that staff does not have any major concerns nor were any expressed at the community meeting. She said the main issue raised at the meeting was traffic, which transportation planning staff and VDOT does not have concerns about, and VDOT indicated that the additional unit count was not sufficient to warrant intersection improvements. She explained that if approved by the Board, the applicant would also need to go through the site plan process and obtain Architectural Review Board approval.

Ms. Kanellopoulos explained that the proposal has two special exception requests with the intent to treat the proposal as residential, even though it was in a commercial district. She said the first request would waive the 20-foot commercial buffer requirement between residential and commercial districts under County Code § 18-21.7(c). She said there was one adjacent parcel where this requirement was not met, which is the undeveloped parcel to the north owned by the County, TMP 45-94. She said the proposal would still need to meet steep slope and screening requirements at the site planning stage; however, the 20-foot undisturbed buffer was intended for commercial and not residential uses, and to allow the proposal to fit within the site. Staff recommends approval of the special exception. She said the second special exception was to apply residential setbacks under County Code § 18-4.19 instead of the commercial setbacks under § 18-4.20. She said given this was a residential use, staff recommends approval of the special exception. She said parking would still be screened under site plan requirements, and there would be additional Architectural Review Board landscaping requirements at the site planning stage.

Ms. Kanellopoulous said staff recommends approval of SP20190001 without conditions, noting that there were conditions listed under this application number during the Planning Commission public hearing, which were the same as the SP20180019 conditions; however, they have been removed from this number since this application number was just to remove TMP 45-158 from existing special use permit SP200074; therefore, there are no conditions needed for this application number.

Mr. Randolph complimented Ms. Kanellopoulous on the clarity of the illustrations presented as they were very helpful to see where the special exceptions apply.

Mr. Gallaway invited the applicant to address the Board.

Mr. Greg Powell, of Urban Places LLC, addressed the Board. He noted that his company focuses on urban development. He added that he was invited to be part of the Rio/29 Work Group, and this made him very interested in this area. He remarked that the property was within the small area plan. He said they believe that by adding residential to a purely office cul-de-sac, they are starting the mixed-use and increased density the small area plan intends. He said the site was well-connected and close to the future village center of Rio/29, bus and bike routes, and future connectivity plans. He described the project as a three-story, 33-unit, one and two-bedroom high-end rentals that are primarily aimed at millennials and single people, with its quick connection to Downtown and up to the Airport yet in a quiet setting, with potential walkability to work. He said they have committed six affordable units, evenly split between one and two bedrooms, which meet the County's definition at 80% AMI, although they are willing to go to a lower AMI if so desired by the County. He explained that the building was deliberately modern in all respects, to match the context of the surrounding area and set the tone for the County's future vision of this being the center of the County.

Mr. Randolph complimented Mr. Powell for the maps, connectivity plan, and conceptual designs, which he found to be very helpful. He said they were the most extensive designs he has seen in his years serving on the Planning Commission or the Board.

Mr. Gallaway said he attended the Community Advisory Council Meeting where the presentation was made. He asked Mr. Powell to speak to the connectivity at Station Lane, which looks like it would remain open. Mr. Powell responded that the County made it very clear they wanted it open and the seller was reluctant to leave it open, but he fully understands that this was a condition of the purchase. He said they think connectivity was a good thing.

Mr. Gallaway opened the public hearing.

Mr. Sean Tubbs, of the Piedmont Environmental Council, addressed the Board. He said PEC would not take a position on the special use permit before the Board, but it provides an opportunity to talk about the finer points of the Rio Road Small Area Plan. He said urban Albemarle and the building of a 21st Century community would take a lot of work, involve a lot of small details, and has many moving parts that would involve many public hearings. He said he listened to the recording of the Planning Commission meeting and was impressed that Mr. Powell was attracted to this parcel because of the Rio Road Small Area Plan. He said that 33 units in this location would go a long way towards reaching housing goals, it was along two bus routes, and it would provide six affordable units with a willingness to go below 80% of AMI. He noted that it was within walking distance of the Northside Library, a major County investment.

Mr. Tubbs said there are many other future projects called for in the Rio Road Small Area Plan, which would only be built through a combination of public and private funding, including a town center, library plaza, shared-use path along Rio Road, and ways to get pedestrians and cyclists across Route 29. He commended County Planning staff for coming up with this list, as doing this in-house provides consistency. He remarked that none of these projects came up at the Planning Commission meeting. He said the changes made by the 2016 proffer law has a chilling effect on the ability of advisory bodies to bring up these topics while they are in discussions. He said the importance of master plans was to have concrete potentials with a variety of funding sources. He said he likes the map shown in the staff report, which shows the same map that appears in the small area plan, which singled out this location, which might allow the Board and others to consider what projects this might incentivize through partnerships and collaborations.

Mr. Gallaway closed the public hearing.

Mr. Gallaway commented that they have been waiting and hoping to see projects that aspire to the small area plan. He also recalled that a second project located just across Berkmar was presented at the Community Advisory Committee meeting, and it was encouraging that there are two projects that are trying to live up to this small area plan.

Mr. Gallaway **moved** that the Board adopt the proposed resolution to approve SP201900001, Greenfield Terrace Amendment. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.
NAYS: None.

**RESOLUTION TO APPROVE
SP 2019-01 GREENFIELD TERRACE AMENDMENT**

WHEREAS, the Developer of Greenfield Terrace submitted an application for a special use permit to remove Tax Map Parcel 04500-00-00-15800 from the special use permit that was previously approved (SP 2000-74), and the application is identified as SP201900001 Greenfield Terrace Amendment ("SP 2019-01"); and

WHEREAS, on March 19, 2019, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2019-01 with staff-recommended conditions; and

WHEREAS, on April 17, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2019-01.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2019-01 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code § 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2019-01.

Mr. Gallaway **moved** that the Board adopt the proposed resolution in Attachment E to approve SP201800019, Greenfield Terrace, subject to conditions contained therein. The motion was **seconded** by Mr. Randolph.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.
NAYS: None.

RESOLUTION TO APPROVE SP 2018-19 GREENFIELD TERRACE

WHEREAS, the Developer of Greenfield Terrace submitted an application for a special use permit to build 33 multifamily residential dwelling units in a new 39,000 square foot three-story building on Tax Map Parcels 04500-00-00-15700 and 04500-00-00-15800, and the application is identified as SP201800019 Greenfield Terrace ("SP 2018-19"); and

WHEREAS, on March 19, 2019, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2018-19 with staff-recommended conditions; and

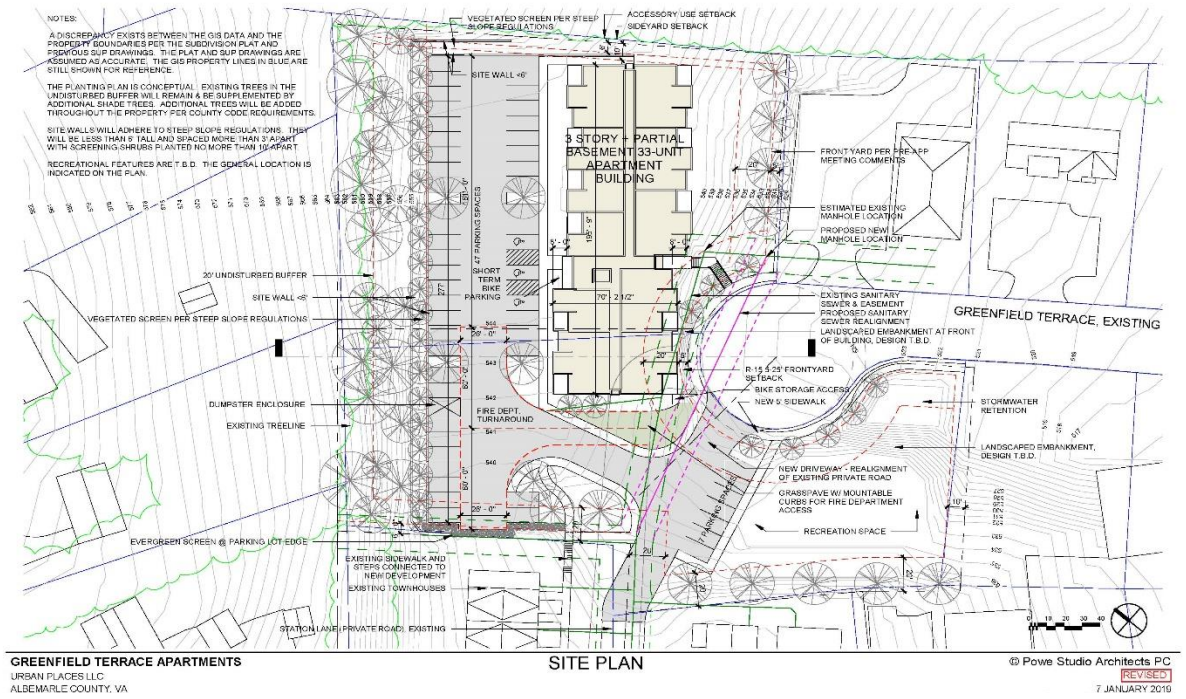
WHEREAS, on April 17, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2018-19.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2018-19 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-23.2.2.9 and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 2018-19, subject to the conditions attached hereto.

* * *

SP-2018-19 Greenfield Terrace Special Use Permit Conditions

1. Development of the use shall be in general accord with the Conceptual Plan titled "Greenfield Terrace Apartments: Site Plan," prepared by Powe Studio Architects, with the latest revision date of January 7, 2019, and narrative title "Greenfield Terrace Apartments: Special Use Permit Application to Albemarle County" (hereafter "Narrative"), dated January 11, 2019, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development and described in the Narrative:
 - a. Multifamily building
 - b. Location of parking area
 - c. Location of buffer
2. A minimum of 15% of the dwelling units permitted with the density allowed as standard level conventional development in County Code § 18-18.3 shall be affordable housing units. These affordable units shall not count toward any affordable housing density bonus applied for pursuant to County Code § 18-18.4.3 at final site plan stage.
3. As part of the final site plan review and approval, the parking lot serving the multifamily units shall be screened from the adjacent townhomes to the satisfaction of the agent.



Greenfield Terrace Apartments
Special Use Permit Application to Albemarle County

Thirty-Three Unit Apartment Building Development
Greenfield Terrace, Albemarle County, VA



An Urban Places, LLC Development
Powe Studio Architects PC

October 22, 2018
Revised January 11, 2019
Pages 2, 6, 9, 10

Greenfield Terrace Apartments, Albemarle County, VA

Project Description:
Greenfield Terrace is a planned 33-unit apartment building to be located on the quiet Greenfield Terrace cul-de-sac off Berkmar Drive near Rio Road. The development will be a rental property, with provisions to possibly convert the building into condominiums at a later date.

This contemporary 39,000 square foot, three-story elevated building will include 17 two-bedroom two-bathroom units designed with couples or shared singles in mind, 6 one-bedroom-plus-den units and 10 one-bedroom apartments. Units range in size from 725 SF to 1,080 SF plus 70 SF to 100 SF balconies. Each spacious suite includes a large living area with floor-to-ceiling glass and an open kitchen, a large balcony, 3 and 4 fixture bathrooms, generous closet space and en-suite washer/dryer.

Contemplated resident interior amenities include a lobby lounge, with individual storage units, bicycle storage and parcel delivery locker system in its partial basement area. Exterior site amenities include extensive lawns, a shaded picnic and grilling area and a fire pit conversation area, and possibly bocce and croquet courts. The site backs onto a mature wooded area on both the west and north sides.

The building is contemporary in its architectural expression reflecting the target Millennial tenant market, flat roofed to keep the building scale and profile low, with cement board horizontal plank siding reflecting adjacent residential buildings, with cement board panels expressing each projected living room “bay” expression. Balconies are recessed and projected to create deep large outdoor living spaces for each unit.

Neighboring properties include a residential townhouse row and preschool directly to the south on Station Lane, a mature wooded area immediately to the west with four single family homes beyond the woods fronting on Woodburn Road, County-owned mature woods directly to the north and Agnor-Hurt School immediately north of the woods and the one block long Greenfield Terrace cul-de-sac accessing four small office buildings.

Residents will be close to Fashion Square and Route 29 shopping and employment centers north up Berkmar to the Research Park and south in-town via Route 29 or Rio. Residents can access to Rio Road via an easement on Station Lane private road.

Zoning and Special Use Permit Requests:
The property is an assembly of 1.008 acre and 0.95 acre contiguous parcels which are currently zoned Commercial Office, permitting multifamily development with a Special Use Permit. The lots total 1.958 acres. At 15 dwelling units per acre, this property can accommodate 29.37 “by-right” units. We propose to take advantage of the permitted bonus density for affordable units to increase the total unit count to 33 units, of which 6 units will be designated affordable at 80% AMI (15% of 29 units plus ½ of the four bonus units). We are proposing to utilize the height and setback requirements consistent with R-15 zoning which are compatible also with current CO requirements.

Current zoning requires 58 parking spaces, but we request a 10% parking reduction in recognition of the very close proximity to both the Rio and Berkmar bus routes. Our current site plan shows 54 spaces on site, and there is considerable on-street parking available for guests on Greenfield Terrace.

The development is in keeping with both Albemarle County’s Comprehensive Plan for the Rio + 29 area and the recently adopted Rio 29 Small Area Plan which plans high density urban development in this location. The south property has a current Special Use Permit permitting an office building with surface parking which was not built. This SP application requests amending the former SP.

- Submission Narrative: Project Proposal**
- Consistency with Comprehensive Plan and the Rio 29 Small Area Plan:**
- The proposed apartment building is entirely consistent with the Comprehensive Plan for the Rio+29 area which encourages increased urban density development to increase places to live, work and play and the recently adopted Rio 29 SAP which defines this neighborhood as a 12 to 5 story “Flex Zone”. Urban density, as defined in the Comprehensive Plan can exceed our 15 units per acre plan, but we are basing 15 units per acre on current CO zoning permitted Special Use R-15 multifamily. Developing Multifamily on Greenfield Terrace, which is currently all office use, increases the mixed-use character of the Greenfield Terrace neighborhood.
- Public Need or Benefit**
- There is a current high demand for Millennial and Empty Nester housing in Albemarle County’s inner ring suburban areas, with the Comprehensive Plan for this area encouraging more of an urban density which we are proposing with our 15 units per acre development. With existing bus routes a block away, and bicycle routes planned to connect this neighborhood to the Rio at 29 mixed use center, a more urban lifestyle is encouraged.
- How Special Use will not be a detriment to adjacent lots**
- An apartment building compliments the adjacent businesses on Greenfield which are all office buildings, providing walk-to-work opportunities. Immediately adjacent on Station Lane there are already residential units (townhomes and a single family home). There is also an early learning center directly next door, walkable for any resident families. The single family homes west of our property are set back considerably from our site and we propose a 50 feet treed buffer area separating them from our proposed apartment building which is set downhill from the adjacent homes and is only 3 stories in height.
- How the character of the zoning district will not be changed by the proposed Special Use**
- The character of Greenfield Terrace will be enhanced by the addition of multifamily apartments, changing this office-only area into a live-work mixed-use street.
- How Special Use will be in harmony with the following:**
- **Purpose and Intent of the Zoning Ordinance**
 - The current zoning ordinance encourages multifamily use by permitting R-15 as a Special Use in this CO zone.
 - **Uses permitted by right in this Zoning District**
 - The addition of multifamily units enhances the existing office use by creating a more urban mixed-use neighborhood.
 - **Regulations provided in Section 5 of the Zoning Ordinance, as applicable**
 - None of the uses listed in Section 5 are applicable to our proposed residential use.
 - **Public health, safety and general welfare**
 - By introducing residential into this neighborhood, we are encouraging a live-work urban neighborhood. Being proximate to retail amenities and to proposed bicycle ways, and with bus routes only a block away, this development will encourage a less automobile-dependent more urbane lifestyle.
 - **Impacts on Public Facilities & Public Infrastructure**
 - Pre-application discussions with VDOT engineer and County Engineer confirm that there are no problematic increased traffic impacts with the added residents. Similarly, existing utilities are sized with sufficient capacity to manage this increased density.
- Impacts on Environmental Features**
- The properties are currently vacant land with an overgrown wooded area. It is our intent to preserve as many healthy trees on site as possible, most particularly by leaving a preserved strip of wooded property (except for clearing overgrowth) along the west edge of our site.
- Narrative revised January 11, 2019 to also reference Rio 29 SAP and to confirm Station Lane access to apartment residents

Submission Narrative: Project Proposal

Consistency with Comprehensive Plan:

- The proposed apartment building is entirely consistent with the Comprehensive Plan for the Rio+ 29 area which encourages increased urban density development to increase places to live, work and play. Urban density, as defined in the Comprehensive Plan can exceed our 15 units per acre plan, but we are basing 15 units per acre on current CO zoning permitted Special Use R-15 multifamily. Developing Multifamily on Greenfield Terrace, which is currently all office use, increases the mixed-use character of the Greenfield Terrace neighborhood.

Public Need or Benefit

- There is a current high demand for Millennial and Empty Nester housing in Albemarle County's inner ring suburban areas, with the Comprehensive Plan for this area encouraging more of an urban density which we are proposing with our 15 units per acre development. With existing bus routes a block away, and bicycle routes planned to connect this neighborhood to the Rio at 29 mixed use center, a more urban lifestyle is encouraged.

How Special Use will not be a detriment to adjacent lots

- An apartment building compliments the adjacent businesses on Greenfield which are all office buildings, providing walk-to-work opportunities. Immediately adjacent on Station Lane there are already residential units (townhomes and a single family home). There is also an early learning center directly next door, walkable for any resident families. The single family homes west of our property are set back considerably from our site and we propose a treed buffer area separating them from our proposed apartment building which is set downhill from the adjacent homes and is only 3 stories in height.

How the character of the zoning district will not be changed by proposed Special Use

- The character of Greenfield Terrace will be enhanced by the addition of multifamily apartments, changing this office-only area into a live-work mixed-use street.

How Special Use will be in harmony with the following:

- Purpose and intent of the Zoning Ordinance**
 - The current zoning ordinance encourages multifamily use by permitting R-15 as a Special Use in this CO zone.
- Uses permitted by right in this Zoning District**
 - The addition of multifamily units enhances the existing office use by creating a more urban mixed-use neighborhood.
- Regulations provided in Section 5 of the Zoning Ordinance, as applicable**
 - None of the uses listed in Section 5 are applicable to our proposed residential use.
- Public health, safety and general welfare**
 - By introducing residential into this neighborhood, we are encouraging a live-work urban neighborhood. Being proximate to retail amenities and to proposed bicycle ways and with bus routes only a block away, we will encourage a less automobile-dependent more urbane lifestyle.

Impacts on Public Facilities & Public Infrastructure

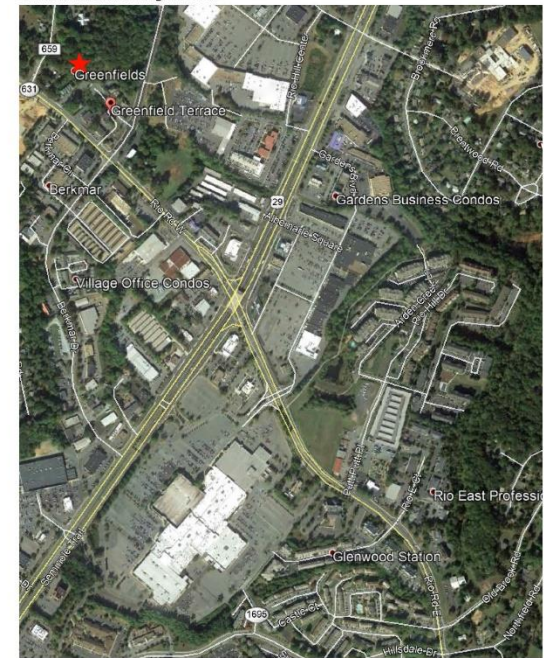
- Pre-application discussions with VDOT engineer and County Engineer confirm that there are no problematic increased traffic impacts with the added residents. Similarly, existing utilities are sized with sufficient capacity to manage this increased density. Stormwater will be managed as approved in the previous SP site plan.

Impacts on Environmental Features

- The properties are currently vacant land with an overgrown wooded area. It is our intent to preserve as many healthy trees on site as possible, most particularly by leaving a preserved strip of wooded property (except for clearing overgrowth) along the west edge of our site.

Powe Studio Architects for Urban Places LLC, Developer

Location: Rio and 29 Neighborhood



Greenfield Terrace Apartments, Albemarle County, VA

Aerial Plan View of Site and Neighboring Properties



Powe Studio Architects PC for Urban Places LLC, Developer

Aerial of Site near the Rio/Berkmar Intersection

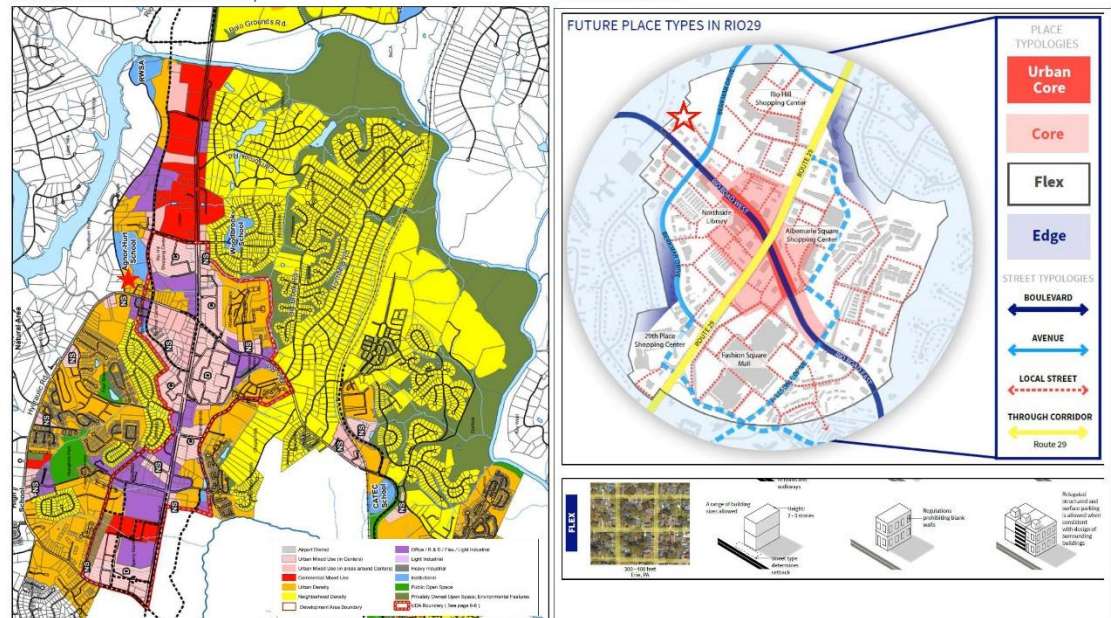


Greenfield Terrace Apartments, Albemarle County, VA

Powe Studio Architects PC for Urban Places LLC, Developer

Greenfield Terrace, Albemarle County, VA
Rio Places 29 Land Use Plan: "Urban Density"

Rio 29 Small Area Plan



Revised January 11, 2019

Powe Studio Architects PC



^A Looking north up Station Lane from Rio Road, treed property in the distance

V Looking west down Greenfield Terrace cul-de-sac from Berkmar Drive



Greenfield Terrace Apartments, Albemarle County, VA

Powe Studio Architects PC for **Urban Places** LLC, Developer



^ Looking west to end of Greenfield Terrace Cul-de-Sac

V Looking north from Rio up Station Lane to site in background



Greenfield Terrace Apartments, Albemarle County, VA

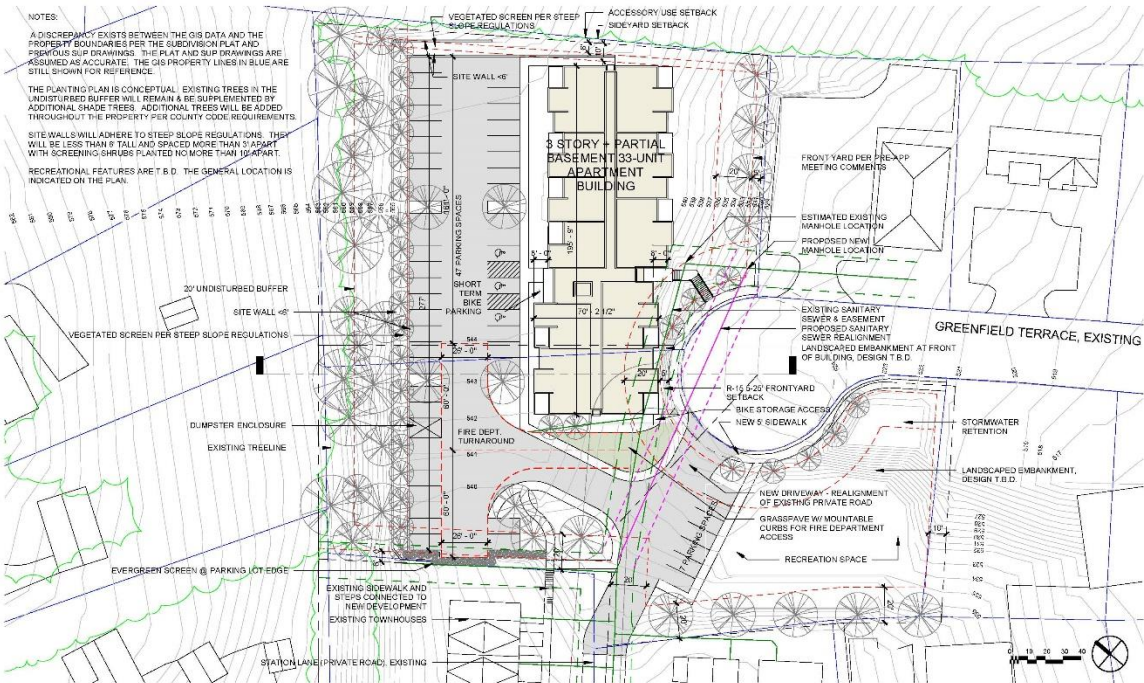
Powe Studio Architects PC for **Urban Places** LLC, Developer



GREENFIELD TERRACE APARTMENTS
URBAN PLACES LLC
ALBEMARLE COUNTY, VA

SITE PLAN & GROUND FLOOR

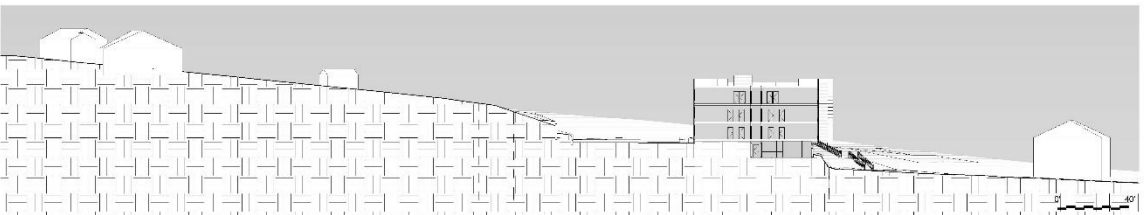
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REVISED
7 JANUARY 2019



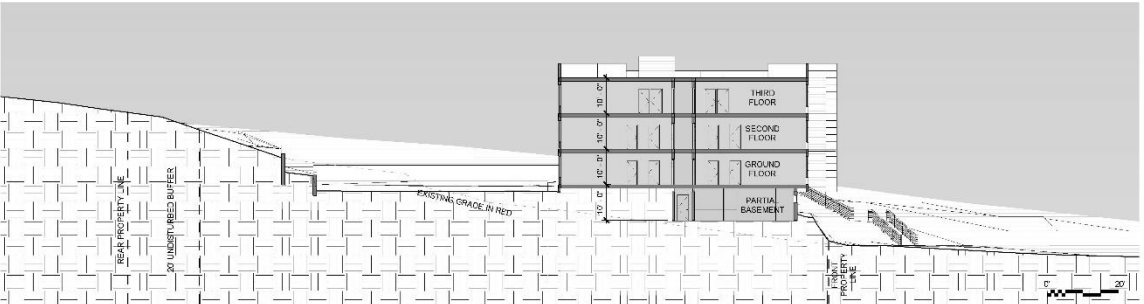
GREENFIELD TERRACE APARTMENTS
URBAN PLACES LLC
ALBEMARLE COUNTY, VA

SITE PLAN

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REVISED
7 JANUARY 2019



2 SITE SECTION
1" = 40'-0"

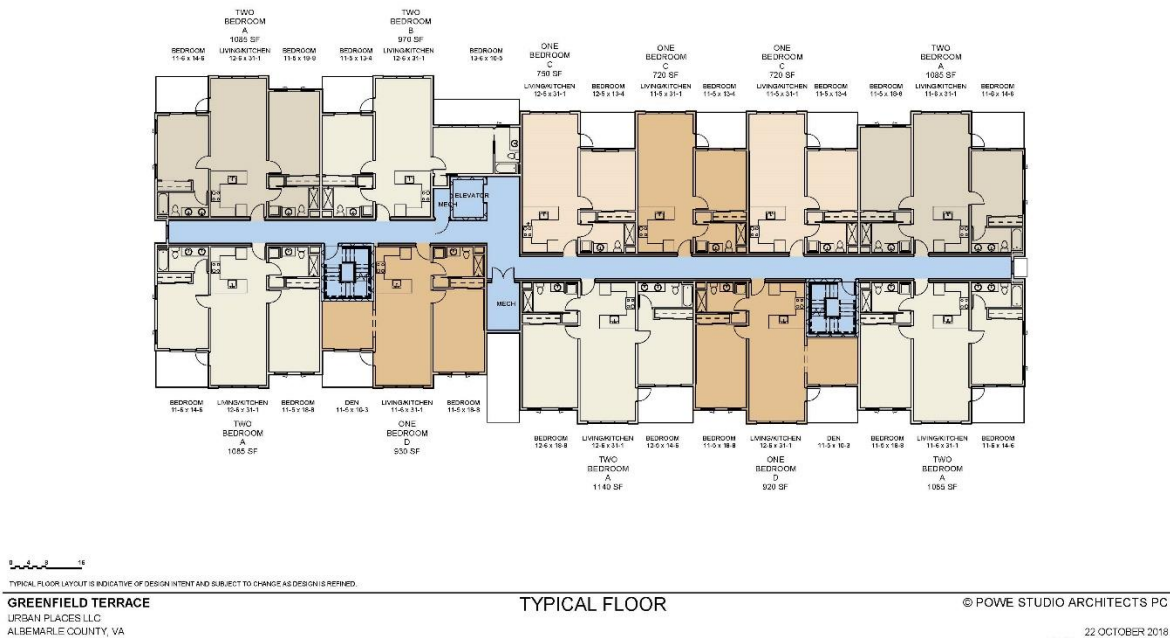


1 SECTION @ BUILDING
1" = 20'-0"

GREENFIELD TERRACE APARTMENTS
URBAN PLACES LLC
ALBEMARLE COUNTY, VA

SITE SECTIONS

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22 OCTOBER 2018



GREENFIELD TERRACE APARTMENTS
URBAN PLACES LLC
ALBEMARLE COUNTY, VA

FRONT

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22 OCTOBER 2018



GREENFIELD TERRACE APARTMENTS
URBAN PLACES LLC
ALBEMARLE COUNTY, VA

BACK

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In terms of the special exceptions, Ms. Kanellopoulos noted that one condition was added since the only area where the buffer requirement was not being met, was the adjacent parcel owned by the school, TMP 45-94. She said the other special exception was to use the residential setbacks.

Mr. Gallaway **moved** that the Board adopt the proposed resolution in Attachment F to approve the two special exception requests for SP2018000019, subject to the condition contained therein. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.

NAYS: None.

RESOLUTION TO APPROVE SPECIAL EXCEPTIONS FOR SP 2018-19 GREENFIELD TERRACE

WHEREAS, the Developer of Greenfield Terrace submitted an application for a special use permit to build 33 multifamily residential dwelling units in a new 39,000 square foot three-story building on Tax Map Parcels 04500-00-00-15700 and 04500-00-00-15800 (the "Property," located in a commercial zoning district) (SP 2018-19); and

WHEREAS, Albemarle County Code § 18-21.7(c) requires the maintenance of a 20-foot undisturbed buffer zone for properties located in a commercial zoning district that are adjacent to any residential or rural areas district; and

WHEREAS, the applicant requested a special exception in conjunction with SP 2018-19 to waive the 20-foot buffer requirement for the area on the Property that is adjacent to TMP 04500-00-00-09400, property that is owned by the County, is zoned residential, and is currently undeveloped; and

WHEREAS, the applicant also requested a special exception to modify the setback requirements set forth in County Code § 18-4.20 for property that is zoned commercial to the setback requirements set forth in County Code § 18-4.19 for property that is zoned residential.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary and staff report prepared in conjunction with the application, all of the factors relevant to the special exception in County Code §§ 18-21.7(c) and 18-33.49, and the information provided at the Board of Supervisors' meeting, the Albemarle County Board of Supervisors hereby approves the special exceptions as set forth above, subject to the condition attached hereto.

* * *

SDP 2018-19 Greenfield Terrace Special Exception Condition

1. Disturbance of the buffer shall be limited to the property line between the Property and Tax Map Parcel 04500-00-00-09400 as shown on the Conceptual Plan titled "Greenfield Terrace Apartments: Site Plan," prepared by Powe Studio Architects, with the latest revision date of January 7, 2019.

Ms. McKeel remarked that this was a great project and they are looking at building out areas and adding density, which often means children, and she gets very concerned about how schools could be impacted by overcrowding. She asked Supervisors to consider the urban ring schools that are bursting at the seams, as they often have to be reactive as additional projects come forward.

Mr. Randolph added that school overcrowding was not unique to the urban ring but system wide, as Brownsville and Scottsville are also overcrowded, and Stone Robinson was filling up as a result of Cascadia in Pantops. He said it is something the Board needs to keep its eye on.

Ms. Palmer said she thought they were doing a much better job in coordinating schools with Planning and the Office of Management and Budget. Ms. McKeel responded that this was true, but they all have to be aware and perhaps have a discussion with the School Board.

Ms. Mallek commented that 100 more children showed up at Brownsville than was anticipated, and the school was now over capacity by 100 students.

Mr. Gallaway added that he would also be curious to see what it means in terms of children and how it impacts school projections.

Agenda Item No. 18. **Public Hearing: Ordinance to Amend County Code Chapter 15, Taxation.** To receive public comment on its intent to adopt an ordinance to amend Chapter 15, Taxation, of the Albemarle County Code by reorganizing and rewriting the chapter, repealing obsolete and unnecessary provisions, and adding new provisions. The ordinance also would clarify and consolidate the Director of Finance's powers and duties under State law (new Sec. 15-100), reorganize existing Sec. 15-100 into separate sections pertaining to due dates (new Sec. 15-101), statutory assessments (new Sec. 15-102), penalties (new Sec. 15-103), interest (new Sec. 15-104), and applicability (new Sec. 15-108); revise consumer utility tax exemptions,

consistent with Virginia Code § 58.1-3816.2 (new Sec. 15-606); replace numerous lengthy definitions and standards, especially for use-value assessments and veterans-related exemptions, with simple cross-references to controlling State law; extend the deadline for property tax assessment appeals to the Board of Equalization (to March 30), consistent with Virginia Code § 58.1-3378(2) (new Sec. 15-702); eliminate commissions for collecting food and beverage tax, consistent with Virginia Code § 58.1-3833 (existing Sec. 15-1205); and add a short-term rental tax on businesses renting heavy equipment property, consistent with Virginia Code § 58.1-3510.4(B)(2) (new Sec. 15-1201(B)). As reorganized, the subject matter of Chapter 15 would be composed of: Article 1, Administration; Article 2, Retail Sales Tax; Article 3, Recordation Tax; Article 4, Bank Franchise Tax; Article 5, Tax on Probate of Wills or Grants of Administration; Article 6, Consumer Utility Tax; Article 7, Real Property Tax (Div. 1, Generally, Div. 2, Real Property Tax Exemption for Certain Elderly and Disabled Persons, and Div. 3, Special Assessments for Land Preservation); Article 8, Personal Property Tax; Article 9, Transient Occupancy Tax; Article 10, Food and Beverage Tax; Article 11, Service Charge on Tax-Exempt Property; Article 12, Short-Term Rental Property Tax; and Article 13, Property Exempted from Taxation (Div. 1, Generally, and Div. 2, Certified Solar Energy Equipment, Facilities, or Devices and Certified Recycling Equipment, Facilities, or Devices).
(Advertised in the Daily Progress on April 1 and April 8, 2019.)

The Executive Summary forwarded to the Board states that the Board has directed the County Attorney's Office to conduct a comprehensive review and recodification of the County Code. Chapter 15 of the County Code governs the assessment and collection of ten different County taxes, along with tax relief or reduction programs and tax exemptions. The chapter outlines when these taxes apply and at what rates, and how the Director of Finance is to administer and collect these taxes. It represents a compilation of various local taxes enabled by State law and adopted by the County.

The process of recodifying the County Code includes making formatting, style, organizational, and substantive changes. These changes are being addressed at the chapter level before the Board considers adopting a complete, recodified County Code. All local taxes must be in accord with State enabling authority. Specifically, most local taxes are enabled and outlined in various chapters of Title 58.1 of the Virginia Code. As with the County's business license ordinance (Chapter 8), the tax provisions of Chapter 15 are substantially similar, but not identical, to the corresponding State statutes.

Therefore, two overriding goals of the Chapter 15 recodification are:

1. To more closely conform the County's tax chapter with controlling State law.
2. To replace local provisions that duplicated controlling State law, with cross-references.

Noteworthy proposed revisions include:

1. The clarification and consolidation in *County Code* § 15-100 of the Director of Finance's powers and duties under State law.
2. The reorganization of existing *County Code* § 15-100 into separate sections dealing with due dates (new § 15-101), statutory assessments (new § 15-102), penalties (new § 15-103), interest (new § 15-104), and applicability (new § 15-108).
3. The revision in new *County Code* § 15-606 of consumer utility tax exemptions, consistent with Virginia Code § 58.1-3816.2.
4. The replacement of numerous lengthy definitions and standards, especially for use-value assessments and veterans-related exemptions, with simple cross-references to controlling State law.
5. The extension in new *County Code* § 15-702 of the deadline for property tax assessment appeals to the Board of Equalization (to March 30), consistent with *Virginia Code* § 58.1-3378(2).
6. The elimination of commissions for collecting food and beverage tax (existing *County Code* § 15-1205), consistent with *Virginia Code* § 58.1-3833.
7. The addition in new *County Code* § 15-1201(B) of a short-term rental tax on businesses renting heavy equipment property, consistent with *Virginia Code* § 58.1-3510.4(B)(2).

Where possible, without changing the underlying substance, staff has suggested primarily stylistic revisions, eliminating archaic or redundant language, to make the chapter easier to read.

No significant budget impact is expected.

Staff recommends that after holding a public hearing, the Board adopt the attached proposed ordinance (Attachment A).

Mr. Andy Herrick, Deputy County Attorney, presented. He said he would present on the proposed recodification of Chapter 15, which was the assessment and collection of the taxes portion of the County Code, and part of the larger effort the County Attorney's office has undertaken at the Board's direction of a comprehensive review and recodification of the entire Code. He noted that this primarily involves formatting, style, and organizational changes, with very limited substantive changes. He said that 10 different taxes are included in this chapter, along with tax relief and reduction programs and exemptions. The chapter outlines when these taxes applied, at what rates, and how the Director of Finance was to administer and collect them. He said it represents a compilation of various local taxes enabled by state law. He reminded the Board that under Dillon Rule, the County may only assess taxes that are enabled

by the State Code. He said the goal was to more closely conform the County Code to the enabling state law and to replace local provisions that duplicate controlling state law with cross references.

Mr. Herrick reviewed highlights of the changes that appear in the executive summary. He said the first was to clarify and consolidate the Director of Finance's powers and duties under state law in §15-100. He said the second highlight was the reorganization of §15-100 into a separate section and delineating how it applies to due dates, statutory assessments, penalties, interest, and applicability. He said that in §15-606, they revised the consumer utility tax exemptions, as they found they were not tracking well with the state enabling authority and replaced the existing provision with something that more closely tracks the state law. He continued that they replaced numerous definitions of standards, especially for use value assessments and veterans-related exemptions, with cross references to the state law.

He said that §15-702 extended the deadline for property tax assessment appeals to the Board of Equalization, as they found that the provisions do not closely track state law, and so put in something that more closely tracks the state law. He said they eliminated the commissions for vendors that collect food and beverage and transient occupancy taxes, as they found they were not tracking state law as closely as they should. He explained that state law allows for commissions for collection of transient occupancy tax, and would continue in the revised County Code, but does not allow for commissions for food and beverage tax. He said the last highlight he would review was the addition of a new County Code § 15-1201(B), a short-term rental tax on businesses that rents heavy equipment, which was in close conformity with what the state law allows.

Mr. Herrick noted that prior to his presentation, Mr. Kamptner distributed a last-minute change. He said that Finance suggested they revise one of the real estate tax relief exceptions for elderly and disabled persons. He said the current provision states that if any commercial use was taking place in a dwelling, it was automatically disqualified for real estate tax relief for the elderly and disabled; Finance recommends there be a de minimis allowance of \$25,000, the same threshold as for obtaining a business license. He noted that a public hearing was required to affect the ordinance change, suggested it be held this evening, and invited questions.

Ms. Palmer asked for confirmation that the substantive change involves the \$25,000 commercial revenue threshold for real estate tax relief disqualification and asked if there were any additional substantive changes. Mr. Herrick responded that the tax on heavy equipment rentals and the elimination of commissions for collection of the food and beverage tax were other examples.

Mr. Dill asked if the County has a food and beverage tax commission or if they were just eliminating the possibility of having a commission. Mr. Herrick responded that it was in effect and allows businesses to keep 3% of what they collect, but it was not enabled. He said staff was recommending that the County Code require that 100% of the food and beverage tax collected be turned over to the County.

Ms. Mallek asked that they review the list of application fees. Mr. Peter Lynch explained that he was present to make sure the proposed change to the fee for land use applications, from \$15 or 15 cents/acre minimum to \$125, was understood by the Board.

Ms. Palmer asked what the reason for the change was. Mr. Lynch responded that there were instances where people failed to revalidate during the revalidation process, did not pay the \$125 fee for revalidation after the deadline, and would reapply the next year, not lose any time in the program, and only pay a \$15 fee. He explained that this would close a loophole.

Ms. Palmer remarked that it seems like they are penalizing people who were doing it right. Mr. Lynch clarified that if they revalidate properly, they do not pay an application fee, and the fee was only imposed if it was done during the late period. Mr. Lynch said he also anticipates the Farm Bureau might be present and wants to learn if they have any issues with this, although they seem to be fine with this change. He said it would affect those who are subdividing properties and doing new applications but would not affect the greater farming community. He explained that if one was changing the type of agricultural activity, then there was no fee involved.

There being no other questions from Board members, Mr. Gallaway opened the public hearing. As no one came forward to address the matter, Mr. Gallaway closed the public hearing.

Ms. Palmer **moved** that the Board adopt the proposed ordinance, as amended with the April 17th amendment to page 21. The motion was seconded by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway and Ms. Mallek.
NAYS: None.

ORDINANCE NO. 19-15(1)

AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, 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 15, Taxation, is hereby amended as follows:

By Amending:

- 15-501 Tax in lieu of probate tax.
- 15-600 Definitions.
- 15-900 Definitions.

By Amending and Renaming:

- 15-200 ~~Retail sales tax~~ imposed; amount.
- 15-201 Administration and collection ~~by the State Tax Commissioner.~~
- 15-300 ~~Recordation tax~~ imposed; amount.
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- 15-1301 15-1101 Assessment and collection.
- 15-1500 15-1200 Definitions.
- 15-1501 15-1201 Levied Short-term rental property tax imposed; amount.
- 15-1503 15-1202 ~~Collection, return and remittance of tax~~ Collecting and remitting the tax; returns.
- 15-1505 15-1203 Penalty and interest.
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- 15-1603 15-704 ~~Exemptions from taxes on property for disabled veterans and surviving spouses of members of the armed forces killed in action; Application for exemption.~~
- 15-1700 15-1302 Definitions.
- 15-1701 15-1303 ~~Tax e~~ Exemption of certified solar energy equipment and certified recycling equipment.
- 15-1702 15-1304 Application generally.

By Combining:

- 15-902 ~~Payment and collection of tax~~ Collecting and remitting the tax; reports.
Combined into 15-902:
- 15-903 Deduction for lodging provider.
- 15-904 Reports and remittances generally.
- 15-1204 15-1002 ~~Payment and collection of tax~~ Collecting and remitting the tax; reports.
Combined into 15-1002:
- 15-1206 Reports and remittances generally.

By Adding:

- 15-100 Director of Finance; powers and duties to collect, administer, and enforce.
- 15-102 Statutory assessment of taxes.
- 15-801 Personal property tax returns.

By Repealing:

- 15-103 Penalty for returned checks.
- 15-301 Collection and disposition; compensation for collection.
- 15-402 Filing of return and payment of tax.
- 15-403 Penalty upon bank for failure to comply.
- 15-608 Collection of tax.
- 15-610 Penalty; continuing violations; conviction not to excuse payment of tax.
- 15-708 Violation and penalty.
- 15-805 Valuation of real estate.
- 15-806 Changes in use of assessed real estate; roll-back taxes.
- 15-807 Separation of part of assessed real estate; contiguous real estate located in more than one locality.
- 15-808 Real estate taken by of eminent domain.
- 15-809 Removal of parcels from program if taxes delinquent.
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- 15-1705 Presumption of Value.

Article 1. Administration

Sec. 15-100 Director of Finance; powers and duties to collect, administer, and enforce.

The Director of Finance (also referred to in this chapter as the "Director") has the following powers and duties:

- A. *Collect taxes.* The Director has the power and the duty to collect the taxes imposed and levied under this chapter and shall cause the taxes collected to be paid into the general treasury for the County.
- B. *Administer and enforce chapter.* In administering and enforcing this chapter, the Director has all powers and duties conferred on: (i) directors of finance by general laws, including but not limited to Chapter 5, Title 15.2 of the Virginia Code (Virginia Code § 15.2-500 *et seq.*); and (ii) commissioners of revenue and treasurers by general laws, including but not limited to Chapters 31 and 39, Title

58.1 of the Virginia Code (Virginia Code §§ 58.1-3100 *et seq.*, and 58.1-3900 *et seq.*, respectively).

(Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 15.2-519 *et seq.*, § 58.1-3100 *et seq.*, and § 58.1-3900 *et seq.*

Sec. 15-101 When taxes are due.

Any taxes imposed pursuant to this chapter are due and owing as follows:

- A. *General assessments.* Taxes due and owing to the County for real estate, tangible personal property, machinery and tools, mobile homes, and public service corporations are due and payable in two installments. The first installment is due and payable on or before June 5 of the year the taxes are assessed. The second installment is due and payable on or before December 5 of the year the taxes are assessed.
- B. *Payment in whole.* Any taxpayer may pay the whole of the taxes assessed in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment must be paid as part of the tax.
- C. *Supplemental assessments.* Supplemental tax assessments for real estate, tangible personal property, machinery and tools, mobile homes, and public service corporations are due and payable within 30 days of the billing date.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; § 15-100, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-101, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3916.

Sec. 15-102 Statutory assessment of taxes.

If any person, whose duty it is so to do, shall fail or refuse to collect any tax imposed under this chapter or to make, within the time provided in this chapter, any return or remittance required in this chapter, the Director of Finance shall proceed as he may deem best to obtain facts and information on which to base his estimate of the tax due.

As soon as the Director obtains facts and information upon which to base the assessment of any tax payable by any person who has failed or refused to collect any tax or to make any return or remittance, he shall proceed to determine and assess against that person any tax, penalty and interest provided for by this chapter and shall notify that person, by registered mail, sent to his last known place of address, of the total amount of any such tax, penalty and interest and the total amount thereof shall be payable within 10 days from the date of the notice.

In the event any such tax, penalty or interest is not paid within ten 10 days from the date of the notice, the Director shall proceed to collect any such tax, penalty or interest in accordance with Chapter 39 of Title 58.1 of the Code of Virginia (Virginia Code § 58.1-3900 *et seq.*).

(Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3903

Sec. 15-103 Penalties.

The following penalties are imposed:

- A. *Failure to pay generally.* Except as provided in subsection (B), a penalty of 10 percent of the tax past due or \$10.00, whichever is greater, is imposed on all taxes remaining unpaid after the due date; provided, however, that the penalty shall not exceed the amount of the tax assessable. The penalty shall be imposed on the day after the tax is due and, once it is imposed, it becomes part of the tax.
- B. *Failure to remit excise taxes.* In the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from consumers, a penalty of: (i) 10 percent for the first month the taxes are past due, and 5% for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or (ii) \$10.00, whichever is greater, is imposed on all taxes remaining unpaid after the due date; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The penalty shall be imposed on the day after the tax is due and, once it is imposed, it becomes a part of the tax.
- C. *Failure to file.* Any taxpayer who fails to file a return required under this chapter is subject to a penalty of 10 percent of the tax levied on the return or \$10.00, whichever is greater; provided, however, that the penalty shall not exceed the amount of the tax assessable. The penalty shall be imposed on the day after the return is due and, once it is imposed, it becomes a part of the tax.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; § 15-100, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-103, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3916.

Sec. 15-104 Interest.

Interest at the rate of 10 percent per year shall apply on all unpaid taxes and penalties commencing the first day of the month following the month in which the taxes are due, and continuing until paid.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; § 15-100, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-104, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3916.

Sec. 15-105 Fees to cover the cost of collecting delinquent taxes.

The following fees are imposed upon each person chargeable with delinquent taxes or other delinquent charges to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for:

- A. *Collection, generally.* The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs are in addition to all penalties and interest, and are in the amount of \$30.00 for taxes or other charges collected after 30 or more days after notice of delinquent taxes or charges pursuant to Virginia Code § 58.1-3919 but before taking any judgment with respect to the delinquent taxes or charges, and in the amount of \$35.00 for taxes or other charges collected after judgment.
- B. *Collection on a nuisance abatement lien.* If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs is \$150.00 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25.00.
- C. *Applicability of Virginia Code § 58.1-3958.* Except as otherwise provided in this section, Virginia Code § 58.1-3958 applies to this section.

(Ord. of 11-2-94; Code 1988, § 8-1.5; § 15-101, Ord. 98-A(1), 8-5-98; Ord. 03-15(1), 11-5-03; § 15-106, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-3916, 58.1-3958.

Sec. 15-106 Erroneous assessments.

If the Director of Finance may have made an erroneous assessment:

- A. *Investigation, exoneration, and refunds.* The Director, after diligent investigation and upon being satisfied that he has erroneously assessed a taxpayer with any local taxes shall, if the taxes have not been paid, exonerate the taxpayer from payment of the part of the amount that is erroneous, and if the taxes have been paid, shall refund to the taxpayer the amount erroneously paid together with any penalties and interest paid thereon.
- B. *Quarterly reports.* The Director shall make quarterly reports to the Board of Supervisors that itemize these refunds.
- C. *Applicability of Virginia Code § 58.1-3990.* Except as otherwise provided in this section, Virginia Code § 58.1-3990 applies to this section.

(11-3-76; 4-13-88; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 94-8(4), 11-2-94; Code 1988, § 8-1.1; § 15-102, Ord. 98-A(1), 8-5-98; § 15-107, Ord. 19-15(1), 4-17-19)

State law reference-- Va. Code § 58.1-3990.

Sec. 15-107 Use of commercially acceptable means to pay.

The Director of Finance may accept payment of any amount due by any commercially acceptable means, including, but not limited to, checks, credit cards, debit cards, and electronic funds transfers, and may add to any amount due the amount charged to the County for accepting any payment by a means that incurs a charge to the County or the amount negotiated and agreed to in a contract with the County, whichever is less.

(10-2-85; Ord. of 2-5-92; Code 1988, § 8-1.4; § 15-104, Ord. 98-A(1), 8-5-98; § 15-108, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 2.2-614.1.

Sec. 15-108 Applicability of article.

The provisions in this article do not alter or supersede any other provisions of State law or any County ordinance, the subject of which is not specifically addressed herein.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; § 15-100, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-105, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3916.

Article 2. Retail Sales Tax

Sec. 15-200 Retail sales tax imposed; amount.

A local general retail sales tax is hereby imposed at the rate of one percent, to provide revenue for the general fund for the County. The tax shall be added to the rate of the State sales tax imposed by Chapter 6, Title 58.1 of the Code of Virginia (Virginia Code § 58.1-600 *et seq.*) and the rules and regulations published with respect thereto.

(Code 1967, § 9-2; Code 1988, § 8-2; § 15-200, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-605.

Sec. 15-201 Administration and collection by the State Tax Commissioner.

The local general retail sales tax imposed by this article shall be administered and collected by the State Tax Commissioner in the same manner and subject to the same penalties as provided for the State sales tax, with the adjustments required by Virginia Code § 58.1-628.2.

(Code 1967, § 9-3; Code 1988, § 8-3.; § 15-201, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-605.

Article 3. Recordation Tax

Sec. 15-300 Recordation tax imposed; amount.

A County recordation tax in an amount equal to one-third of the amount of the State recordation tax collectable for the State is hereby imposed upon the first recordation of each taxable instrument; provided that:

- A. *When tax not imposed.* The recordation tax shall not be imposed on any instrument in which the State recordation tax is \$0.50.
- B. *Multijurisdictional parcels.* If a deed or other instrument conveys, covers, or relates to property located partly in the County and partly in another county or city, or in other counties or cities, the tax imposed under this section shall be computed only with respect to the property located in the County.
- C. *Applicability of Virginia Code § 58.1-3800 et seq.* Except as otherwise provided in this article, Article 1, Chapter 38, Title 58.1 of the Code of Virginia (Virginia Code § 58.1-3800 *et seq.*) applies to this section.

(Code 1967, § 9-4.; Code 1988, § 8-4; § 15-300, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-814, 58.1-3800 to 58.1-3804.

Article 4. Bank Franchise Tax

Sec. 15-400 Definitions and computation.

The following apply to this article:

Bank has the same meaning as the word is defined in Virginia Code § 58.1-1201.

Net capital of any bank shall be computed pursuant to Virginia Code § 58.1-1205.

(5-14-80; Code 1988, § 8-7; § 15-400, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference – Va. Code § 58.1-1200 *et seq.*

Sec. 15-401 Bank franchise tax imposed; amount.

A tax on net capital equaling 80 percent of the State rate of franchise tax set forth in Virginia Code § 58.1-1204 is hereby imposed on each bank located outside any incorporated town but otherwise within the boundaries of this County. If the bank also has offices that are located outside the County or within the corporate limits of any town within the County, the tax shall be apportioned as provided in Virginia Code § 58.1-1211.

(5-14-80; Code 1988, § 8-8; § 15-401, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-1210 *et seq.*

Article 5. Tax on Probate of Wills or Grants of Administration

Sec. 15-500 Tax on probate of wills or grants of administration imposed; amount.

A tax equal to one-third of the amount of the State tax collectable for the State is hereby imposed on the probate of a will or the grant of administration.

(Code 1967, § 9-9; Code 1988, § 8-10; § 15-500, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference--Authority of County to impose probate tax, Va. Code § 58.1-1718.

Sec. 15-501 Tax in lieu of probate tax.

A tax of \$25.00 is hereby imposed for the recordation of a list of heirs or an affidavit listing real estate owned by an intestate decedent. This tax is in addition to the State tax and fee imposed for recordation pursuant to Virginia Code § 58.1-1717.1.

(§ 15-501, Ord. 18-15(3), 10-4-17; Ord. 19-15(1), 4-17-19)

State law reference--Va. Code §§ 58.1-1718, 58.1-3805

Sec. 15-502 Administration and collection.

Except as otherwise provided by County Code §§ 15-501 and 15-502, Article 2, Chapter 38, Title 58.1 of the Virginia Code (Virginia Code § 58.1-3805 *et seq.*) applies to this article.

(Code 1967, § 9-10; Code 1988, § 8-11; § 15-502, Ord. 98-A(1), 8-5-98; Ord. 18-15(3), 10-4-17; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3806

Article 6. Consumer Utility Tax

Sec. 15-600 Definitions.

The following definitions apply to this article:

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Commercial means for use not defined as residential or industrial.

Industrial means for use in mining, manufacturing, or processing of raw materials. For the purposes of classifying electrical services, the demand load must be greater than 50kw based on the connected load for a new purchaser and a history of purchasers exceeding 50kw for 3 months out of a twelve-month period for an existing purchaser.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual purchaser, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to the customer-generators, minus the kWh generated and fed back to the electric grid by the customer-generators.

Purchaser means every person who purchases a utility service.

Residential means for use by persons primarily for domestic purposes in buildings having single or multiple meters for electricity or natural gas and used as a single dwelling unit or in normal farming operations.

Seller means every person, whether a public service corporation or a municipality or private corporation, who sells or furnishes a utility service in the County.

Utility service means electric service and natural gas service furnished within the County.

(6-22-67, § 1; 6-20-68, § 1; Ord. No. 94-8(2), 11-2-94; Code 1988, § 8-12; § 15-600, Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00; Ord. 11-15(3), 7-6-11; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814.

Sec. 15-601 Consumer utility tax imposed; amount.

A tax for general purposes is hereby imposed upon each and every purchaser of utility services as set forth in this article in the following amounts:

- A. *Electrical Services - Residential.* On purchasers of electric service for residential purposes, the tax shall be in the amount of \$0.031283 per kWh for the first 128 kWh and \$0.000000 per kWh

exceeding 128 kWh delivered monthly by a seller not to exceed \$4.00 per month.

- B. *Electrical Services - Commercial.* On purchasers of electric service for commercial purposes, the tax shall be in the amount of \$0.006161 per kWh for the first 48,693 kWh and \$0.001636 per kWh exceeding 48,693 kWh delivered monthly by a seller.
- C. *Electrical Services - Industrial.* On purchasers of electric service for industrial purposes, the tax shall be in the amount of \$0.005265 per kWh for the first 56,980 kWh and \$0.000934 per kWh exceeding 56,980 kWh delivered monthly by a seller.
- D. *Gas Service - Residential.* On purchasers of natural gas service for residential purposes, the tax shall be \$1.25 per CCF for the first 1.6 CCF and \$0.00 per CCF exceeding 1.6 CCF delivered monthly by a seller.
- E. *Gas Service - Commercial or Industrial.* On purchasers of natural gas service for commercial or industrial purposes, the tax shall be \$0.0638 per CCF for the first 4,500 CCF and \$0.0110 per CCF exceeding 4,500 CCF for non-interruptible service, and \$0.0588 per CCF for the first 4,770 CCF and \$0.0110 per CCF exceeding 4,770 CCF for interruptible service.

(6-22-67, § 2; 6-20-68, § 2; 11-2-68, § 1; 4-21-76; Ord. No. 94-8(2) of 11-2-94; Code 1988, § 8-13; § 15-601, Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00; Ord. 11-15(3), 7-6-11; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814.

Sec. 15-602 Utility bills; monthly and other periodic billing.

Bills for utility services are considered monthly bills if rendered 12 times annually with each bill covering a period of approximately one month or a portion thereof. If bills for utility services are submitted less frequently than monthly, covering periods longer than one month, the maximum amounts of the bills for the tax imposed by this article shall be increased by multiplying the appropriate maximum fixed by County Code § 15-601 for the utility service involved by the number of months of service covered by the bills.

(6-22-67, § 3; 6-20-68, § 3; 11-2-68, § 2; Code 1988, § 8-14; § 15-602, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814.

Sec. 15-603 Collecting and remitting the tax.

- A. *Duty of the seller to collect the tax.* In acting as the tax collection medium or agency for the County, every seller has the duty to collect from the purchaser the tax imposed by this article at the time of collecting the purchase price charged therefor. The seller shall remit monthly to the County the amount of tax billed during the preceding month to the purchaser.
- B. *Computing the tax.* If the seller collects the price for utility service in stated periods, the tax imposed by this article shall be computed on the amount of purchase during the month or period according to each bill rendered; provided, the amount of tax to be collected shall be the nearest whole cent to the amount computed.
- C. *How tax identified on the utility bill.* When it is billed, the tax shall be stated as a distinct item separate and apart from the monthly gross charge.
- D. *Tax is a debt of the purchaser until it is paid.* Until the purchaser pays the tax to the seller, the tax shall constitute a debt of the purchaser to the County. If any purchaser refuses to pay the tax, the seller shall notify the County.
- E. *Taxes collected held in trust until they are remitted.* After the purchaser pays the tax to the seller, the taxes collected shall be deemed to be held in trust by the seller until remitted to the County.

(§ 15-1503, Ord. 00-15(4), 10-11-00; § 15-1202, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814 *et seq.*

Sec. 15-604 Duty of seller to keep complete records; inspection of records.

Each seller shall keep complete records as follows:

- A. *Records required to be kept.* The seller shall keep all records showing all purchasers in the County, the price charged against each purchaser with respect to each purchase, the date of each purchase, the date of payment for each purchase, and the amount of tax imposed by this article.
- B. *Inspection of records by County agents.* The seller shall keep the records open for inspection by the duly authorized agents of the County during regular business hours on business days. The duly authorized agents of the County shall have the right, power and authority to make any copies or transcripts thereof at any time.

(6-22-67, § 8; 6-20-68, § 8; Code 1988, § 8-17; § 15-605, Ord. 98-A(1), 8-5-98; § 15-604, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814 *et seq.*

Sec. 15-605 Extension of time for filing return.

The Director of Finance may extend, for good cause shown, the time for filing any return required to be filed under this article; provided, however, no extensions shall exceed a period of 90 days.

(6-22-67, § 9; 6-20-68, § 9; Code 1988, § 8-18; § 15-606, Ord. 98-A(1), 8-5-98; § 15-605, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3814 *et seq.*

Sec. 15-606 Exemptions from article.

Utilities consumed on the following properties or by the following facilities are exempt from the payment of the tax imposed by this article:

- A. *Certain exempt properties.* All property that has been designated or classified as exempt from property taxes pursuant to Article X, Section 6 (a) (2) or Article X, Section 6 (a) (6) of the Constitution of Virginia; and
- B. *E-911 facilities.* Facilities: (i) equipped and staffed on a 24-hour basis to receive and process E-911 calls; or (ii) that intend to receive and process E-911 calls and have notified CMRS providers in their jurisdiction of their intention to receive and process those calls.

(5-14-80; Code 1988, § 8-19; § 15-607, Ord. 98-A(1), 8-5-98; § 15-606, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3816.2

Sec. 15-607 Forms for reports.

The Director of Finance may prescribe forms for filing of any report or the payment of any funds set forth in this article.

(6-22-67, § 6; 6-20-68, § 6; Code 1988, § 8-21; § 15-609, Ord. 98-A(1), 8-5-98; § 15-607, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3816.2

Article 7. Real Property Tax

Division 1. Generally

Sec. 15-700 Annual assessment of real estate.

All real estate in the County shall be assessed annually for the purposes of taxation by the Director of Finance of the County as of January 1 of each year.

(§ 8-1.1, 11-3-76; Ord. of 2-5-92; Code 1988, § 8-64; § 15-1000, Ord. 98-A(1), 8-5-98; Ord. 05-15(3), adopted 11-9-05, effective 1-1-07; § 15-700, Ord. 19-15(1), 4-17-19)

State law reference-Constitution of Virginia, Article X, §§ 2, 4; Va. Code § 58.1-3200 *et seq.*

Sec. 15-701 Assessment of new buildings substantially completed.

Any new building substantially completed or fit for use and occupancy shall be assessed and subject to the real property tax as follows:

- A. *When it is to be assessed.* Any new building substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when it is so completed or fit for use and occupancy, and the Director of Finance (or his designee) shall enter in the books the fair market value of the building.
- B. *When assessment becomes effective.* An assessment under this section becomes effective only when information as to the date and amount of the assessment is recorded in the office of the Director and made available for public inspection.
- B. *Computing the real property tax.* The total real property tax on any new building for that year shall be the sum of: (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year the building is substantially completed or fit for use and occupancy bears to the entire year; and (ii) the tax upon the assessment of the building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year the building was not substantially complete or fit for use and occupancy bears to the entire year.

- D. *Extension of penalty date for delinquent payments.* For any assessment under this section effective after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

(§ 8-1.6, 9-9-87; Ord. of 2-5-92; Code 1988, § 8-65; § 15-1001, Ord. 98-A(1), 8-5-98; § 15-701, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3292.

Sec. 15-702 Deadlines for making objections and filing appeals; deadline for disposition of appeals.

- A. *Objections to the annual assessment to the assessing officer.* Any aggrieved taxpayer may appear before the assessing officer and present objections to any annual assessment of real estate by February 28 of the year in which the assessment takes effect.
- B. *Appeal of annual assessment to the Board of Equalization.* A property owner or lessee may also appeal any annual assessment by making an application to the Board of Equalization by March 30 of the year in which the assessment takes effect.
- C. *Appeal of supplemental or pro rata assessment to the Board of Equalization.* A property owner or lessee may appeal any supplemental or pro rata assessment by making an application directly to the Board of Equalization within thirty days after the date of the notice of the supplemental or pro rata assessment, or within 30 days after the date set by the assessing officer to hear objections to the assessments as provided in Virginia Code § 58.1-3330, whichever date is later.
- D. *Disposition of appeals by the Board of Equalization.* The Board of Equalization shall finally dispose of all annual assessment appeals by September 1 of the year in which the assessment takes effect. The Board of Equalization shall finally dispose of all supplemental or pro rata assessment appeals for new construction by December 31 of the year in which the supplemental or pro rata assessment takes effect.

(§ 8-1.7, 7-12-89; Ord. of 2-5-92; § 8-66, 3-4-98; § 15-1002, Ord. 98-A(1), 8-5-98; Ord. 05-15(3), adopted 11-9-05, effective 1-1-07; § 15-702, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-3330, 58.1-3378

Sec. 15-703 Abatement of real property taxes levied on buildings razed, or destroyed or damaged by fortuitous happenings.

Real property taxes levied on buildings either razed, or destroyed or damaged by fortuitous happenings may be abated, subject to the following:

- A. *When abatement is allowed.* Real property taxes levied shall be abated on buildings which are: (i) razed; or (ii) destroyed or damaged by a fortuitous happening beyond the control of the owner.
- B. *When abatement is not allowed.* Abatement is not allowed in the following circumstances:
1. *Decrease in value is less than \$500.00.* Abatement is not allowed if the destruction or damage to the building shall decrease the value thereof by less than \$500.00.
 2. *Building not unfit for use and occupancy for 30 or more days.* Abatement is not allowed unless the destruction or damage renders the building unfit for use and occupancy for 30 days or more during the calendar year.
- C. *Computing the real property tax.* The real property tax on the razed, destroyed, or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year.
- D. *Applying for abatement.* The owner of the building or a person acting on the owner's behalf shall apply for abatement within six months after the date on which the building was razed, destroyed, or damaged.

(§ 15-1003, Ord. 02-15(1), 5-15-02; § 15-703, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3222.

Sec. 15-704 Exemptions for disabled veterans and surviving spouses of members of the armed forces killed in action

- A. *Exemptions.* Pursuant and subject to Articles 2.3 and 2.4, Chapter 32, Title 58.1 of the Virginia Code (Virginia Code §§ 58.1-3219.5 *et seq.* and 58.1-3219.9 *et seq.*, respectively), the following property is exempt from real property taxes:
1. *Dwellings.* The qualifying dwellings of disabled veterans and surviving spouses of

members of the armed forces killed in action, and

2. *Land.* The land, not exceeding 10 acres, upon which a qualifying dwelling is situated.

B. *Applicability of Virginia Code §§ 58.1-3219.5 et seq. and 58.1-3219.9 et seq.* Except as otherwise provided in this section, Articles 2.3 and 2.4, Chapter 32, Title 58.1 of the Virginia Code (Virginia Code §§ 58.1-3219.5 et seq. and 58.1-3219.9 et seq., respectively) applies to this section.

(§ 15-1603, Ord. 11-15(2), 5-11-11; Ord. 16-15(1), 7-6-16; § 15-704, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3219.5 et seq.

Division 2. Real Property Tax Exemption for Certain Elderly and Disabled Persons

Sec. 15-705 Purpose.

The purpose of this article is to provide relief to certain elderly and disabled persons who are subject to a real property tax burden that is extraordinary in relation to their income and financial worth.

(§ 15-700, Ord. 98-A(1), 8-5-98; § 15-705, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3210.

Sec. 15-706 Administration.

This article shall be administered by the Director of Finance, who is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce any rules and regulations in conformance with this article, including the right to require answers under oath, as may be reasonably necessary to determine eligibility for the exemption. The Director is authorized to require the production of certified tax returns and appraisal reports to establish eligible owners' total combined income and net combined financial worth.

(2-15-73; 11-9-77; Ord. of 12-19-90; Code 1988, § 8-24; § 15-701, Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14; § 15-706, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3213(F).

Sec. 15-707 Definitions.

The following definitions apply to this article:

Dwelling means a building occupied as a residence.

Income means the total gross income from all sources comprising the amount of money received on a regular basis which is available to meet expenses, regardless of whether a tax return is actually filed, or whether the money is taxable or deductible from an eligible owner's income tax return.

- a. *Income* includes: (i) retirement payments, including the portion that represents the contribution of the retiree; (ii) nontaxable social security retirement benefits; (iii) disability payments; and (iv) rental income.
- b. *Income* does not include: (i) life insurance benefits; (ii) receipts from borrowing or other debt; and (iii) social security taxes taken out of the pay of a retiree.
- c. The income of a self-employed person received from the business shall be the gross income of the business, less the expenses of the business.

Manufactured home has the same meaning as the term is defined in Virginia Code § 36-85.3.

Net combined financial worth means the net present value of all assets, including equitable interests, and liabilities, both as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner of the dwelling. The term "net combined financial worth" shall not include: (i) the value of the subject dwelling and the land, not exceeding ten acres, upon which it is situated; (ii) the value of furniture, household appliances and other items typically used in a home; and (iii) the outstanding balance of any mortgage on the subject property, except to the extent that the subject property is counted as an asset.

Owning title or partial title means owning the usufruct, control or occupation of the real estate, whether the interest therein is in absolute fee or is in an estate less than a fee, such as the holding of a life estate, but not the holding of a subsequent remainder interest.

Permanently and totally disabled person means a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death, or can be expected to last for the duration of that person's life, as certified pursuant to County Code § 15-711.

Real estate includes manufactured homes.

Relative means any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the owner.

Taxable year means the calendar year for which the exemption is claimed.

Total combined income means the income received from all sources during the preceding calendar year, without regard to whether a tax return is actually filed, by: (i) the owners of the dwelling who use it as their principal residence; (ii) the owners' relatives who live in the dwelling except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether the relatives are compensated or not; and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, whether compensated or not. The following amounts shall be excluded from the calculation of total combined income:

- a. The first \$6,500.00 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by paragraph (c) of this definition.
- b. The first \$7,500.00 of income for an owner who is permanently disabled.
- c. If real property otherwise qualifies for the exemption and if the eligible owner(s) can prove by clear and convincing evidence that the physical or mental health of the eligible owner(s) has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the eligible owner(s), and if a relative does move in for that purpose, then none of the income of the relative or of the relative's spouse shall be counted towards the income limit, provided that the owner of the dwelling has not transferred assets in excess of \$5,000.00 without adequate considerations within a three (3) year period prior to or after the relative moves into the dwelling.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-23; § 15-702, Ord. 98-A(1), 8-5-98; Ord. 03-15(2), 11-5-03; Ord. 05-15(4), 12-7-05, effective 1-1-06; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 11-15(1), 5-11-11; Ord. 14-15(3), 9-3-14; Ord. 16-15(1), 7-6-16; § 15-707, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 36-85.3, 58.1-3210, 58.1-3212, 58.1-3217.

Sec. 15-708 Exemption for certain elderly and disabled persons.

Real property owned by, and occupied as the sole dwelling of, an owners having title or partial title who is/are at least 65 years of age or who is permanently and totally disabled is exempt from the real property tax as provided in County Code § 15-710, provided that the real property is eligible for the exemption as provided in County Code § 15-709 and satisfies all other requirements of this article and Article 2, Chapter 32, Title 58.1 of the Virginia Code (Virginia Code § 58.1-3210 *et seq.*). For the purposes of this article:

- A. *"Owned and occupied as the sole dwelling" described.* Real property owned and occupied as the sole dwelling of an eligible owners includes real property: (i) held by an eligible owner alone or in conjunction with his spouse as tenant or tenants for life or joint lives; (ii) held in a revocable inter vivos trust over which an eligible owner or an eligible owner and his spouse hold the power of revocation; or (iii) held in an irrevocable trust under which an eligible owner alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.
- B. *Eligible owner described.* A person who meets the requirements of this section is an "eligible owner" for the purposes of this article.

(2-15-73; 11-9-77; Ord. of 12-19-90; Code 1988, § 8-25; § 15-703, Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14; § 15-708, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3210.

Sec. 15-709 Real property eligible for an exemption.

Real property that satisfies all of the following requirements is eligible for the exemption established in County Code § 15-708:

- A. *Age or disability.* The eligible owners shall have either:
 1. *Age.* Reached the age of 65 years prior to the taxable year for which the exemption is claimed; or
 2. *Disability.* Become permanently and totally disabled prior to the taxable year for which the exemption is claimed.
- B. *Ownership.* The eligible owners shall have title or partial title in the dwelling. Any interest under a leasehold or for term of years is neither title nor partial title. The eligible owners claiming the exemption shall own title or partial title to the real estate for which the exemption is claimed on January 1 of the taxable year.

- C. *Joint ownership.* Jointly owned dwellings are eligible for the exemption in the following circumstances, provided that any other requirements for the exemption are satisfied:
1. *Joint ownership with spouse.* A dwelling jointly owned by a husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled.
 2. *Joint ownership with person other than spouse.* A dwelling jointly owned by two or more persons, all of whom are either 65 years of age or older or are permanently and total disabled.
- D. *Occupancy of the dwelling.* The eligible owners shall occupy the dwelling as that owner's sole dwelling.
1. *Business uses limited.* The dwelling may not be used in a business that is required to pay a County business license tax or fee.
 2. *Residing in medical or mental care facilities for extended periods does not disqualify.* An eligible owner's residence in a hospital, nursing home, convalescent home, or other facility for physical or mental care for extended periods of time for extended periods does not disqualify the real estate from the exemption. The dwelling continues to be the sole dwelling of the eligible owner during these extended periods in a facility, provided that the real estate is not used or leased to others for consideration.
- E. *Manufactured homes.* A manufactured home is real estate eligible for the exemption if the eligible owners demonstrates to the satisfaction of the Director of Finance that the manufactured home is permanently affixed. Either of the following is evidence that the manufactured home is permanently affixed:
1. *Ownership and connection to water and sewage lines or facilities.* The eligible owners owns title or partial title to the manufactured home and the land on which the manufactured home is located, and the manufactured home is connected to permanent water and sewage lines or facilities; or
 2. *Permanent foundation or connected rooms or additions.* The manufactured home rests on a permanent foundation and consists of two or more units which are connected in such a manner that they cannot be towed together on a highway, or consists of a unit and other connected rooms or additions which must be removed before the manufactured home can be towed on a highway.
- F. *Maximum annual income allowed.* The total combined income shall not exceed \$69,452.00 for the calendar year immediately preceding the taxable year.
- G. *Maximum net combined financial worth allowed.* The net combined financial worth shall not exceed \$200,000.00 as of December 31 of the calendar year immediately preceding the taxable year.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; 6-12-85; 5-13-87; Ord of 12-19-90; Ord. of 4-7-93; Ord. 96-8(2), 12-11-96; Code 1988, § 8-26; 9-9-81; Ord. 12-19-90; Code 1988, § 8-26.1; § 15-704, Ord. 98-A(1), 8-5-98; Ord. 00-15(2), 9-20-00; Ord. 03-15(2), 11-5-03; Ord. 04-15(2), 12-1-04, effective 1-1-05; Ord. 06-15(3), 11-1-06, effective 1-1-07; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 14-15(3), 9-3-14; § 15-709, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-3210 - 58.1-3215.

Sec. 15-710 Amount of exemption.

The exemption established by this article shall apply only to the real property taxes for the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated. The amount of the exemption for any taxable year is as follows:

		Percentage of Real Estate Tax Exempted		
		Net Combined Financial Worth		
		\$0 to \$100,000	Over \$100,000 to \$150,000	Over \$150,000 to \$200,000
Total Combined Income	\$0 to \$30,000	100.0%	90.0%	80.0%
	Over \$30,000 to \$50,000	70.0%	60.0%	50.0%
	Over \$50,000 to \$69,452	40.0%	30.0%	20.0%

(2-15-73; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-27; § 15-705, Ord. 98-A(1), 8-5-98; Ord. 00-15(2), 9-20-00; Ord. 04-15(2), 12-1-04; Ord. 06-15(3), 11-1-06, effective 1-1-07; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 11-15(1), 5-11-11; § 15-710, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3212.

Sec. 15-711 Procedure to claim the exemption.

Any owner claiming the exemption from the real estate tax established by this article shall apply for the exemption as provided in this section:

- A. *Annual filing of affidavit; time to file.* Except as provided in subsections (A)(1) and (A)(2), the eligible owners shall file the affidavit required by this section with the Director of Finance between January 1 and April 1 of each taxable year for which the exemption is claimed. In lieu of the filing of an annual affidavit, once an eligible owner is determined to be eligible, an affidavit may be filed on a three-year cycle with an annual certification by the eligible owner that no information contained on the last preceding affidavit filed has changed to violate the limitations and conditions provided in this article. The annual certification must be filed not later than April 1 of the taxable year.
 1. *First-time claimant.* An owner claiming the exemption for the first time may file the affidavit required by this section after April 1, but before November 1, of the taxable year.
 2. *Hardship claimant.* An owner claiming the exemption as a hardship claimants may file the affidavit required by this section after April 1, but before November 1, of the taxable year. The term "hardship claimant" means only those cases in which the owners claiming the exemption was hospitalized or in a nursing home between January 1 and April 1 of the taxable year, or a similar situation which, in the judgment of the Director of Finance, constitutes a hardship case justifying the extension of the filing period set forth in subsection (A) beyond April 1 of the taxable year.
- B. *Form and content of the affidavit.* The affidavit shall be on a form prescribed and provided by the Director of Finance. The affidavit shall set forth the names of the eligible owners and all other relatives of the eligible owner occupying the real estate for which the exemption is claimed, their total combined income and their net combined financial worth. If the eligible owner is under 65 years of age, the form shall have attached thereto any certification or affidavit required by Virginia Code § 58.1-3213.
- C. *Determination of eligibility.* If, after audit and investigation, the Director determines that the real property is eligible for the exemption, he shall grant the exemption and exonerate the amount of the exemption from the real property tax liability of those properties entitled to the exemption.
- D. *Duration of the exemption.* An exemption granted shall be effective only for the current taxable year and shall not be retroactive in effect.

(2-15-73; 11-9-77; 8-13-80; 5-13-87; Ord. of 12-19-90; Ord. of 4-7-93; Ord. No. 96-8(2), 12-11-96; Code 1988, § 8-28; § 15-706, Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14; Ord. 16-15(1), 7-6-16; § 15-711, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3213.

Sec. 15-712 Change in status nullifying exemption; exception.

Any change in total combined income, net combined financial worth, ownership of property, or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this article nullifies any exemption for the remainder of the current taxable year and the taxable year immediately following; provided that a change in status due to the death of a qualified spouse will result in a prorated exemption for the eligible year.

(2-15-73; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-29; § 15-707, Ord. 98-A(1), 8-5-98; § 15-712, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3215(A).

Division 3. Special Assessments for Land Preservation

Sec. 15-713 Definitions.

For the purposes of this article, the terms "real estate devoted to agricultural use," "real estate devoted to horticultural use," "real estate devoted to forest use," and "real estate devoted to open-space use" have the same meanings as those terms are defined in Virginia Code § 58.1-3210.

(8-23-73; 4-13-88; Code 1988, § 8-31; § 15-800, Ord. 98-A(1), 8-5-98; § 15-713, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3230.

Sec. 15-714 Certain provisions of State law applicable.

Except as otherwise provided in this article, Article 4, Chapter 32, Title 58.1 of the Virginia Code (Virginia Code §§ 58.1-3230 *et seq.*) applies to this article.

(8-23-73; Code 1988, § 8-32; § 15-801, Ord. 98-A(1), 8-5-98; § 15-714, Ord. 19-15(1), 4-17-19)

State law reference--For state law as to special assessments for land preservation generally, see Va. Code § 58.1-3229 *et seq.* For removal of parcels from program if taxes delinquent, see Va. Code § 58.1-3235. For valuation of real estate, see Va. Code § 58.1-3236. For changes in use of assessed real estate and roll-back taxes, see Va. Code § 58.1-3237. For separation of part of assessed real estate and contiguous real estate located in more than one locality, see Va. Code § 58.1-3241. For real estate taken by right of eminent domain, see Va. Code § 58.1-3242.

Sec. 15-715 Applications for assessment by the property owner.

Any application for taxation on the basis of a use assessment must comply with the following:

- A. *Application must comply with Virginia Code § 58.1-3234.* Any application must comply with Virginia Code § 58.1-3234, and this includes the application filing deadline.
- B. *Application fee.* The application fee is \$125.00 per individual application and shall be paid to the Director of Finance, provided that no application fee is due when only the use of a previously-approved parcel changes to another qualifying use.
- C. *Separate application for each tax parcel.* A separate application must be filed for each tax parcel.
- D. *Filing an application after the filing deadline; fee.* An application may be filed no later than 60 days after the filing deadline specified in Virginia Code § 58.1-3234, upon the payment of a late filing fee of \$125.00.
- E. *Incomplete applications.* An application omitting any required information and/or fee is incomplete and shall be deemed to not be filed and shall not be accepted for review and action.
- F. *Failure to file timely application.* Failure to file a complete application by the deadlines in subsections (A) or (D) disqualifies the entire tax parcel for taxation under this article.

(8-23-73; 8-13-75; 4-21-76; 4-13-88; Ord. of 8-11-93; Code 1988, § 8-33; § 15-802, Ord. 98-A(1), 8-5-98; Ord. 02-15(3), 5-15-02; Ord. 16-15(1), 7-6-16; § 15-715, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3234.

Sec. 15-716 Continuation of assessment; revalidation.

Any parcel taxed on the basis of a use assessment is subject to the following:

- A. *Taxation based on use value.* The tax for the tax year for which the application pertains shall be based on the parcel's use value.
- B. *Parcel must continue in qualifying use, payment of taxes, and revalidation.* The parcel's valuation, assessment, and taxation under this article depends on the parcel continuing in a qualifying use, continued payment of taxes as referred to in Virginia Code § 58.1-3235, continued revalidation every second tax year as provided in subsection (C), and compliance with the other requirements of this article and Article 4 of Chapter 32 of Title 58.1 of the Virginia Code (Virginia Code § 58.1-3230 *et seq.*), and not upon continuance of the same owner of title to the parcel.
- C. *Revalidation.* A parcel's eligibility for use value assessment must be revalidated biennially during the second tax year of each two-year revalidation cycle.
 - 1. *When the owner must file a revalidation form.* The owner must file a revalidation form with the local assessing officer on or before September 1 of the year preceding the two-year period for which the revalidation is sought, on forms prepared by the County.
 - 2. *Separate revalidation form required for each parcel.* The owner must file a separate revalidation form for each parcel receiving a use value assessment.
 - 3. *Late filing permitted; fee.* The owner may file a revalidation form after the September 1 deadline but on or before December 5 of the year preceding the two-year period for which the revalidation is sought, upon payment of a late filing fee of \$125.00.

(8-23-73; 12-20-73; 7-17-75; 7-2-86; 4-13-88; Code 1988, § 8-34; § 15-803, Ord. 98-A(1), 8-5-98; Ord. 08-15(2), adopted 10-1-08, effective 1-2-09; § 15-716, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3234.

Sec. 15-717 Determinations to be made by local officers before assessment, including minimum acreage requirements.

Before assessing a parcel under this article, the Director of Finance (or his designee) shall make all determinations required under Virginia Code § 58.1-3233 and shall:

- A. *Determine that the parcel meets minimum acreage requirements.* Determine the following:
 - 1. *Real estate devoted to agricultural use; five acres.* A parcel to be assessed as real estate

- devoted solely to agricultural use consists of a minimum of five acres.
 2. *Real estate devoted to horticultural use; five acres.* A parcel to be assessed as real estate devoted solely to horticultural use consists of a minimum of five acres.
 3. *Real estate devoted to forest use; 20 acres.* A parcel to be assessed as real estate devoted solely to forest use consists of a minimum of 20 acres.
 4. *Real estate devoted to open-space use; 20 acres.* A parcel to be assessed as real estate devoted solely to open-space use consists of a minimum of 20 acres.
- 4B. *Parcel not in a planned development or in industrial or commercial zoning district.* Determine that the parcel is not in a planned development, or an industrial or commercial zoning district established prior to January 1, 1981, as referred to in Virginia Code § 58.1-3237.1.

(8-23-73; 4-13-88; Ord. of 11-28-90; Ord of 8-11-93; Code 1988, § 8-35; § 15-804, Ord. 98-A(1), 8-5-98; § 15-717, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-3233, 58.1-3237.1(A)(1).

Sec. 15-718 Payment of roll-back tax; violations; penalties.

- A. *Failure to report change in use; penalty.* Any person failing to report properly any change in use of property for which an application for use value taxation had been filed is liable for all taxes, in the amount and at those times as if he had complied with the requirement to report a change in use and assessments had been properly made. The owner is liable for a penalty equal to 10 percent of the amount of the roll-back tax. The penalty shall be collected as a part of the roll-back tax.
- B. *When roll-back taxes due; penalty and interest.* The owner must pay the roll-back tax plus interest and any penalty within 30 days after the date of assessment. If the owner fails to pay the roll-back tax and any interest and penalty within the 30-day period, the owner shall also pay an additional penalty equal to 10 percent of the amount of the roll-back tax due, plus simple interest at the rate of 10 percent per annum until the date of payment.
- C. *Applicability of Virginia Code § 58.1-3238.* Except as otherwise provided in this section, Virginia Code § 58.1-3238 applies to roll-back taxes.

(8-23-73; 10-12-77; 10-9-85; 4-13-88; Ord. of 8-11-93; Code 1988, § 8-40; § 15-810, Ord. 98-A(1), 8-5-98; § 15-718, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3238.

Article 8. Personal Property Tax

Sec. 15-800 Personal property tax imposed.

A tax on tangible personal property is hereby imposed as provided in this article. The status of all persons, firms, corporations and other taxpayers liable to taxation on any tangible personal property shall be fixed as of January 1 of each year and the value of the property shall be assessed as of that date.

(§ 8-1.8, Ord. of 2-14-90; Ord. of 2-5-92. Ord. No. 94-8(10), 8-3-94; Code 1988, § 8-68; § 15-1100, Ord. 98-A(1), 8-5-98; § 15-800, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code, §§ 58.1-3515, 58.1-3912.

Sec. 15-801 Personal property tax returns.

Each owner of tangible personal property with a situs within the County must file a return on forms prescribed by the Director of Finance each year in accordance with Virginia Code § 58.1-3518, subject to the following:

- A. *New return required when status changes for owner of motor vehicle, trailer, or boat.* The owner of a motor vehicle, trailer, or boat must file a new personal property tax return within 30 days after:
 1. *Change in name or address of the owner.* Any change in the name or address of the owner.
 2. *Change in situs.* Any change in the situs of the motor vehicle, trailer, or boat.
 3. *Other change affecting the assessment of the tax levied.* Any other change affecting the assessment or personal property tax levied on a motor vehicle, trailer, or boats for which a tax return has been filed previously.
 4. *Acquisition.* Any change in which a person acquires one or more motor vehicles, trailers, or boats and for which no personal property tax return has been filed.
- B. *Annual return not required when status does not change for owner of motor vehicle, trailer, or boat.* If the owner's name or address has not changed since the previous return was filed and there has

been no change in status or situs of the owner's motor vehicle, trailer, or boat, the assessment and taxation of that tangible personal property may be based on a personal property tax return previously filed with the County.

(Ord. 19-15(1), 4-17-19)

State law reference-Va. Code §§ 58.1-3518, 58.1-3518.1

Sec. 15-802 Exemption of certain personal property from taxation.

The following household and personal effects owned and used by an individual or by a family or household incident to maintaining an abode are hereby exempted from taxation:

- A. Bicycles.
- B. Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
- C. Pianos, organs, phonographs and record players and records to be used therewith and all other musical instruments of whatever kind and all radio and television instruments and equipment.
- D. Oil paintings, pictures, statuary, curios, articles of virtue and works of art.
- E. Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.
- F. Sporting and photographic equipment.
- G. Clothing and objects of apparel.
- H. Antique motor vehicles as defined in Virginia Code § 46.2-100 that are not used for general transportation purposes.
- I. All-terrain vehicles and off-road motorcycles as defined in Virginia Code § 46.2-100.
- J. All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

(Code 1967, § 9-1; Code 1988, § 8-1; Ord. of 2-5-92; Code 1988, § 8-67; § 15-1101, Ord. 98-A(1), 8-5-98; Ord. 99-15(1), 11-3-99; Ord. 17-15(2), adopted 8-2-17, effective 1-1-18; § 15-801, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3504.

Sec. 15-803 Exemption of farm animals, certain grains, agricultural products, farm machinery, farm implements, and equipment from taxation.

The following farm animals, grains and other feeds used for the nurture of farm animals, agricultural products, farm machinery, and farm implements are hereby exempted from taxation:

- A. Horses, mules and other kindred animals.
- B. Cattle.
- C. Sheep and goats.
- D. Hogs.
- E. Poultry.
- F. Grains and other feeds used for the nurture of farm animals.
- G. Grain; tobacco; wine produced by farm wineries as defined in Virginia Code § 4.1-100 and other agricultural products in the hands of a producer.
- H. Farm machinery other than the farm machinery described in subsection ~~J of this section~~(J), and farm implements, which shall include equipment and machinery used by farm wineries as defined in Virginia Code § 4.1-100 in the production of wine.
- I. Equipment used by farmers or farm cooperatives qualifying under 26 U.S.C. § 521 to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.
- J. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.
- K. Privately owned trailers as defined in Virginia Code § 46.2-100 that are primarily used by farmers

in their farming operations for the transportation of farm animals or other farm products as enumerated in subsections (A) through (G).

(§ 15-1101.1, Ord. 11-15(3), 7-6-11; § 15-802, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3505.

Sec. 15-804 Separate classification of certain tangible personal property employed in a trade or business.

Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Virginia Code § 58.1-3507 *et seq.*, merchants' capital pursuant to Virginia Code § 58.1-3509 *et seq.*, or short-term rental property pursuant to Virginia Code § 58.1-3510.4 *et seq.*, and that has an original cost of less than \$500.00, is declared to be a separate class of property and shall constitute a classification for taxation separate from other classifications of tangible personal property provided in this chapter. A taxpayer may provide an aggregate estimate of the total cost of all property owned by the taxpayer that qualifies under this subsection, in lieu of a specific, itemized list.

(§ 15-1101.2, Ord. 15-15(2), 8-5-15; Ord. 17-15(2), 8-2-17; § 15-803, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3506(A)(47)

Sec. 15-805 Motor vehicles, trailers, semitrailers, and boats; proration of tangible personal property tax.

The tangible personal property tax on motor vehicles, trailers, semitrailers, and boats whose situs or ownership changes during a tax year is prorated as follows:

- A. *When acquiring a situs in the County.* The tangible personal property tax shall be levied upon motor vehicles, trailers, and boats which acquire a situs within the County after January 1 of any tax year for the remaining portion of the tax year. The tax shall be prorated on a monthly basis.
- B. *When losing situs in the County or changing ownership.* When any motor vehicle, trailer, semitrailer, or boat loses its situs in the County or changes ownership after January 1 of the tax year, any tax assessed on that motor vehicle, trailer, semitrailer, or boat is relieved, or refunded if paid. The relief or refund shall be prorated on a monthly basis. The Director of Finance shall not make a refund if the motor vehicle, trailer, semitrailer, or boat acquires a situs within the Commonwealth in a nonprorating locality. The Director shall not make a refund of less than \$5.00 to a taxpayer unless the refund is specifically requested by the taxpayer.
- C. *When retaining situs in the County but changing ownership; new owner's obligation.* When a motor vehicle, trailer, semitrailer, or boat with a situs in the County is transferred to a new owner in the County, the new owner is subject to taxation on a prorated basis for the remaining portion of the tax year. The previous owner shall be eligible for relief or refund as provided by subsection (B).
- D. *How partial months are prorated.* For the purposes of this section, a period of more than ½ of a month shall be counted as a full month and a period of less than one-half of a month shall not be counted.
- E. *Applying refunds to other taxes due.* The Director may apply any refunds under this section to any delinquent accounts owed by the taxpayer. In addition, the Director may apply this refund as a credit toward the tax due on any motor vehicle, trailer, semitrailer, or boat owned by the taxpayer during the same tax year.
- F. *Tangible personal property tax paid in other localities.* Tangible personal property, which was legally assessed by another locality in the Commonwealth and on which the tax has been paid, is exempt from taxation under this section for the portion of the year the property was legally assessable by another locality in the Commonwealth.

(§ 8-1.9, Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 94-8(10), 8-3-94; Code 1988, § 8-69; § 15-1102, Ord. 98-A(1), 8-5-98; Ord. 16-15(1), 7-6-16; § 15-804, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code, § 58.1-3516.

Sec. 15-806 Personal property tax relief.

- A. Purpose; definitions; relation to other sections.
 - 1. The purpose of this section is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998, Virginia Code §§ 58.1-3523 *et seq.* ("PPTRA")

effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
 - 2. Terms used in this section that have defined meanings set forth in the PPTRA shall have

the same meanings as set forth in Virginia Code § 58.1-3523.

3. To the extent that this section conflicts with any other provision of the County Code, this section shall control.

B. Method of computing and reflecting tax relief.

1. For tax years commencing in 2006, the County adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the PPTRA and the reporting of the specific dollar relief on the tax bill.
2. Any amount of the PPTRA relief not used within the County's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.
3. Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

C. Allocation of relief among taxpayers.

1. Allocation of the PPTRA relief shall be provided in accordance with the general provisions of this section.
2. Relief shall be allocated so as to eliminate personal property taxation of (i) each qualifying vehicle with an assessed value of \$1,000.00 or less; and (ii) the first \$20,000.00 in value on each qualifying vehicle leased by an active duty member of the United States military, his spouse, or both, pursuant to a contract requiring him, his spouse, or both to pay the tangible personal property tax on that vehicle. The provisions of this subdivision (ii) apply only to a vehicle that would not be taxed in Virginia if the vehicle were owned by that military member, his spouse, or both.
3. Relief with respect to qualifying vehicles with assessed values of more than \$1,000.00 shall be provided at a percentage, annually fixed and applied to the first \$20,000.00 in value of each such qualifying vehicle, that is calculated fully to use all available state PPTRA relief.

(§ 15-1103, Ord. 06-15(1), 1-4-06, effective 1-1-06; Ord. 15-15(1), 7-1-15; § 15-805, Ord. 19-15(1), 4-17-19)

State law reference—Va. Code § 58.1-3524(C); Item 503, Chapter 951, 2005 Acts of Assembly

Article 9. Transient Occupancy Tax

Sec. 15-900 Definitions.

The following definitions apply to this article:

Lodging provider means any person who operates a hotel, motel, boarding house, travel campground, or other facility offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days in the County.

Purchaser means any person who rents a room or space in a hotel, motel, boarding house, or travel campground for fewer than 30 consecutive days of continuous occupancy.

(Code 1988, § 8-41; Ord. No. 98-8(2), 6-10-98; § 15-900, Ord. 98-A(1), 8-5-98; Ord. 17-15(1), adopted 6-14-17, effective 8-1-17; Ord. 19-15(1), 4-17-19)

State law reference—Va. Code § 58.1-3819.

Sec. 15-901 Transient occupancy tax imposed; amount.

A transient occupancy tax is hereby imposed on the occupancy of all rooms or spaces in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days in the County as follows:

- A. *Tax rate.* The rate of this tax is five percent of the amount charged for the occupancy.
- B. *Applicability of Virginia Code § 58.1-3819 to this article.* Except as otherwise provided in this article, Virginia Code § 58.1-3819 applies to this article.

(11-28-73; 8-15-74; 4-13-88; 3-19-97; § 8-41; Code 1988, § 8-42, Ord. No. 98-8(2), 6-10-98; § 15-901, Ord. 98-A(1), 8-5-98; Ord. 08-15(1), 10-1-08; Ord. 17-15(1), adopted 6-14-17, effective 8-1-17; Ord. 19-15(1), 4-17-19)

State law reference—Va. Code § 58.1-3819.

Sec. 15-902 Collecting and remitting the tax; reports.

Each lodging provider shall collect and remit the tax imposed under this article, and submit reports, as follows:

- A. *Duty of lodging provider to collect the tax.* The lodging provider has the duty to collect the tax at the time payment for the lodging becomes due and payable, regardless of whether payment is made in cash or on credit by means of a credit card or otherwise.
- B. *Tax added to the cost of the room or space.* The lodging provider shall add the amount of the tax owed by the purchaser to the cost of the room or space.
- C. *Taxes collected held in trust until they are remitted.* The taxes collected shall be held in trust by the lodging provider until remitted to the County.
- D. *Lodging provider entitled to commission.* For the purpose of compensating lodging providers for the collection of the tax imposed by this article, every lodging provider is allowed a commission of three percent of the amount of tax due and accounted for; provided that the lodging provider is not allowed a commission if any part of the amount of taxes due is delinquent at the time of payment.
- E. *Reporting.* The lodging provider shall complete a report on a form and containing the information as the Director of Finance may require, showing the amount of gross receipts collected and the tax required to be collected.
- F. *When report delivered and taxes remitted.* The lodging provider shall sign and deliver the report to the Director of Finance with remittance of the tax. The reports and remittance of the tax shall be made on or before the twentieth day of each month.

(8-15-74, 4-13-88; § 8-42; Code 1988, § 8-43, Ord. No. 98-8(2), 6-10-98; § 15-902, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3819.

Sec. 15-903 Preserving records.

Each lodging provider who is liable for collecting and remitting the taxes imposed by this article shall keep complete records as follows:

- A. *Records required to be kept.* The seller shall keep and preserve records showing the gross receipts, the amount charged the purchaser for each state, the date thereof, the taxes collected thereon, and the amount of tax required to be collected by this article.
- B. *How long records must be kept.* The lodging provider shall retain the records identified in subsection (A) for three years.
- C. *Inspection of records by the Director of Finance.* The Director is authorized to examine the records at reasonable times and without unreasonable interference with the business of the lodging provider for the purpose of administering and enforcing this article. The Director is authorized to make any copies of all or any parts of any records.

(Code 1988, § 8-46; Ord. No. 98-8(2), 6-10-98; § 15-905, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3819.

Sec. 15-904 Duty of lodging provider when going out of business.

When any lodging provider required to collect and remit the taxes imposed under this article ceases to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and that person shall immediately make a report and pay the tax due.

(Code 1988, § 8-47; Ord. No. 98-8(2), 6-10-98; § 15-906, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3819.

Sec. 15-905 Enforcement; duty of Director of Finance.

The Director of Finance shall promulgate rules and regulations for the interpretation, administration, and enforcement of this article. The Director shall ascertain the name of every lodging provider liable for collecting the tax imposed under this article who fails, refuses, or neglects to collect the tax or to make the reports and remittances required by this article.

(Code 1988, § 8-48; Ord. No. 98-8(2), 6-10-98; § 15-907, Ord. 98-A(1), 8-5-98; Ord. 19-15(1), 4-17-19)

State law reference-Va. Code § 58.1-3819.

Sec. 15-906 Violations of article.

- A. *Class 1 misdemeanor.* Any person who commits the following acts shall be guilty of a Class 1 misdemeanor:
1. *Willful failure to collect, account for, or remit.* Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, and remit the tax under this article, who willfully fails to collect or truthfully account for, and remit any such tax.
 2. *Evasion or attempt to evade.* Any person who willfully evades or attempts to evade the tax or payment thereof.
- B. *Conviction does not relieve.* A person's conviction under this section does not relieve any person from the payment, collection, or remittance of the taxes or penalties provided for in this article.
- C. *Agreement to pay taxes or penalties does not relieve criminal liability until fully paid.* Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments does not relieve any person of criminal liability for violating this article until the full amount of taxes and penalties agreed to be paid by that a person is received by the Director of Finance.
- D. *Each violating act is a separate offense.* Each failure, refusal, neglect, or violation, and each day's continuance thereof, is a separate offense.

(Code 1988, § 8-52; Ord. No. 98-8(2), 6-10-98; § 15-911, Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08; § 15-908, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code §§ 58.1-3906, 58.1-3907; as to punishment for class 1 misdemeanor, see § 18.2-11.

Article 10. Food and Beverage Tax

Sec. 15-1000 Definitions.

The following definitions apply to this article except where the context clearly indicates a different meaning:

Beverage means any alcoholic beverages as defined in Virginia Code § 4.1-100 and nonalcoholic beverages, any of which are served as part of a meal, excluding alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.

Caterer means a person who furnishes food on the premises of another for compensation.

Director of Finance means the Director of Finance of the County and any of his duly authorized deputies, assistants, employees, or agents.

Food means any and all edible refreshments or nourishment, liquid or otherwise, including beverages as defined in this section, purchased in or from a restaurant or from a caterer, but excluding snack foods.

Meal means any food as defined in this section, other than a beverage, sold for consumption on the premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Person means any individual, corporation, company, association, firm, partnership, or any group of individuals acting as a unit.

Purchase means any person who purchases food in or from a restaurant or from a caterer.

Restaurant means:

1. Any place where food is prepared for service to the public whether on or off the premises, including a delicatessen counter at a grocery store or convenience store selling prepared foods ready for human consumption; or
2. Any place where food is served to the public.

Examples of a restaurant include, but are not limited to, a dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, lunchroom, short-order place, tavern, delicatessen, confectionery, bakery, eating house, eatery, drugstore, catering service, lunch wagon or truck, pushcart or other mobile facility that sells food, and a dining facility in a public or private school or college.

Seller means any person who sells food in or from a restaurant or as a caterer.

Snack food means chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips, and other items of essentially the same nature and consumed for essentially the same purpose.

(§ 8-75, 12-10-97; Code 1988, § 8-75; § 15-1200, Ord. 98-A(1), 8-5-98; Ord. 00-15(1), 6-7-00; § 15-1000,

Ord. 19-15(1), 4-17-19)

State law reference—Va. Code § 58.1-3833.

Sec. 15-1001 Food and beverage tax imposed; amount.

A tax is hereby imposed on the purchaser of all food served, sold, or delivered for human consumption in the County in or from a restaurant, whether prepared in that restaurant or not, or prepared by a caterer, subject to the limitations and conditions of Virginia Code § 58.1-3833.

- A. *Tax rate.* The rate of this tax is four percent of the amount paid for the food.
- B. *Computation.* In computing this tax, any fraction of \$0.005 or more shall be treated as \$0.01.
- C. *Applicability of Virginia Code § 58.1-3833 et seq..* Except as provided in this article, Article 7.1 of Chapter 38 of Title 58.1 of the Virginia Code (Virginia Code § 58.1-3833 *et seq.*) applies to this article.

(§ 8-76, 12-10-97; Code 1988, § 8-76; § 15-1201, Ord. 98-A(1), 8-5-98; § 15-1001, Ord. 19-15(1), 4-17-19)

State law reference – Va. Code § 58.1-3833.

Sec. 15-1002 Collecting and remitting the tax; reports.

Every seller of food shall collect the amount of tax imposed under this article from the purchaser on whom the tax is imposed at the time payment for the food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller, who shall collect and remit the taxes to the County as provided in this article. Taxes shall be held in trust by the seller until they are remitted to the County.

Each seller of food shall collect and remit the tax imposed under this article, and submit reports, as follows:

- A. *Duty of seller to collect the tax.* The seller has the duty to collect the tax at the time payment for the food becomes due and payable, regardless of whether payment is made in cash or on credit by means of a credit card or otherwise.
- B. *Tax added to the cost of the food.* The seller shall add the amount of the tax owed by the purchaser to the cost of the food.
- C. *Taxes collected held in trust until they are remitted.* The taxes collected shall be held in trust by the seller until remitted to the County.
- D. *Reporting.* The lodging provider shall complete a report covering the amount of tax collected during the preceding month. The report shall be on a form and containing the information as the Director of Finance may require, showing the amount of food charges collected and the tax required to be collected. It is presumed that all food served, sold, or delivered in the County in or from a restaurant is taxable under this article and the burden is on the seller of the food to establish by records what food is not taxable.
- E. *When report delivered and taxes remitted.* The seller shall sign and deliver the report to the Director with remittance of the tax. The reports and remittance of the tax shall be made on or before the twentieth day of each month.

(§ 8-79, 12-10-97; Code 1988, § 8-79; § 15-1204, Ord. 98-A(1), 8-5-98; § 15-1002, Ord. 19-15(1), 4-17-19)

Sec. 15-1003 Preserving records.

Each seller of food who is liable for collecting and remitting the taxes imposed by this article shall keep complete records as follows:

- A. *Records required to be kept.* The seller shall keep and preserve records showing the gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax required to be collected by this article.
- B. *How long records must be kept.* The seller shall retain the records identified in subsection (A) for three years.
- C. *Inspection of records by County agents.* The seller shall keep the records open for inspection by the duly authorized agents of the County during regular business hours on business days without unreasonable interference with the business of the seller. The duly authorized agents of the County shall have the right, power, and authority to make any copies or transcripts thereof at any time.

(§ 8-82, 12-10-97; Code 1988, § 8-82; § 15-1207, Ord. 98-A(1), 8-5-98; § 15-1004, Ord. 19-15(1), 4-17-19)

Sec. 15-1004 Duty of seller when going out of business.

When any seller required to collect or remit to the County tax under this article ceases to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and that person shall immediately make a report and pay the tax due to the Director of Finance.

(§ 8-83, 12-10-97; Code 1988, § 8-83; § 15-1208, Ord. 98-A(1), 8-5-98; § 15-1005, Ord. 19-15(1), 4-17-19)

Sec. 15-1005 Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed by this article will be paid or absorbed by the seller or anyone else, or that the seller or anyone else will relieve the purchaser of the payment of all or any part of the tax.

(§ 8-84, 12-10-97; Code 1988, § 8-84; § 15-1209, Ord. 98-A(1), 8-5-98; § 15-1006, Ord. 19-15(1), 4-17-19)

Sec. 15-1006 Additional duties of the Director of Finance.

The Director of Finance shall:

- A. *Rules and regulations.* Promulgate rules and regulations to interpret, administer, and enforce this article.
- B. *Identify sellers who violate this article.* Identify the name of every seller liable to collect the tax imposed by this article who fails, refuses, or neglects to collect any tax or to make the reports and remittances required by this article.

(§ 8-85, 12-10-97; Code 1988, § 15-1210, Ord. 98-A(1), 8-5-98; § 15-1007, Ord. 19-15(1), 4-17-19)

Sec. 15-1007 Violations of article.

- A. *Class 1 misdemeanor.* Any person who commits the following acts shall be guilty of a Class 1 misdemeanor:
 - 1. *Willful failure to collect, account for, or remit.* Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, and remit the tax under this article, who willfully fails to collect or truthfully account for, and remit any such tax.
 - 2. *Evasion or attempt to evade.* Any person who willfully evades or attempts to evade tax or payment thereof.
- B. *Conviction does not relieve.* A person's conviction under this section does not relieve any person from the payment, collection, or remittance of the taxes or penalties provided for in this article.
- C. *Agreement to pay taxes or penalties does not relieve criminal liability until fully paid.* Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments does not relieve any person of criminal liability for violating this article until the full amount of taxes and penalties agreed to be paid by that person is received by the Director of Finance.
- D. *Each violating act is a separate offense.* Each failure, refusal, neglect, or violation, and each day's continuance thereof, is a separate offense.

(§ 8-89, 12-10-97; Code 1988, § 8-89; § 15-1214, Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08; § 15-1008, Ord. 19-15(1), 4-17-19)

Sec. 15-1008 Severability.

If any provision of this article, or any application thereof to any person or under any circumstances, shall be held by a court of competent jurisdiction to be invalid, the remainder of this article, or the application thereof to persons or under circumstances other than those to which it has been held invalid, shall not be affected thereby.

(§ 8-90, 12-10-97; Code 1988, § 8-90; § 15-1215, Ord. 98-A(1), 8-5-98; § 15-1009, Ord. 19-15(1), 4-17-19)

Article 11. Service Charge on Tax-Exempt Property

Sec. 15-1100 Charge imposed on certain property; exceptions.

A service charge is hereby imposed on property standing in the name of the Commonwealth and of departments, boards, agencies and institutions thereof, except as exempted from these service charges by Chapter 34 of Title 58.1 of the Virginia Code (Virginia Code § 58.1-3400 *et seq.*).

(5-7-80; Code 1988, § 8-56; § 15-1300, Ord. 98-A(1), 8-5-98; § 15-1100, Ord. 19-15(1), 4-17-19)

State law reference – Va. Code §§ 58.1-3400 *et seq.*

Sec. 15-1101 Assessment and collection.

The Director of Finance shall annually calculate the service charge applicable to each property subject to the service charge imposed by this article based upon the assessed value thereof, the real estate tax rate established by the Board of Supervisors for taxable property for that tax year and the County's expenditure for allowable services for the preceding fiscal year, in the manner and subject to the maximum limitations set forth in Virginia Code §§ 58.1-3400 to 58.1-3402, or other applicable State law, on or before October 30 of each year. The Director shall bill the owners of that property for and shall collect the service charge on the same due dates and in the same manner and subject to the same penalties and interest as are applicable to real estate taxes, as set forth in this chapter.

(5-7-80; 4-13-88; Code 1988, § 8-57; § 15-1301, Ord. 98-A(1), 8-5-98; § 15-1101, Ord. 19-15(1), 4-17-19)

State law reference – Va. Code §§ 58.1-3400 et seq.

Article 12. Short-Term Rental Property Tax

Sec. 15-1200 Definitions.

The following definitions apply to this article except where the context clearly indicates a different meaning:

Affiliated means any common ownership interest in excess of five percent of any officers or partners in common with the lessor and lessee. For the purposes of this test: (i) any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for the purposes of the 80 percent requirement in Virginia Code § 58.1-3510.4; and (ii) any rental of personal property that also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For the purposes of this definition, the delivery and installation of tangible personal property shall not mean operation.

Short-term rental property has the same meaning as the term is defined in Virginia Code § 58.1-3510.4.

Gross proceeds has the same meaning as the term is defined in Virginia Code § 58.1-3510.6.

Short-term rental business has the same meaning as the term is defined in Virginia Code § 58.1-3510.4(B).

(§ 15-1500, Ord. 00-15(4), 10-11-00; § 15-1200, Ord. 19-15(1), 4-17-19)

Sec. 15-1201 Short-term rental property tax imposed; amount.

A short-term rental property tax is hereby imposed on the gross proceeds of rentals of any person engaged in the short-term rental business as follows:

- A. *Tax rate when gross proceeds meet the criteria of Virginia Code § 58.1-3510.4(B)(1).* A tax is imposed of one percent on the gross proceeds arising from rentals of any person engaged in the short-term rental business meeting the criteria in Virginia Code § 58.1-3510.4(B)(1). This tax is in addition to the tax imposed pursuant to Virginia Code § 58.1-605.
- B. *Tax rate when gross proceeds meet the criteria of Virginia Code § 58.1-3510.4(B)(2).* A tax is imposed on one and one-half percent on the gross proceeds arising from rentals of any person engaged in the short-term rental business meeting the criteria in Virginia Code § 58.1-3510.4(B)(2). This tax is in addition to the tax imposed pursuant to Virginia Code § 58.1-605.
- C. *Applicability of Virginia Code § 58.1-3510.4 et seq.* Except as otherwise provided in this article, Article 3.1, Chapter 35, Title 58.1 of the Virginia Code (Virginia Code § 58.1-3510.4 et seq.) applies to this article.

(§ 15-1501, Ord. 00-15(4), 10-11-00; § 15-1201, Ord. 19-15(1), 4-17-19)

State law reference – Va. Code § 58-3510.4 et seq.

Sec. 15-1202 Collecting and remitting the tax; returns.

Each person engaged in the short-term rental business (for the purposes of this section, "person") shall collect and remit the tax imposed under this article, and submit returns, as follows:

- A. *Duty of person to collect the tax.* The person has the duty to collect the tax at the time of the rental.
- B. *Taxes collected held in trust until they are remitted.* The taxes collected shall be held in trust by the person until remitted to the County.
- C. *Returns.* The person shall file quarterly returns for the gross proceeds and taxes collected during the preceding quarters as provided in subsection (D). The returns shall be on a form and containing the information as the Director of Finance may require, showing the amount of gross receipts and the tax required to be collected.
- D. *When return filed and taxes remitted.* The person shall file each quarterly return with the Director,

with remittance of the tax due for the quarter to which the return pertains. The quarterly returns and remittance of the tax shall be made on or before the twentieth day of the months of April, July, October, and January representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30, and December 31.

(§ 15-1503, Ord. 00-15(4), 10-11-00; § 15-1202, Ord. 19-15(1),)

Sec. 15-1203 Penalty and interest.

Provisions in Virginia Code §§ 58.1-635 and 58.1-636 relating to penalties shall apply mutatis mutandis to the short-term rental property tax, except that the Director of Finance shall assess the tax due, and shall collect the short-term rental property tax, instead of the Department of Taxation. Additionally, interest on late payments of all taxes due shall be added at the rate of ten percent ~~(40%)~~ per year. Penalty and interest for failure to pay the tax assessed pursuant to this article shall be assessed on the first day following the day that quarterly installment payment is due.

(§ 15-1505, Ord. 00-15(4), 10-11-00; § 15-1203, Ord. 19-15(1), 4-17-19)

Article 13. Property Exempted from Taxation

Division 1. Generally

Sec. 15-1300 Property exempt from taxation by classification.

The following property is exempt from taxation by its classification:

- A. *Classifications of property designated exempt by the Board of Supervisors.* Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property are exempt from taxation:
1. *Property owned by the State.* Property owned directly or indirectly by the State, or any political subdivision thereof.
 2. *Property owned by churches or religious bodies.* Real property and personal property owned by churches or religious bodies, including: (i) an incorporated church or religious body; and (ii) a corporation mentioned in Virginia Code § 57-16.1, and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and any additional adjacent land reasonably necessary for the convenient use of any the property. Real property exclusively used for religious worship also includes the following:
 - a. Property used for outdoor worship activities;
 - b. Property used for ancillary and accessory purposes as allowed under County Code Chapter 18, the dominant purpose of which is to support or augment the principal religious worship use; and
 - c. Property used as required by federal, state, or local law.
 3. *Burying grounds or cemeteries.* Nonprofit private or public burying grounds or cemeteries.
 4. *Libraries.* Property owned by public libraries and law libraries of local bar associations when they are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when they are used or available for use by state health officials, incorporated colleges, or other institutions of learning not conducted for profit. This classification applies only to property primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This classification does not apply to industrial schools which sell their products to other than their own employees or students.
 5. *The YMCA and similar religious associations.* Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories and nunneries, conducted not for profit but exclusively as charities.
 6. *Parks or playgrounds.* Parks or playgrounds held by trustees for the perpetual use of the general public.
 7. *Lodges, meeting rooms, and adjacent land.* Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with any additional adjacent land as may be necessary for the convenient use of the buildings for those purposes.
 8. *Museums.* Property of any nonprofit corporation organized to establish and maintain a

museum.

9. *Hospitals.* Property owned by hospitals conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment), provided the property is either occupied or used: (i) as a general licensed inpatient hospital; or (ii) as a licensed outpatient hospital immediately adjacent to a general licensed inpatient hospital that has qualified for tax exemption pursuant to this section. Any portion of the property owned by that hospital that is either leased to a third-party or not used for hospital purposes is not exempt from taxation under this subsection.
- B. *Classifications of organizations designated exempt by statute.* The real and personal property of an organization classified in Virginia Code §§ 58.1-3610 through 58.1-3622 and used by that organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6 (a) (6) of the Constitution of Virginia, the particular purpose for which the organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as the organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.
- C. *Property exempt on December 31, 2002.* Property which was exempt from taxation on December 31, 2002, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time the property became entitled to exemption.
- D. *Exemptions granted on or after January 1, 2003 are strictly construed.* Exemptions of property from taxation granted under this section on or after January 1, 2003 shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

(§ 15-1601, Ord. 04-15(1), 9-1-04, effective retroactive to January 1, 2003; Ord. 06-15(2), adopted 11-1-06, effective 1-1-07; Ord. 14-15(1), 6-4-14, effective 7-1-14; § 15-1300, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3651; Va. Code § 58.1-3606.

Sec. 15-1301 Property exempt from taxation by designation.

Property not granted tax-exempt status prior to January 1, 2003 can be granted tax-exempt status by designation only by the adoption of an ordinance by the Board of Supervisors granting the exemption. The adoption of an ordinance shall be pursuant to the provisions of Article 4.1, Chapter 36 of Title 58.1 of the Virginia Code (Virginia Code § 58.1-3651 *et seq.*) applicable to the exemption of property from taxation by designation.

(§ 15-1602, Ord. 04-15(1), 9-1-04, effective retroactive to January 1, 2003; § 15-1301, Ord. 19-15(1), 4-17-19)

State law reference--Va. Code § 58.1-3651; Va. Code § 58.1-3606.

Division 2. Certified Solar Energy Equipment, Facilities, or Devices and Certified Recycling Equipment, Facilities, or Devices

Sec 15-1302 Definitions.

The following definitions apply to this article except where the context clearly indicates a different meaning:

Certified recycling equipment, facilities, or devices has the same meaning as the term is defined in Virginia Code § 58.1-3661.

Certified solar energy equipment, facilities or device has the same meaning as the term is defined in Virginia Code § 58.1-3661.

Local certifying authority means the County's Building Official.

Local building department means the Building Inspections division of the County's Department of Community Development.

(§ 15-1700, Ord. 05-15(2), 10-5-05; § 15-1302, Ord. 19-15(1), 4-17-19)

State law reference-- Va. Code § 58.1-3661(B).

Sec 15-1303 Tax exemption of certified solar energy equipment and certified recycling equipment.

Certified solar energy equipment facilities or devices and certified recycling equipment, facilities, or devices are hereby declared to be a separate class of property and constitute a classification for local taxation separate from other classifications of real or personal property.

- A. *Exemption.* This class of property is exempt from local taxation, as provided in Virginia Code § 58.1-3661.

- B. *Applicability of Virginia Code § 58.1-3661.* Except as otherwise provided in this article, Virginia Code § 58.1-3661 applies to this article.

(§ 15-1701, Ord. 05-15(2), 10-5-05; § 15-1303, Ord. 19-15(1), 4-17-19)

State law reference-Va. Code, § 58.1-3661(A).

Sec 15-1304 Application.

Any person claiming an exemption from taxation under this article must file an application with the local building department on forms provided for that purpose. The application must include:

- A. *Plans and specifications.* The application must include a complete set of plans and specifications of the equipment, facilities or devices for which exemption is claimed.
- B. *Statement of the cost of the purchase and installation.* The application must include sworn statements of contractors or suppliers attesting to the cost of the purchase and installation of the equipment, facilities or devices for which exemption is claimed.

(§ 15-1702, Ord. 05-15(2), 10-5-05; § 15-1304, Ord. 19-15(1), 4-17-19)

NonAgenda. Mr. Dill **moved** that the Board suspend Rule 6 of the Board's Rules of Procedure to allow the Board's final agenda to be amended to add a resolution. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.
NAYS: None.

Mr. Dill **moved** that the Board's final agenda be amended to add a resolution entitled "Resolution Dissolving the Scottsville Volunteer Rescue Squad, Inc." The motion was **seconded** by Ms. McKeel.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.
NAYS: None.

Mr. Dill **moved** that the Board adopt the proposed resolution entitled "Resolution Dissolving the Scottsville Volunteer Rescue Squad, Inc." The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Galloway, and Ms. Mallek.
NAYS: None.

RESOLUTION
DISSOLVING SCOTTSVILLE VOLUNTEER RESCUE SQUAD, INC.

WHEREAS, Scottsville Volunteer Rescue Squad, Inc. (SVRS) is a volunteer company providing emergency medical services in the southern Albemarle County and surrounding areas; and

WHEREAS, SVRS volunteers have served the citizens of Albemarle County since 1974; and

WHEREAS, the Board of Supervisors of the County of Albemarle, Virginia (the Board) has been advised by SVRS and independently become aware of a recently distressingly precipitous decline in volunteer members of SVRS who are available to provide service delivery; and

WHEREAS, Albemarle County Fire and Rescue Department (ACFR) received notification from SVRS Chair of the Board of Directors S. John Waits (Waits) by letter, dated December 9, 2018, that SVRS has been "unable to attract sufficient membership to be able to provide a level of service that is anywhere near the equivalent of the service received by the balance of the County" and "formally request[ed] that ACFR take over the day-to-day operation of our squad with effect immediately"; and

WHEREAS, ACFR began emergency staffing of SVRS shifts after receipt of the December 9, 2018 letter, and the Albemarle County staff initiated discussions with SVRS regarding an agreement to outline the terms and conditions of ACFR's assistance; and

WHEREAS, SVRS was unwilling to agree to the County's proposed agreement after negotiation; and

WHEREAS, the dramatic decline in SVRS membership has continued since delivery of the December 9, 2018 letter requesting operational assistance, such that ACFR is currently providing virtually all of the emergency medical services in the SVRS response area; and

WHEREAS, the crisis in active membership and service delivery is a continuation of a trend since at least 2004, when SVRS requested that ACFR assume responsibility for daylight shifts on Mondays through Fridays, and, more recently acknowledged by the SVRS chief in January 2018, at which time, he cited “problems maintaining minimum staffing” and requested 24/7 staffing assistance from ACFR; and

WHEREAS, SVRS and County efforts to recruit and train new volunteers have not been able to reverse the trend of critically low SVRS membership and participation in emergency medical service delivery; and

WHEREAS, SVRS has not been able to demonstrate or propose a means of recruiting sufficient membership to resume effective levels of operation in the foreseeable future; and

WHEREAS, the County through ACFR is, in practice, assuming responsibility for emergency medical services in the SVRS service area because Virginia Code § 15.2-955(B) requires the County “to ensure that emergency medical services are maintained throughout the entire locality”; and

WHEREAS, in 2019, even with available emergency staffing from ACFR on some nights and weekends, SVRS is the first arriving unit in its own first due area for only 36% of dispatched calls; and

WHEREAS, Virginia Code § 32.1-111.4:7 authorizes the Board to dissolve a nongovernmental emergency medical services agency “when the governing body of the county . . . for any reason deems it advisable”; and

WHEREAS, the Board regrettably finds that SVRS does not have and cannot reasonably be expected to recruit membership sufficient to justify its continued existence in the Albemarle County Coordinated Fire and Rescue System; and

WHEREAS, the Board also finds that ACFR is providing necessary emergency medical services in the southern Albemarle area and requires use of the real property located at 805 Irish Road, which is titled in the names of both SVRS and the County, and equipment provided either directly by the County or through public funds donated by the County; and

WHEREAS, for the reasons outlined herein, the Board finds it is advisable to dissolve SVRS.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board that SVRS is hereby dissolved pursuant to Virginia Code § 32.1-111.4:7 and its existence terminated, effective immediately, and it is therefore removed as a participant in the Albemarle County Coordinated Fire and Rescue System and declared unauthorized to provide emergency medical services; and

BE IT FURTHER RESOLVED by the Board that the historical services of SVRS volunteers be acknowledged publicly and with grateful hearts; and

BE IT FURTHER RESOLVED that the Board directs the Albemarle County Fire and Rescue Chief to assume responsibilities for emergency medical service delivery in the affected area, to make provision for now-former SVRS volunteers to be adopted as ACFR volunteers if they are able and qualify and if they are so advised, and to take all necessary action consistent with this Resolution. The Board also gives authorization for one temporary over-hire position to be filled to support these efforts; and

BE IT FURTHER RESOLVED that, pursuant to and in acknowledgement of the terms of the deed executed on the 5th day of February 1996, by which the title of the real property commonly described as 805 Irish Road vests in fee simple in the County upon dissolution of SVRS, the County claims its exclusive ownership of said property and directs the County Executive to assume proper control and maintenance of the same with all speed; likewise, the Board directs staff to identify and take possession over other property to which it has legal title or claim.

BE IT FURTHER RESOLVED that the County Attorney is directed to pursue action, if necessary, to effectuate the direction of the Board consistent with this Resolution.

Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Palmer said the Board received a letter from Tom Olivier, the League of Women Voters and the Sierra Club, about economic development proposals and transparency. She said she thought a few of the items in the letter were worthy of a future discussion, if the Board was so inclined, including the establishment of criteria by which the Board decides on what matters should be in closed meeting. She related that a constituent had asked her why the bridge and pathway for the Willow Tree project were discussed in a closed meeting and not discussed publicly. She stated that a Board discussion of this would help people understand why they do what they do.

Mr. Randolph said he was not interested in having a discussion about this.

Ms. Mallek remarked that if Mr. Richardson and Mr. Johnson believes it would be helpful to increase community understanding, there are existing procedures and criteria that could be shared, and she would be glad to hear from staff as to how they would proceed going forward.

Mr. Dill remarked that the discussion of the economic plan was an important component and should be held annually. He said he does not see a reason why it should be in secrecy. He remarked on comments made earlier during the hearing on the cidery about how they want to make products in the County and sell them elsewhere so they would have an inflow of money, which kind of makes sense unless they are talking about local food in which case the idea was to sell it within the County.

Ms. McKeel reminded Mr. Dill of the video that Roger Johnson presented about primary businesses, which explains the concept he just mentioned.

Ms. Palmer recalled the letter being more about transparency than economic development. She noted that staff was looking at how the County deals with performance agreements and suggested the discussion on closed meeting criteria be included in this discussion.

Mr. Randolph referred to the letter about transparency as a canard. He said that with confidentiality of agreements, there was a necessity to make sure that confidentiality was kept until the Board has made a decision, after which it was announced after the closed meeting. He said it was ridiculous to make an argument that there was a lack of transparency in the process and that people have to respect that under an elected representative system of government, the Board was charged by the community with the responsibility to make decisions and handle confidential information in a professional manner. He reiterated that he was not interested in having that discussion and tying up the Board with spending time talking about things it has already agreed to moved forward with in an economic development program and Project ENABLE.

Ms. Palmer said she did not see it that way; she thought it was just an opportunity for more clarity.

Ms. McKeel remarked that one of the surest ways to lose state grants was to get out ahead of the Governor. Ms. Palmer responded that that was not her suggestion.

Ms. Mallek added that this was the consequence if they get out of order, and she has explained to people that if they wish to participate in state-matching grants this was the way it was. She said they have been approached by industries that have considered coming to the County, and they want to keep this confidential until a decision has been made.

Ms. McKeel stated that the Board of Supervisors and Economic Development Authority has attorneys present during closed meetings to advise them.

Mr. Gallaway acknowledged that the Board tackles a lot of issues during closed meeting, which are identified in the motion going into closed meeting, and if there needs to be a review of the law that affords them the ability to do business in closed meeting, then that would be the time for the review. He said he does not see why they need to single in on one particular item over another because the rationale for the closed meeting was what dictates the ability to go in and so they should review that criteria and not specific, topic-related criteria.

Ms. McKeel added that the Economic Development Authority also reads closed meeting motions that discuss what they are going to talk about, although they may not identify specific things until they can.

Mr. Randolph informed the Board that he attended three sessions last week involving the Tom Tom Festival. He said the first was with Bob Ifert, who was involved with Alexandria's age-friendly community, who stated that they are pursuing accessory dwelling units, which sparked conversation between the Scottsville District Planning Commissioner and Ms. McKeel. He said they may not be suitable in all localities at all times but was a useful instrument to broaden the range of options for affordable housing units. He said the second workshop he attended was with Dr. Stephanie Williams, the new Chair of the Office of Durham and Regional Affairs at Duke University. He said that Duke's focus has been on the City and County of Durham, although they are not doing anything regionally. He indicated that he was surprised to learn that Duke was the largest in state-based employer in North Carolina. He said Dr. Williams did not combine together the need for a regional transportation system and regional housing. He said he learned that Duke University pulled out of a light rail project, arguing that it would disturb their sensitive medical equipment, and another attendee remarked that the University of Virginia has coal trains going by and seemed to be able to operate MRIs well in its building. He added that there was no mention in Dr. Williams' presentation of the role of class and race affecting any of Duke University's decisions.

Mr. Randolph said the next discussion was by Roy Decker, an architect from Jackson, MS, who said the policy consequences of addressing older affordable housing units can impact communities and that it was a necessity to integrate affordable housing into diverse communities as defined by age, race, and income rather than setting affordable housing apart from a diverse community.

Mr. Randolph said the next presentation was made by Rusty Smith of Auburn University, who runs the Rural Studio. He explained that students participate in the 20K Project, in which they construct private residential and public facilities in rural communities. He said the students have designed and developed 23 prototypes of smaller, affordable housing units, which are more durable, waterproof, lower in cost to maintain, and more secure than their current homes. He said their analysis found that it was

better for purchasers to take on a larger mortgage if the new units were more energy efficient than to take on a lower mortgage with non-energy efficient characteristics.

Mr. Randolph said that Chris Thompson, of Virginia Housing Development, pointed out that VHDA, in Richmond, on their site, has a series of homes made from inter-modal shipping containers. He invited Supervisors to research this on the internet to see what could be built with shipping containers at a much lower unit cost than stick-built houses.

Ms. Palmer said that she attended a presentation on affordable housing by Piedmont Preservation, which talked about historic and older homes as very good sources of affordable housing. She said they also urged caution with opportunity zones as they could incentivize the tearing down of older homes.

Ms. McKeel said she read an article that mentioned how CO2 levels were rising due to climate change, which results in higher pollen counts.

Ms. Palmer related that she read an article about how poison ivy growth increases with increasing CO2 levels.

Mr. Gallaway reminded everyone that the Regional Housing Partnership's Regional Housing and Homelessness Summit would commence this Friday, April 19, at 8:30 a.m. at the Omni Hotel, with a full day of speakers and workshops. Board members indicated that they all plan to attend the summit.

Mr. Kamptner commented that the Board would need to adjourn to April 19 from tonight's meeting.

Agenda Item No. 20. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson reported that he recently attended a three-day training session of County managers sponsored by the University of Virginia's Senior Executive Institute at Darden School.

Mr. Richardson reported that on April 19, 2019, about 100 managers and supervisors would attend training at the Albemarle County Public School's professional development space attached to the high school center at Seminole Place in the old Comdial building. He said the half-day seminar would focus on organizational performance, employee engagement, and problem solving at all levels of the organization. He said this was the third training session they have held since last fall, and it provides a nice benefit to different levels of the organization.

Mr. Richardson said he would share an uplifting customer service story provided to him by Mark Graham, Director of Community Development. He said a seven-year-old girl named Jasmine recently came in with her father to get a permit, and Jamie Frazier, who worked at the front desk, entertained the girl while her father was meeting with an intake specialist on a permit application. She said that Jasmine was having so much fun she did not want to leave and she completed a customer service survey suggesting that Mark Graham be replaced with Jamie Frazier. He added that this was an example of an employee going above and beyond, and it really does matter.

Agenda Item No. 21. Adjourn to May 1, 2019, 1:00 p.m.

At 7:06 p.m., Mr. Gallaway adjourned to April 19, 2019, 8:00 a.m. at the Omni Hotel, for the Regional Housing and Homelessness Summit.

Chairman

Approved by Board
Date 11/06/2019
Initials CKB