

ACTIONS
Board of Supervisors Meeting of January 5, 2005

January 7, 2005

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
1. Call to Order. <ul style="list-style-type: none"> • Meeting was called to order at 9:00 a.m. by the County Executive, Mr. Tucker. All BOS members were present. Also present were Bob Tucker, Larry Davis and Ella Carey. 	
4. Election of Chairman. <ul style="list-style-type: none"> • ELECTED Dennis S. Rooker for Calendar Year 2005. 	
5. Election of Vice-Chairman. <ul style="list-style-type: none"> • ELECTED Kenneth C. Boyd for Calendar Year 2005. 	
6. Appointment of Clerk. <ul style="list-style-type: none"> • REAPPOINTED Ella Carey as Clerk for Calendar Year 2005 and APPOINTED Debi Moyers as Senior Deputy Clerk for Calendar Year 2005. 	
7. Set Meeting Times, Dates and Places for Calendar Year 2005. <ul style="list-style-type: none"> • SET as follows: first Wednesday of the month at 9:00 a.m., second Wednesday of the month at 6:00 p.m., with meetings to be held in the County Office Building on McIntire Road. In addition, since April 13, 2005 is a County Holiday, the Board amended its schedule and established April 20, 2005 as the alternate meeting date. 	<u>Clerk:</u> Advertise in <u>The Daily Progress</u> and post notice on door of Courthouse.
8. Set Dates for Hearing Zoning Text Amendments Requested by Citizens. <ul style="list-style-type: none"> • SET as follows: September 14 and December 14, 2005; and March 16 and June 9, 2006. 	<u>Clerk:</u> Advertise in <u>The Daily Progress</u> as required by Section 33.10.2 of the Zoning Ordinance.
9. Rules of Procedures, Adoption of. <ul style="list-style-type: none"> • ADOPTED. 	<u>Clerk:</u> Forward copy to County Attorney. (Attachment 1)
10. Boards and Commission Policy, Adoption of. <ul style="list-style-type: none"> • DEFERRED the policy until January 12, 2005. • CONSENSUS that staff develops term limits for all Boards and Commissions and bring back to Board for review. 	<u>Clerk:</u> Incorporate recommended changes and put on consent agenda. <u>Clerk:</u> Schedule on February 2 nd agenda.
11a. Recognition of CSS Food Stamp Program. <ul style="list-style-type: none"> • Chairman PRESENTED recognition. • Kathy Ralston recognized Social Services staff. 	
11b. Boards and Commissions Certificates of Appreciation. <ul style="list-style-type: none"> • Chairman PRESENTED to Jenny Greenwood of the Housing Committee and Robert Vernon of the Historic Preservation Committee. 	
12. From the Public: Matters Not Listed on the Agenda. <ul style="list-style-type: none"> • Theresa Tapscott, Executive Director of AHIP, provided a progress report on AHIP activities. 	

<p>13.1 Resolution to accept road(s) in Highlands at Mechums River, Section 2C, Subdivision, into the state Secondary System of Highways.</p> <ul style="list-style-type: none"> • ADOPTED the attached resolution. 	<p><u>Clerk:</u> Forward signed resolution to Greg Cooley in Department of Engineering. (Attachment 2)</p>
<p>13.2 Requested FY 2005 Appropriations.</p> <ul style="list-style-type: none"> • APPROVED FY 2005 Appropriation #2005039. 	<p><u>Clerk:</u> Forward signed appropriation form to Richard Wiggans, OMB and copy appropriate individuals.</p>
<p>13.3 Jefferson-Madison Regional Library Bookmobile Funding Request.</p> <ul style="list-style-type: none"> • APPROVED the Library's request to utilize \$56,761 in prior year carry-over funds, as well as \$88,599 in previously budgeted repair and maintenance funds in the County's CIP. • CONSENSUS that the Chairman send a letter to Mr. Halliday suggesting that the Bookmobile partner with country stores as a drop off site. 	<p><u>Clerk:</u> Draft letter for Chairman's signature.</p>
<p>14a. Transportation Matters not Listed on the Agenda.</p> <p><u>Brent Sprinkle:</u></p> <ul style="list-style-type: none"> • Introduced new Resident Engineer for Charlottesville District, Mr. James Utterback, who will officially start on Monday. His email address is: James.Utterback@VirginiaDOT.org • Provided an update of monthly activities. <p><u>David Wyant:</u></p> <ul style="list-style-type: none"> • Mentioned the issue of water in the road on the dead end portion of Bluffton Road (672) in Brown's Cove. Mr. Sprinkle said he would pass the information onto VDoT personnel. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Has been in communication with Mr. Sprinkle about the Dry Bridge bridge. • Asked that guard rail request not fall through the cracks as VDoT administration changes. Mr. Sprinkle said VDoT will follow up. • She is a member of the Board of Scenic Virginia which annually awards the VDoT Residency that does the nicest job in following VDoT's procedures and guidelines for trimming trees along the side of the road. She would like to nominate this district someday for that award. <p><u>David Bowerman:</u></p> <ul style="list-style-type: none"> • Expressed concern about the safety aspects of the improvements on Route 606, Dickerson Road, near the Airport. Mr. Sprinkle commented that District personnel held a meeting and are looking into some additional actions that they can take until the work is complete. <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> • Reiterated the need for a warning sign near the intersection of Route 708 and Route 20 South at the turnoff to Walton School. Mr. Sprinkle said he will pass information on to VDoT traffic personnel. <p><u>Dennis Rooker:</u></p>	<p><u>Clerk:</u> Forward comments to VDoT.</p>

<ul style="list-style-type: none"> • Has received calls from constituents about late night noise from work being done on the Route 29/250 bridge. Mr. Sprinkle said the contractor is repainting the bridge as a maintenance project and because of traffic concerns, the work is being done at night. Hopefully, the contractor will be finished in a few weeks. • Said a number of residents have expressed concern about the speed with which vehicles are traveling on Hydraulic Road, pass the Rock Store. Trucks are apparently using this route to get to the work site for Hollymead Town Center. The residents have asked if a safety sign can be installed to slow traffic traveling through the area. • Referring to the Georgetown Road project, he reiterated the need to maintain the concept agreed on by the community and to keep the cost estimate from accelerating. • Reiterated need for classification determination of the Southern Parkway. 	
<ul style="list-style-type: none"> • The Board recessed at 9:40 a.m. and reconvened at 9:55 a.m. 	
<p>15. Piedmont Virginia Community College (PVCC) Update, Dr. Frank Friedman</p> <ul style="list-style-type: none"> • Dr. Friedman provided the Board with an informational packet and gave his annual update on PVCC activities. 	
<p>16. Streamwatch Presentation, John Murphy.</p> <ul style="list-style-type: none"> • REMOVED from agenda. 	
<p>17. Appeal: Belle Vista Preliminary Subdivision Plat.</p> <ul style="list-style-type: none"> • MOTION to overturn the Planning Commission's denial of SUB 04-077 Belle Vista, request for private roads FAILED by a vote of 4:2. 	<p><u>Yadira Amarante:</u> Notify applicant of action.</p>
<p>18. Family Support Program Evaluations Results.</p> <ul style="list-style-type: none"> • RECEIVED report. Mr. Rooker requested staff go back to Weldon Cooper and ask for more before and after data, similar to the information provided in the Bright Stars report. 	<p><u>Kathy Ralston:</u> Provide requested information.</p>
<p>19. Bright Stars Annual Report.</p> <ul style="list-style-type: none"> • APPROVED use of Bright Stars carry-over funds for FY 05. 	<p><u>Kathy Ralston:</u> Proceed as approved.</p>
<p>20. Closed Session. Personnel and Legal Matters.</p> <ul style="list-style-type: none"> • At 12:15 p.m., the Board went into closed session to consider appointments to boards and commissions and to discuss with legal counsel and staff specific legal issues regarding a matter relating to taxation of real property. 	
<p>21. Certified Close Session.</p> <ul style="list-style-type: none"> • At 2:10 p.m., the Board reconvened into open session and certified the closed session. 	
<p>22. Appointments.</p> <ul style="list-style-type: none"> • APPOINTED A. Bruce Dotson, Steve Taylor and Jana Crutchfield to the Housing Committee 	<p><u>Clerk:</u> Prepare appointment letter, update Boards and Commissions book and notify appropriate persons.</p>

<p>with said terms to expire December 31, 2007.</p> <ul style="list-style-type: none"> • APPOINTED Marilyn Minrath to the Public Defender Office with said term to expire December 31, 2007. • APPOINTED John deKoven Bowen, III and REAPPOINTED Craig G. Van de Castle to the Public Recreational Facilities Authority with said terms to expire December 13, 2007. • APPOINTED Clarence W. Roberts and Stephen Smith to the Police Department Citizens Advisory Committee with said terms to expire March 5, 2006. • Amended Police Department Citizens Advisory Committee from four citizen members to five. 	<p>.</p> <p><u>County Attorney:</u> Amend bylaws for Police Department Citizens Advisory Committee</p>
<p>23. SP-2004-040. Mount Fair Farm</p> <ul style="list-style-type: none"> • APPROVED SP-2004-040, by a vote of 6:0, subject to the five conditions recommended by the Planning Commission. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 3)</p>
<p>24. ZTA-2004-008. Flood Hazard Overlay District (FH).</p> <ul style="list-style-type: none"> • ADOPTED the ordinance and associated language by a vote of 6:0, effective February 4, 2005. 	<p><u>Clerk:</u> Forward copy of signed Ordinance to County Attorney's office and Jack Kelsey. (Attachment 4)</p>
<p>25. ZMA-2004-019. Flood Hazard Overlay District (FH).</p> <ul style="list-style-type: none"> • ADOPTED the FEMA Flood Maps as set out in the staff report, by a vote of 6:0, to be effective February 4, 2005. 	
<p>26. Rural Areas Comprehensive Plan Amendment (CPA-2003-006).</p> <ul style="list-style-type: none"> • HELD. Requested staff provide a copy of the draft ordinance with all needed changes prior to public hearing. Public Hearing scheduled for February 9, 2005. 	<p><u>Clerk:</u> Forward copy of recommended changes from work session to Joan McDowell.</p>
<p>27. From the Board: Matters Not Listed on the Agenda. <u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Will be attending a Smart Growth Conference at the end of the month. Hopes to bring back a lot of good ideas and information. • Mentioned a report regarding E. coli and other pollutants in Moore's Creek. Asked if anyone was communicating with the Albemarle County Service Authority so when they make their long range plans, they include Moore's Creek. Mr. Tucker said he will talk to Mr. Brent. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • One of the water options is expansion of Ragged Mountain Reservoir by raising the dam which would require repair or replacement of the dam in the near future. He asked who owns the land surrounding Ragged Mountain. Mr. Tucker said he would find out. 	<p><u>Bob Tucker:</u> Discuss comments with Mr. Brent.</p>
<p>28. Adjourn to January 12, 2005, 4:00 p.m.</p> <ul style="list-style-type: none"> • The meeting was adjourned at 3:40 p.m. 	

/djm

Attachment 1 – Rules of Procedure

Attachment 2 – Resolution to accept road(s) in Highlands at Mechums River

Attachment 3 – Conditions of Approval

Attachment 4 – ZTA-2004-008 Flood Hazard Overlay District (FH) Ordinance

**RULES OF PROCEDURE
ALBEMARLE BOARD OF COUNTY SUPERVISORS**

A. *Officers*

1. *Chairman.* The Board at its annual meeting shall elect a Chairman who, if present, shall preside at such meeting and at all other meetings during the year for which elected. In addition to being presiding officer, the Chairman shall be the head official for all the Board's official functions and for ceremonial purposes. He shall have a vote but no veto. (Virginia Code Sections 15.2-1422 and 15.2-1423)
2. *Vice-Chairman.* The Board at its annual meeting shall also elect a Vice-Chairman, who, if present, shall preside at meetings in the absence of the Chairman and shall discharge the duties of the Chairman during his absence or disability. (Virginia Code Section 15.2-1422)
3. *Term of Office.* The Chairman and Vice-Chairman shall be elected for one-year terms; but either or both may be re-elected for one or more additional terms. (Virginia Code Section 15.2-1422)
4. *Absence of Chairman and Vice-Chairman.* If the Chairman and Vice Chairman are absent from any meeting, a present member shall be chosen to act as Chairman.

B. *Clerk and Deputy Clerks*

The Board at its annual meeting shall designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board. The duties of the Clerk shall be those set forth in Virginia Code Section 15. 21539 and such additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code Section 15.2-1416)

C. *Meetings*

1. *Annual Meeting.* The first meeting in January held after the newly elected members of the Board shall have qualified, and the first meeting held in January of each succeeding year, shall be known as the annual meeting. At such annual meeting, the Board shall establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code Section 15.2-1416)
2. *Regular Meetings.* The Board shall meet in regular session on such day or days as has been established at the annual meeting. The Board may subsequently establish different days, times, or places for such regular meetings by passing a resolution to that effect in accord with Virginia Code Section 15.2-1416. If any day established as a regular meeting day falls on a legal holiday, the meeting scheduled for that day shall be held on the next regular business day without action of any kind by the Board. (Virginia Code Section 15.2-1416)

If the Chairman (or Vice Chairman, if the Chairman is unable to act) finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, such meeting shall be continued to the next regular meeting date. Such finding shall be communicated to the members of the Board and to the press

as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code Section 15.2-1416)

Regular meetings, without further public notice, may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Board is complete. (Virginia Code Section 15.2-1416)

3. *Special Meetings.* The Board may hold special meetings as it deems necessary at such times and places as it deems convenient. A special meeting may be adjourned from time to time as the Board finds necessary and convenient. (Virginia Code Section 15.2-1417)

A special meeting shall be held when called by the Chairman or requested by two or more members of the Board. The call or request shall be made to the Clerk of the Board and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the Clerk, after consultation with the Chairman, shall immediately notify each member of the Board, the County Executive, and the County Attorney. The notice shall be in writing and delivered to the person or to his place of residence or business. The notice shall state the time and place of the meeting and shall specify the matters to be considered. No matter not specified in the notice shall be considered at such meeting unless all members are present. The notice may be waived if all members are present at the special meeting or if all members sign a waiver for the notice. (Virginia Code Section 15.2-1418) The Clerk shall notify the general news media of the time and place of such special meeting and the matters to be considered.

D. *Order of Business*

The Clerk of the Board shall establish the agenda for all meetings in consultation with the Chairman. The first two items on the agenda for each regular meeting of the Board shall be the Pledge of Allegiance and a moment for silent meditation.

The procedures for receiving comment from the public for matters not on the agenda shall be at the discretion of the Board. Unless otherwise decided, no more than three persons will be allowed to speak during the time set aside on the agenda for "From the Public: Matters Not Listed on the Agenda". Each person shall be permitted no more than five minutes to provide comments.

Zoning applications advertised for public hearing shall be on the agenda for public hearing on the advertised date unless the applicant submits a signed written deferral request to the Clerk of the Board no later than noon on Wednesday of the week prior to the scheduled public hearing. The first request for a deferral will be granted administratively by the Clerk. The Board will be notified of the deferral in the next Board package and the deferral will be announced at the earliest possible Board meeting to alert the public of the deferral. Any request received later than the Wednesday deadline and any subsequent request for a deferral for the same application previously deferred will be granted only at the discretion of the Board by a majority vote. The deferral shall not be granted unless the Board determines that the reason for the deferral justifies the likely inconvenience to the public caused by the deferral. The staff will make every effort to alert the public when a deferral is granted.

E. *Quorum*

A majority of the members of the Board shall constitute a quorum for any meeting of the Board. If during a meeting less than a majority of the Board remains present, no action can be taken except to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code Section 15.2-1415)

A majority of the members of the Board present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning such meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

F. *Voting Procedures*

1. *Approval by Motion.* Unless otherwise provided, decisions of the Board shall be made by approval of a majority of the members present and voting on a motion properly made by a member and seconded by another member. Any motion that is not seconded shall not be further considered. The vote on the motion shall be by a voice vote. The Clerk shall record the name of each member voting and how he voted on the motion. If any member abstains from voting on any motion, he shall state his abstention. The abstention will be announced by the Chairman and recorded by the Clerk. A tie vote shall defeat the motion voted upon. (Article VII, Section 7, Virginia Constitution)
2. *Special Voting Requirements.* A recorded affirmative vote of a majority of all elected members of the Board shall be required to approve an ordinance or resolution (1) appropriating money exceeding the sum of \$500; (2) imposing taxes; or (3) authorizing the borrowing of money. (Virginia Code Section 15.2-1428)
3. *Public Hearings.* The Board shall not decide any matter before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the holding of a public hearing or consideration of such matter.

The procedures for receiving comment from the applicant and the public for public hearings shall be at the discretion of the Board. Unless otherwise decided, the applicant shall be permitted no more than ten minutes to present its application. Following the applicant's presentation, any member of the public shall be permitted no more than three minutes to present public comment. Speakers are limited to one appearance at any public hearing. Following the public comments, the applicant shall be permitted no more than five minutes for a rebuttal presentation.

4. *Motion to Amend.* A motion to amend a motion before the Board, properly seconded, shall be discussed and voted by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
5. *Previous Question.* Discussion of any motion may be terminated by any member moving the "previous question". Upon a proper second, the Chairman shall call for a vote on the motion of the previous question. If approved by a majority of those voting, the Chairman shall immediately call for a vote on the original motion under consideration. A motion of the previous question shall not be subject to debate and shall take precedence over any other matter.
6. *Motion to Reconsider.* Any decision made by the Board may be reconsidered if a motion to reconsider is made at the same meeting or an adjourned meeting held on the same day at which the matter was decided. The motion to reconsider may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the matter for discussion in the exact position it occupied before it was voted upon.
7. *Motion to Rescind.* Any decision made by the Board, except for zoning map amendments, special use permit decisions, and ordinances, (these exceptions shall only be subject to reconsideration as provided above) may be rescinded by a majority vote of all elected members of the Board. The motion to rescind may be made by any member

of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Zoning map amendments, special use permit decisions and ordinances may be rescinded or repealed only upon meeting all the legal requirements necessary for taking action on such matters as if it were a new matter before the Board for consideration.

G. *Amendment of Rules of Procedure*

These Rules of Procedure may be amended by a majority vote of the Board at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

H. *Suspension of Rules of Procedure*

These Rules of Procedure may be suspended by the majority vote of the Board members present and voting. The motion to suspend a rule may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to suspend a rule, if approved, is to make that rule inapplicable to the matter before the Board. Provided, however, approval of a motion to suspend the rule shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

I. Necessary rules of procedure not covered by these Rules of Procedures shall be governed by Robert's Rules of Order.

* * * * *

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004, 1-5-2005).

ATTACHMENT 2

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 5th day of January 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Highlands at Mechums River Subdivision, § 2C**, described on the attached Additions Form SR-5(A) dated **January 5, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Highlands at Mechums River Subdivision, § 2C**, as described on the attached Additions Form SR-5(A) dated **January 5, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

The road(s) described on Additions Form SR-5(A) is:

- 1) **Amber Ridge Road (State Route 1244)** from the intersection of Mechums River Road (Route 1241) to the intersection of Morewood Lane (Route 1269), as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.05 mile; and from the intersection of Morewood Lane (Route 1269) to the cul-de-sac, as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.17 mile.

- 2) **Morewood Lane (State Route 1269)** from the intersection of Amber Ridge Road (Route 1244) to the cul-de-sac, as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.11 mile.

Total Mileage - 0.33 mile.

ATTACHMENT 3

SP-2004-040. Mount Fair Farm (Signs #73&95). Request to permit fill in the floodplain for purpose of constructing 2 stream crossings for second driveway/farm road, in accord w/Sec 30.3.05.2.2(3) of the Zoning Ord which allows for fill in the floodplain. TM 26, P 33, contains 75.3 acs. Znd RA. Loc at NW corner of intersec of St Rt 810 & St Rt 673. White Hall Dist.

1. With the exception of all changes that would be required in order to comply with the conditions listed herein, the site shall be developed in general accord with the plans entitled, "Mount Fair; Albemarle County, Virginia; MacFarlane Residence; Whitehall Virginia," dated revised 11/19/04;
2. Approval and bonding of an erosion and sediment control plan;
3. Approval and bonding of a mitigation plan for buffer disturbance;
4. Federal and state agency approval for stream and wetland disturbances; and
5. FEMA approval of a map revision (LOMR or LOMA).

ORDINANCE NO. 05-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE III, DISTRICT REGULATIONS, 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 18, Zoning, Article III, District Regulations, is hereby amended and reordained as follows:

By Amending:

- Sec. 30.3.01 Intent
- Sec. 30.3.02.1 Definitions
- Sec. 30.3.02.2 Determination of Floodway and Floodway Fringe in the Approximated Flood Plain
- Sec. 30.3.05.1.2 By Right Within the Floodway Fringe
- Sec. 30.3.07 Amendment of the Flood Hazard Overlay District

By Repealing:

- Sec. 30.3.06.2 Finding of the County Engineer

Chapter 18. Zoning

Article III. District Regulations

30.3 FLOOD HAZARD OVERLAY DISTRICT – FH

30.3.01 INTENT

It is intended that the flood hazard overlay district hereby and hereafter created shall be for the purpose of providing safety and protection from flooding. More specifically, these provisions are intended to restrict the unwise use, development and occupancy of lands subject to inundation which may result in: danger to life and property; public costs for flood control measures and/or rescue and relief efforts; soil erosion, sedimentation and siltation; pollution of water resources; and general degradation of the natural and man-made environment.

It is further intended that these provisions shall be adequate for qualification and continuation of Albemarle County on the regular program of the National Flood Insurance Program as administered by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA). To these ends, provisions have been developed in accordance with regulations governing the regular program.

(§ 30.3.01, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

30.3.02 APPLICATION

30.3.02.1 DEFINITIONS—GENERALLY

The flood hazard overlay district shall include all areas subject to inundation by the waters of the one hundred year flood. The source of this delineation shall be the Flood Insurance Study for Albemarle County and Incorporated Areas and the Independent City of Charlottesville prepared by FEMA, effective on and after February 04, 2005 (the “flood study”).

The following definitions shall apply in the administration and interpretation of this section 30.3:

1. *One-hundred year flood:* The term “one-hundred year flood” is a design storm of a specific intensity and duration with a return frequency of one-hundred years or a one-percent probability of being equaled or exceeded in a given year. The term “one-hundred year flood” is also referred to as the one (1)-percent annual chance flood.

2. *Base flood elevation (BFE)*: The term “base flood elevation” is the one-hundred year flood elevation that has been determined at a cross section of a stream reach, as designated in the flood study.
3. *Flood plain*: The term “flood plain” means any land susceptible to being inundated by the flood waters generated by a one-hundred year flood, as designated in the flood study.
4. *Floodway*: The term “floodway” means the stream channel and that portion of the adjacent flood plain that must be reserved to carry and discharge the waters of the one-hundred year flood, as designated in the flood study, without increasing the flood water surface elevation at any point more than one (1) foot above the base flood elevation and provided that hazardous velocities are not produced.
5. *Floodway fringe*: The term “floodway fringe” means that portion of the flood plain that lies between the floodway and the outer limits of the flood plain, as designated in the flood study. For the sole purpose of determining permissible uses under sections 30.3.05.1.2 and 30.3.05.2.2, the floodway fringe also shall include the approximated flood plain.
6. *Approximated flood plain*: The term “approximated flood plain” means those flood plain regions where base flood elevations have not been determined, as designated in the flood study.
7. *Development*: The term “development” means, for the purposes of this section only, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
8. *Substantial improvement*: The term “substantial improvement” means, for the purposes of this section only, any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged, the market value before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or the Virginia Historic Landmarks Commission.
9. *Start of construction*: The term “start of construction” means, for the purposes of this section only includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. (Added 6-10-87)

(§ 30.3.02.1, 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05)

30.3.02.2 DETERMINATION OF FLOODWAY FRINGE IN THE APPROXIMATED FLOOD PLAIN

Except for such uses permitted in the floodway in accordance with section 30.3.5, no use, structure or building shall be established and no rezoning petition, site development plan, subdivision plat, building permit or other county approval shall be given for lands located within

any approximated flood plain, prior to verification by the county engineer as to the limits of the floodway fringe within such lands. In his determination of the limits of the floodway fringe, and one hundred year flood elevation, the county engineer may request assistance from the Federal Insurance Administration, the United States Army Corps of Engineers, and such other qualified agencies and persons as he deems appropriate. The county engineer shall require the applicant to provide such information as he deems reasonably necessary to make his determination. The cost of such determination shall be borne entirely by the applicant.

(§ 30.3.02.2, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 05-18(1), 1-5-05, effective 2-5-05)

30.3.05.1.2 BY RIGHT WITHIN THE FLOODWAY FRINGE

1. Uses permitted by right in the floodway.
2. Accessory structures to uses permitted by right in the floodway, excluding structures for human habitation; provided that any such structure permitted shall be firmly anchored to prevent flotation, collapse or lateral movement due to flooding.
3. Pedestrian and multi-use paths that are within county owned or operated parks and greenways; provided that any filling of land has been approved by the county engineer in accordance with section 30.3.06.1(1) through (5); and any footbridges necessary to cross tributary streams, watercourses and swales have been approved by the county engineer.

(§ 30.3.05.1.2, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

30.3.06.2 Repealed

30.3.07 AMENDMENT OF THE FLOOD HAZARD OVERLAY DISTRICT

The delineation of the flood hazard overlay district may be revised, amended and modified by the board of supervisors in compliance with the National Flood Insurance Program when any of the following conditions are met:

1. Upon completion of a fill operation in accordance with section 30.3.06.1; and, county engineer receipt of notification from FEMA that a map amendment based on the placement of fill has been issued; and, at such time as the county engineer is reasonably satisfied that such fill is stabilized, at a finished grade above the one hundred year flood elevation, and in compliance with any related conditions imposed by the board of supervisors in approval of a special use permit; the county engineer shall notify the board of supervisors of such finding. The board of supervisors shall review such finding for amendment of the flood hazard overlay district as generally provided in section 33.0 and particularly provided in section 30.3.07. In the event of amendment, lands deleted from the flood hazard overlay district shall enjoy all uses of the underlying zone, as such uses are permitted therein.
2. There are changes through natural or other causes.
3. There are changes indicated by FEMA issuance of letters of map amendment (LOMA) or letters of map revision (LOMR).
4. There are changes indicated by future detailed hydrologic and hydraulic studies.

All such changes are subject to the review and approval of FEMA.

(§ 30.3.07, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

This ordinance shall be effective on and after February 5, 2005.