



# Albemarle County

## Legislation Text

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**File #:** 18-281, **Version:** 1

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**AGENDA DATE:** 11/6/2019

**TITLE:**

Rural Preservation Deeds of Easement

**SUBJECT/PROPOSAL/REQUEST:** Review and approve proposed Deed(s) of Easement for Rural Preservation Development(s)

**ITEM TYPE:** Consent Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Herrick, Deloria, Filardo, Clark

**PRESENTER (S):** Andy Herrick

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** The Albemarle County Zoning Ordinance allows and encourages “clustering” as an alternative to traditional by-right development of the Rural Areas. Specifically, *County Code* § 18-10.3.3 (in the County’s Zoning Ordinance) outlines the process and standards by which Rural Preservation Developments (RPDs) may be approved and developed. After outlining the restrictions applicable to RPDs, § 18-10.3.3.3(f) provides: “These restrictions shall be guaranteed by perpetual easement accruable to the County of Albemarle and the public recreational facility authority of Albemarle County [renamed the Albemarle Conservation Easement Authority (ACEA)] in a form acceptable to the board [of supervisors].” Note that though both the County and the ACEA jointly hold RPD deeds of easement, the Board of Supervisors is solely responsible for approving the form of the deed.

While the ACEA does not control the form of the deed used for RPD open-space easements, it has expressed concern about the existing form of that document. Specifically, because RPD proposals have been almost non-existent for over a decade, the standard form RPD deed of easement has not kept up with the more frequently-updated deed that the ACEA uses for its donated open-space easements. The ACEA has requested and is recommending that the standard form RPD deed of easement more closely track the standard deed for its donated open-space easements.

**STRATEGIC PLAN:** Rural Area Character: Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

**DISCUSSION:** After comparing the current base RPD deed of easement word-for-word against the base deed used for donated easements, staff developed “reconciled” versions that combined the best of both deeds. The ACEA reviewed and approved the form of these deeds at its September 23, 2019 meeting, and is now requesting that pursuant to *County Code* § 18-10.3.3.3(f), the Board accept the form of the “reconciled” RPD deed.

The changes to the proposed deed template include:

- An overall update of the structure and wording of the document, to be consistent with the current practices of easement holders statewide, such as the Virginia Outdoors Foundation and the Virginia Department of Forestry. This also makes the overall form of the document consistent with the ACEA's revised template for donated easements.
- The addition of a maximum size for dwelling units on RPD preservation tracts. This size cap is on a sliding scale, from 4,500 square feet for preservation tracts of less than 50 acres, up to 8,000 square feet for preservation tracts of 80 acres or more.

**BUDGET IMPACT:** No budget impact is anticipated.

**RECOMMENDATION:**

Staff recommends that the Board adopt the attached Resolution (Attachment B) accepting the recommended form RPD deed of easement (Attachment A).

**ATTACHMENTS:**

A - Recommended form RPD deed of easement

B - Resolution