

ACTIONS
Board of Supervisors Meeting of October 3, 2007

October 12, 2007

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 9:03 a.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, and Ella Jordan. 	
<p>4. From the Board: Matters Not Listed on the Agenda.</p> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Suggested the Board consider allowing public comments at its work sessions to allow input during the process instead of only at the public hearing. <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> • Suggested a committee be appointed to provide input into the Rivanna Master Planning process. David Benish commented that the Commission agreed that an advisory committee would be beneficial during the public input process. 	
<p>5. From the Public: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> • The following individuals representing landscaping and irrigation businesses spoke regarding the hardship the water restrictions are having on their businesses: <ul style="list-style-type: none"> • Mark Harris • Tom Oakley • Tim Reese • Bruce Baxter • Bob Freeman • Kenny Shiflett • Duane Snow • Carol Church • Dale Dudley • Scott Price • Corbin Snow • Norm Carlson • Lynn O'Donnell • Lesley Sewell • Jeff Werner expressed concern for the above business owners, but reiterated that the community is in a drought and not much can be done other than the residents doing their part to cut back on water usage. • John Martin discussed the water supply problem, and the need to reexamine the relationship between the elected government and the Rivanna Water and Sewer Authority and the Albemarle County Service Authority. • June Comer, a resident of Batesville, spoke about traffic concerns in Batesville – speeding in a 25 mph zone and the intersection of Plank Road and Miller School Road. • Cliff Fox discussed a proposed greenway 	

	<p>segment to Crozet Park through the Daily Family property. He stated that the Daily's will agree to a temporary license agreement if the County agrees to relinquish its right to eminent domain any of their land for the greenway. He asked the Board if they could find a way to relinquish its right to any eminent domain action on the Daily property as it relates to the greenway.</p>	
6.2	<p>Requested FY 2007 Budget Appropriation.</p> <ul style="list-style-type: none"> • APPROVED FY 2007 Appropriation #2007092. 	<p><u>Clerk</u>: Forward copy of signed appropriation form to OMB, Finance and appropriate individuals.</p>
6.3	<p>Resolution to accept roads in Chesterfield Subdivision into the State Secondary System of Highways.</p> <ul style="list-style-type: none"> • ADOPTED. 	<p><u>Clerk</u>: Forward resolution and signed AM-4.3 Form to Greg Cooley. (Attachment 1)</p>
6.4	<p>Petty Cash Resolution to Add a Petty Cash Fund for Hollymead Fire Station.</p> <ul style="list-style-type: none"> • ADOPTED. 	<p><u>Clerk</u>: Forward copy of signed resolution to OMB, Finance and County Attorney's office. (Attachment 2)</p>
6.5	<p>FY 2007 End-of-Year Preliminary Financial Report.</p> <ul style="list-style-type: none"> • ACCEPTED the Preliminary June 30, 2007 End-of-Year Financial Report; and APPROVED the CIP transfer pending final audited financial results of operations as recommended by staff. 	<p><u>OMB/Finance</u>: Proceed as approved.</p>
6.6	<p>Cancel public hearing to grant water line easement to the Albemarle County Service Authority across property owned by the County located on Tax Map Parcel 045B1 necessary for the replacement of a water line along Clarke Lane in the Woodbrook Subdivision.</p> <ul style="list-style-type: none"> • CANCELLED public hearing. 	
7.	<p>Board-to-Board, <i>Monthly Communications Report from School Board</i>, School Board Chairman.</p> <ul style="list-style-type: none"> • RECEIVED. 	
8a.	<p>Primary Road Plan Priorities.</p> <ul style="list-style-type: none"> • Requested staff develop a list of bridges that are in need of repair/replacement and develop criteria for how to rate the projects. • Ken Boyd said he or another Board member would attend the November 1 VDOT hearing in Culpeper and present the statement on behalf of Albemarle County. • Board members made the following typographical corrections: <ul style="list-style-type: none"> • On page 1, under "I", there are two number 1's. • Attachment B, under "I", Item 2b, midway in the paragraph, the sentence reading "This new third lane section,..." describes the Town Center improvements, and needs to be moved to follow the sentence ending in "... Hollymead Town Center." The word "was" should be "were". • Attachment B, under "III", Item 4, reference to "1.4.e", should be "1.4(a)". 	<p><u>David Benish/Juan Wade</u>: Make changes and forward to Board members for their information.</p>
8b.	<p>Advance Mills Bridge Update.</p> <ul style="list-style-type: none"> • Mr. Sumpter provided update. Citizen information meeting regarding alignments of the 	

	<p>permanent bridge is scheduled for October 11, 5:00 p.m. – 7:00 p.m. at Spring Hill Baptist Church on Frays Mill Road.</p>	
8c.	<p>VDOT Monthly Report.</p> <ul style="list-style-type: none"> • RECEIVED. • Allan Sumpter said Mr. Dean Gustafson, VDOT's Regional Operations Director for traffic engineering issues, cannot attend the November Board meeting; will need to reschedule to December. • VDOT has begun mobilization of their crews to begin work on the Gilbert Station Road rural rustic road project. • Regarding the Broomley Road Bridge, he has asked that they begin the aerial surveys so that VDOT can better gauge some of the potential impacts to the connector roads on the far side of the bridge. Mr. Rooker suggested negotiating with the railroads to try to get contributions from them on a case-by-case basis in an attempt to accelerate individual bridge projects. • Mr. Sumpter updated the Board on VDOT plans to address the issues raised by Ms. Comer earlier in the meeting. He noted that they will first try to address the problem through signage. • Mr. Sumpter commented that the calls they have been receiving about dust and wash boarding are a result of the drought. 	<p><u>Clerk:</u> Forward comments to VDOT.</p>
8d.	<p>Transportation Matters not Listed on the Agenda. <u>Lindsay Dorrier</u></p> <ul style="list-style-type: none"> • Asked about repaving of roads in Lake Reynovia Subdivision. Residents have expressed concerns that the surface is rough, not smooth. Mr. Sumpter commented that the surface is in a curing phase. He will provide additional information to Mr. Dorrier. • Asked if a crosswalk could be installed on Avon Street at Cale Elementary School. Mr. Sumpter said VDOT will take a look at it. <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> • Asked VDOT to look at the lines drawn on Rio Road going down the hill on the east side; they are not straight. 	<p><u>Clerk:</u> Forward comments to VDOT.</p>
9.	<p>Overview of Jail Programs, Colonel Ronald Matthews.</p> <ul style="list-style-type: none"> • RECEIVED. 	
10.	<p>Case Study (Avon Park) on Affordable Housing Proffer Policy, presentation by Jamie Spence.</p> <ul style="list-style-type: none"> • RECEIVED. 	
11.	<p>Thomas Jefferson Planning District Commission Legislative Program, David Blount.</p> <ul style="list-style-type: none"> • APPROVED draft 2008 TJPDC Legislative Program with the understanding that suggested changes from the Board will be reflected in final version of program. 	<p><u>Andy Bowman:</u> Proceed as approved.</p>
12.	<p>CIP Process Overview.</p> <ul style="list-style-type: none"> • SUPPORTED current CIP process and calendar. 	

<p>13. Closed Session.</p> <ul style="list-style-type: none"> At 12:36 p.m., the Board went into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia to under Subsection (1) consider appointments to boards, committees, and commissions; under Subsection (3) to consider two matters relating to the acquisition of real property necessary to provide access to a park facility; under Subsection (7) to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an interjurisdictional agreement; and under Subsection (7) to consult with legal counsel regarding probable litigation relating to courthouse facilities. 	
<p>14. Certify Closed Session.</p> <ul style="list-style-type: none"> At 2:07 p.m., the Board reconvened into open session and certified the closed session. 	
<p>15. Appointments.</p> <ul style="list-style-type: none"> APPOINTED William Daggett to the Architectural Review Board with said term to expire November 14, 2008. APPOINTED Mark Rooks to the Jefferson Area Disability Services Board with said term to expire June 30, 2010. REAPPOINTED Raymond East to the JAUNT Board with said term to expire September 30, 2010. REAPPOINTED Dan Maupin, Montie Pace and Fred Shields to the Land Use Tax Advisory Board with said terms to expire September 1, 2009. REAPPOINTED Diana Foster and Phil Stokes to the Natural Heritage Committee with said term to expire September 30, 2011. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, update webpage, and notify appropriate persons.</p>
<p>16. FY 2008 Budget Amendment.</p> <ul style="list-style-type: none"> APPROVED FY 2008 Budget Amendment in the amount of \$57,342,962.49 and APPROVED Appropriations #2008019, #2008020, #2008021, #2008022, #2008024, #2008026, #2008027, #2008028, #2008029, #2008030, and #2008031 to provide funds for various local government, school, and capital projects and programs. 	<p><u>Clerk:</u> Forward copy of signed appropriation form to OMB, Finance and appropriate individuals.</p>
<p>17. <u>ZTA-2005-009 Density Bonus for Affordable Housing.</u></p> <ul style="list-style-type: none"> ADOPTED the proposed ordinance excluding amendments to Section 12.4.3. 	<p><u>Clerk:</u> Forward copy of adopted ordinance to County Attorney's office, Housing and Planning. (Attachment 3)</p>
<p>18a. Finance Tax Ordinance: <u>To amend Chapter 1, General Provisions, of the Albemarle County Code.</u></p> <ul style="list-style-type: none"> ADOPTED Ordinance No. 07-1(2). 	<p><u>Clerk:</u> Forward copy of adopted ordinance to County Attorney's office and Finance. (Attachment 4)</p>
<p>18b. Finance Tax Ordinances: <u>To amend Chapter 8, Licenses, of the Albemarle County Code.</u></p> <ul style="list-style-type: none"> ADOPTED Ordinance No. 07-8(1) 	<p><u>Clerk:</u> Forward copy of adopted ordinance to County Attorney's office and Finance. (Attachment 5)</p>
<p>18c. Finance Tax Ordinances: <u>To amend Chapter 9, Motor Vehicles and Traffic, of the Albemarle County Code.</u></p>	<p><u>Clerk:</u> Forward copy of adopted ordinance to County Attorney's office and Finance. (Attachment 6)</p>

	review the needed changes and the Planning Commission initiate the ZTA.	
27.	Adjourn to October 10, 2007, 2:30 p.m. <ul style="list-style-type: none"> • The meeting was adjourned at 4:21 p.m. 	

/ewj

- Attachment 1 – Resolution – Chesterfield Subdivision
- Attachment 2 – Resolution – Petty Cash
- Attachment 3 – Ordinance - ZTA-2005-009. Density Bonus for Affordable Housing
- Attachment 4 – Ordinance No. 07-1(2)
- Attachment 5 – Ordinance No. 07-8(1)
- Attachment 6 – Ordinance No. 07-9(1)
- Attachment 7 – Ordinance No. 07-15(2)
- Attachment 8 – Ordinance No. 07-15(1)

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 3rd day of October 2007, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Chesterfield Subdivision**, as described on the attached Additions Form AM-4.3 dated **October 3, 2007**, 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 street(s) in **Chesterfield Subdivision**, as described on the attached Additions Form AM-4.3 dated **October 3, 2007**, to the secondary system of state highways, pursuant to §33.1-229 and §33.1-82, 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 AM-4.3 is:

- 1) **South Chesterfield Court (State Route 1623)** from the intersection of Route 649 to the intersection of North Chesterfield Court (Route 1624), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1654, pages 503-507, with a 50-foot plus right-of-way width, for a length of 0.02 miles.
- 2) **South Chesterfield Court (State Route 1623)** from the intersection of North Chesterfield Court (Route 1624) to the cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1654, pages 503-507, with a 50-foot plus right-of-way width, for a length of 0.09 miles.
- 3) **Chesterfield North (State Route 1624)** from the intersection of South Chesterfield Court (Route 1623) to the cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1654, page 503-507, with a 50-foot plus right-of-way width, for a length of 0.10 miles.

Total Mileage – 0.21

RESOLUTION

WHEREAS, Virginia Code §15.2-1229, provides that the governing body of any county may establish by resolution one or more petty cash funds not exceeding \$5,000 each for the payment of claims arising from commitments made pursuant to law; and

WHEREAS, the Board of Supervisors adopted a Resolution on June 6, 2007 establishing petty cash funds; and

WHEREAS, the Board of Supervisors now desires to amend and establish certain petty cash funds for the above stated purpose.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia establishes the following petty cash funds:

Finance Department	\$ 4,350.00
Social Services	200.00
Community Development	100.00
Police Department	1,800.00
Sheriff's Department	100.00
Fire and Rescue	150.00
Fire and Rescue - Monticello Fire Station	250.00
Fire and Rescue – Hollymead Fire Station	250.00
Commonwealth's Attorney	300.00
Parks & Recreation	<u>100.00</u>
Total	<u>\$ 7,600.00</u>

ORDINANCE NO. 07-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND 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 I, General Regulations, and Article III, District Regulations, is hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 13.4.3 Low and Moderate Cost Housing
- Sec. 14.4.3 Low and Moderate Cost Housing
- Sec. 15.4.3 Low and Moderate Cost Housing
- Sec. 16.4.3 Low and Moderate Cost Housing
- Sec. 17.4.3 Low and Moderate Cost Housing
- Sec. 18.4.3 Low and Moderate Cost Housing

Chapter 18. Zoning

Article I. General Regulations

Sec. 3.1 Definitions

Affordable housing. The term “affordable housing” means safe decent housing where housing costs do not exceed thirty (30) percent of the gross household income. For purposes of this definition, “housing costs” for homeowners are principal, interest, real estate taxes, and homeowner’s insurance (PITI), and for tenants are tenant-paid rent and tenant-paid utilities with the maximum allowances for utilities being those adopted by the county’s housing office for the Housing and Urban Development housing choice voucher program. For purposes of this chapter, an “affordable unit” is a dwelling unit that meets the definition of affordable housing.

Article III. District Regulations

Sec. 13.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify as affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.
- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the affordable units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)

- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify as affordable housing under the Housing and Urban Development housing choice voucher program. (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the lots shall be available for rent to manufactured home owners for a period of at least ten (10) years. (Added 3-5-86)
- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)
- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

Sec. 14.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify as affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.
- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the affordable units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)
- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify affordable housing under the Housing and Urban Development housing choice voucher program. (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the lots shall be available for rent to manufactured home owners for a period of at least ten (10). (Added 3-5-86)
- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)

- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

Sec. 15.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify as affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.
- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the affordable units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)
- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify as affordable housing under the Housing and Urban Development housing choice voucher program. ; (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the lots shall be available for rent to manufactured home owners for a period of at least ten (10) years. (Added 3-5-86)
- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)
- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

Sec. 16.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify as affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.
- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the low or moderate cost units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)
- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify as affordable housing under the Housing and Urban Development housing choice voucher program. (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the lots shall be available for rent to manufactured home owners for a period of at least ten (10) years. (Added 3-5-86)
- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)
- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

Sec. 17.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify as affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.

- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the affordable units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)
- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify as affordable housing under the Housing and Urban Development housing choice voucher program. (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the lots shall be available for rent to manufactured home owners for a period of at least ten (10) years. (Added 3-5-86)
- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)
- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

Sec. 18.4.3 Affordable housing

For providing affordable housing units, a density increase of thirty (30) percent shall be granted, subject to the following:

- a. At least one-half of the additional housing units allowed by this density bonus shall be developed as affordable housing units.
- b. The initial sale price for sale units or the rental rate for a period of at least ten (10) years for rental units shall qualify affordable housing under either the Virginia Housing Development Authority, Farmers Home Administration or Housing and Urban Development housing choice voucher program.
- c. If rental units, the developer shall enter into an agreement with the County of Albemarle restricting the rental rates of the affordable units for a period of at least ten (10) years or until the units are sold as affordable units, whichever comes first.
- d. If sale units, the developer shall provide the chief of housing with confirmation of the initial sale price for the affordable units prior to the issuance of building permits for the bonus units. (Amended 8-14-85)
- e. Manufactured homes for rent in an approved manufactured home park shall be considered rental units under this section provided they qualify as affordable housing under the Housing and Urban Development housing choice voucher program. (Added 3-5-86)
- f. Manufactured home lots for rent in an approved manufactured home park shall qualify for this bonus provided the developer enters into an agreement with the County of Albemarle that the

lots shall be available for rent to manufactured home owners for a period of at least ten (10) years. (Added 3-5-86)

- g. Manufactured home lots for sale in an approved manufactured home subdivision shall qualify for this bonus provided the developer restricts the use of the lots to manufactured homes or other affordable housing for a period of at least ten (10) years. (Added 3-5-86)
- h. The decision to extend the periods beyond the ten (10) year minimum provided in subsections (b), (c), (f) and (g) shall be in the sole discretion of the developer.
- i. The occupancy of the affordable units shall be restricted to those households with incomes at or below eighty (80) percent of the area median income for for-sale units and at or below sixty (60) percent of the area median income for rental units. The chief of housing or his designee must approve all purchasers of for-sale units based on household income. Prior to issuance of the first certificate of occupancy for a building providing affordable rental units, the developer shall enter into a rental rate agreement with the county, approved by the county attorney, that delineates the terms and conditions pertaining to rental rates, occupancy and reporting during the minimum ten (10) year period.

ORDINANCE NO. 07-1(2)

AN ORDINANCE TO AMEND CHAPTER 1, GENERAL PROVISIONS, 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 1, General Provisions, is hereby amended and reordained as follows:

By Amending:

Sec. 1-120 Fee for returned checks

CHAPTER 1. GENERAL PROVISIONS

Sec. 1-120 Penalty for returned checks or other payment.

If any check or other means of payment tendered to the county or any agency thereof in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the named payee unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of thirty-five dollars (\$35.00) shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 15-103 shall not apply.

(Ord. No. 97-1(1), 2-12-97; Code 1988, § 1-9; Ord. 98-A(1), 8-5-98; Ord. 07-1(2), adopted 10-3-07, effective 1-1-08)

State law reference—Va. Code § 2.2-614.1(C).

This ordinance shall be effective on and after January 1, 2008.

ORDINANCE NO. 07-8(1)

AN ORDINANCE TO AMEND CHAPTER 8, LICENSES, ARTICLE III, DETERMINING GROSS RECEIPTS, AND ARTICLE VI, SCHEDULE OF TAXES, 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, Article III, Determining Gross Receipts, and Article VI, Schedule of Taxes, are hereby amended and reordained as follows:

By Amending:

Sec. 8-305 Amounts excluded from gross receipts
Sec. 8-601 Bondsmen
Sec. 8-617 Retailers or retail merchants

By Repealing:

Sec. 8-604 Loan agencies

CHAPTER 8. LICENSES

ARTICLE III. DETERMINING GROSS RECEIPTS

Sec. 8-305 Amounts excluded from gross receipts.

For purposes of determining a license tax, gross receipts shall not include any amount not derived from the exercise of the licensed privilege to engage in a business in the ordinary course of such business, and the following amounts:

A. Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

B. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

C. Any amount representing returns or trade-in allowances granted by the business to its customer.

D. Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

E. Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

F. Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

G. Withdrawals from inventory for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

H. Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

I. Amounts paid by real estate brokers to real estate agents as a commission on any real estate transaction shall be excluded from real estate brokers' gross receipts. Each real estate broker claiming the exclusion shall identify on its license application each agent to whom the excluded receipts have been paid, the amount of the receipts paid to each such agent, and the jurisdiction in the Commonwealth of Virginia to which the agent is subject to business license taxes.

(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), adopted 10-3-07, effective 1-1-08)

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

ARTICLE VI. SCHEDULE OF TAXES

DIVISION 1. GENERALLY

Sec. 8-601 Bondsmen.

Each person engaged as a bondsman shall be subject to the license tax, and other provisions, set forth herein:

A. Every person who shall, for compensation, enter into any bond or bonds for others, whether as a principal or surety, shall be subject to a license tax of one hundred fifty dollars (\$150.00), which shall not be prorated or transferred.

B. No professional bondsmen or his agent shall enter into any such bond or bonds in the county until he shall have obtained such license unless he has obtained such required license in another city or county, in which he engages in the business of bail bonding.

C. With the exception of any bondsman or his agent who has heretofore obtained a certificate and license under this section and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no such license shall be issued unless and until the applicant shall have first obtained a bail bondsman license from the Department of Criminal Justice Services.

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

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

Sec. 8-604 (Repealed 10-3-07)

DIVISION 4. PERSONAL, PROFESSIONAL, BUSINESS OR REPAIR SERVICE BUSINESS, OCCUPATIONS AND PROFESSIONS

Sec. 8-617 Retailers or retail merchants.

Each person engaged as retailer or retail merchant shall be subject to the license tax, and other provisions, set forth herein:

A. Each person engaged as a retailer or retail merchant shall be subject to a license tax of twenty cents (\$0.20) for each one hundred dollars (\$100.00) of gross receipts, other than as provided in subsection (B) herein.

B. Each person engaged as a retailer or retail merchant shall be subject to a license tax of ten cents (\$0.10) for each one hundred dollars (\$100.00) of gross receipts for direct retail sales. For

purposes of this section, a “direct retail sale” is defined as 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.

C. Retailers or retail merchants include, but are not limited to, the following:

- Aircraft or aircraft parts.
- Alcoholic beverages.
- Antiques.
- Auto accessory, tire, battery.
- Automobile graveyards.
- Auto sales, motor vehicle dealers.
- Bakeries, caterers.
- Bicycles.
- Boats, motors.
- Books, stationery.
- Building materials.
- Candy, nut stores.
- Cigar, tobacco stands, newsstands.
- Confectionery.
- Custom tailor.
- Dairy products.
- Delicatessen.
- Department stores.
- Drapery, curtain, upholstery.
- Drugs.
- Dry goods stores.
- Eggs, poultry.
- Family clothing.
- Farm equipment.
- Filling stations.
- Firearms.
- Fish, seafood market.
- Floor covering.
- Florists.
- Fruit stores, vegetable markets.
- Fuel, ice.
- Furniture.
- Furriers.
- Garden supplies.
- General stores.
- Gift, novelty, souvenir.
- Grocery.
- Hardware.
- Heating, plumbing, electrical equipment.
- Hog, grain, feed, seed.
- Hosiery.
- Jewelry.
- Junk or secondhand merchandise.
- Lightning rods.
- Luggage.
- Lumber goods.
- Meat markets.
- Men's and boy's clothing.
- Millinery.
- Motorcycle.
- Musical instrument.
- Office, store, appliance supply.
- Optical.

Other clothing.
Paint, glass, wallpaper.
Photographic, supply, equipment.
Radio, television or household appliances.
Restaurants, eating places, nightclubs.
Secondhand stores, other than junk.
Scientific, medical supplies.
Shoes.
Soda fountain.
Sporting goods.
Travel bureau or tour agent.
Used cars.
Variety stores.
Workmen's clothing.

All other retail stores and retail merchants' occupations, businesses or trades not included herein and not otherwise taxed by this chapter.

D. In any case in which the Virginia Department of Mines, Minerals and Energy determines that the weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District - Lower Atlantic Region) has increased by 20% or greater in any one-week period over the immediately preceding one-week period and does not fall below the increased rate for at least 28 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate on retailers imposed by this chapter, the gross receipts taxes on fuel sales of a gas retailer made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by such retailer in the license year of such increase. For license years beginning on or after January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such records available upon request by the local tax official.

The provisions of this subsection shall not apply to any person or entity (i) not conducting business as a gas retailer in the county the entire license year immediately preceding the license year of such increase or (ii) that was subject to a license fee in the county pursuant to Virginia Code § 58.1-3703 for the license year immediately preceding the license year of such increase.

The Virginia Department of Mines, Minerals and Energy shall determine annually if such increase has occurred and remained in effect for such 28-day period.

For purposes of this subsection, the following definitions shall apply:

1. "Fuel sale" or "fuel sales" shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Virginia Code § 58.1-2201.

2. "Gas retailer" means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Virginia Code § 58.1-2201.

(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)

State law reference--Va. Code §§ 58.1-3703, 58.1-3706.

This ordinance shall be effective on and after January 1, 2008.

ORDINANCE NO. 07-9(1)

AN ORDINANCE TO AMEND CHAPTER 9, MOTOR VEHICLES AND TRAFFIC, ARTICLE IV, COUNTY VEHICLE 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 9, Motor Vehicles and Traffic, Article IV, County Vehicle Licenses, is hereby amended and reordained as follows:

By Amending:

Sec. 9-410 Display of license decal, etc.

CHAPTER 9. MOTOR VEHICLES AND TRAFFIC

ARTICLE IV. COUNTY VEHICLE LICENSES

Sec. 9-410 Display of license decal, etc.

Decals or other stickers issued pursuant to this article shall be displayed on the vehicle in accordance with state law and regulation. A decal may not be attached to any motor vehicle, trailer or semitrailer for which it has not been assigned.

The display of a local decal or sticker shall not be required on any vehicle owned by a public service company, as defined in Virginia Code § 56-76, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

(Code 1967, § 12-99; Ord. of 2-14-90; Code 1988, § 12-31; Ord. 98-A(1), 8-5-98; Ord. 05-9(2), 12-7-05, effective 1-1-06; Ord. 07-9(1), 10-3-07)

This ordinance shall be effective immediately.

ORDINANCE NO. 07-15(2)

AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, ARTICLE IX, TRANSIENT OCCUPANCY TAX, AND ARTICLE XII, FOOD AND BEVERAGE TAX, 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, Article IX, Transient Occupancy Tax, and Article XII, Food and Beverage Tax, are hereby amended and reordained as follows:

By Amending:

- Sec. 15-910 Penalty for late remittance or false return
- Sec. 15-911 Violations of article
- Sec. 15-1203 Tips and service charges
- Sec. 15-1213 Penalty for late remittance or false return
- Sec. 15-1214 Violations of article

CHAPTER 15. TAXATION

ARTICLE IX. TRANSIENT OCCUPANCY TAX

15-910 Penalty for late remittance or false return.

A. If any lodging provider whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the director of finance a penalty in the amount of ten percent (10%) of the total amount of tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is less.

B. If any lodging provider whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax by the director of finance a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-43; Code 1988, § 8-51, Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

State law reference – Va. Code §§ 58.1 – 3916, 58.1-3916.1

Sec. 15-911 Violations of article.

Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for and pay over a tax under this article, who willfully fails to collect or truthfully account for and pay over such tax, and any such person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a class 1 misdemeanor. Conviction under this section shall not relieve any person from the payment, collection or remittance of the taxes or penalties

provided for in this article. Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the director of finance. Each failure or violation, and each day's continuance thereof, shall constitute a separate offense.

(Code 1988, § 8-52; Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1- 3906, 58.1 - 3907; as to punishment for class 1 misdemeanor, see § 18.2-11.

ARTICLE XII. FOOD AND BEVERAGE TAX

Sec. 15-1203 Tips and service charges.

No tax shall be imposed under this article on (i) that portion of the amount paid by purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price.

(§ 8-78, 12-10-97; Code 1988, § 8-78; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

State law reference—Va. Code § 58.1-3833(E)

Sec. 15-1213 Penalty for late remittance or false return.

A. If any seller whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the director of finance a penalty in the amount of ten percent (10%) of the total amount of the tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of the tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is less.

B. If any seller whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax by the director of finance a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-88, 12-10-97; Code 1988, § 8-88; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

State law reference—Va. Code §§ 58.1-3916, 58.1-3916.1

Sec. 15-1214 Violations of article.

Any corporate or partnership officer as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for and pay over tax under this article, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a class 1 misdemeanor. Conviction of such violation shall not

relieve any person from the payment, collection or remittance of the taxes or penalties provided for in this article. Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the director of finance. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

(§ 8-89, 12-10-97; Code 1988, § 8-89; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), adopted 10-3-07, effective 1-1-08)

State law reference—Va. Code § 58.1-3907

This ordinance shall be effective on and after January 1, 2008.

ORDINANCE NO. 07-15(1)

AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, ARTICLE VII, REAL ESTATE EXEMPTION FOR CERTAIN ELDERLY AND DISABLED PERSONS, 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, Article VII, Real Estate Exemption for Certain Elderly and Disabled Persons, is hereby amended and reordained as follows:

By Amending:

Sec. 15-702 Definitions
Sec. 15-704 Persons eligible for exemption
Sec. 15-705 Amount of exemption

CHAPTER 15. TAXATION

ARTICLE VII. REAL ESTATE TAX EXEMPTION FOR CERTAIN ELDERLY AND DISABLED PERSONS

Sec. 15-702 Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

(1) *Dwelling*. The term “dwelling” means a building occupied as a residence.

(2) *Income*. The term “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, the money is taxable or deductible from the taxpayer’s income tax return.

(a) Income shall include: (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 shall 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.

(3) *Manufactured home*. The term “manufactured home” means a structure subject to federal regulation which is transportable in one or more sections; is eight (8) body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(4) *Net combined financial worth*. The term “net combined financial worth” means the net present value of all assets, including equitable interests, and liabilities of (i) the owners, (ii) the spouse of any owner, and (iii) the owner’s relatives living in the dwelling. The term “net combined financial worth” shall not include: (i) the value of the 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.

(5) *Owning title or partial title.* The term “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.

(6) *Permanently and totally disabled person.* The term “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 such person's life.

(7) *Real estate.* The term “real estate” includes manufactured homes.

(8) *Relative.* The term “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.

(9) *Taxable year.* The term “taxable year” means the calendar year for which the exemption is claimed.

(10) *Total combined income.* The term “total combined income” means the income received from all sources during the preceding calendar year by the owners of the dwelling who use it as their principal residence and by the owners’ relatives who live in the dwelling. The following amounts shall be excluded from the calculation of total combined income:

(a) The first sixty-five hundred dollars (\$6500.00) 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 subdivision 9 c hereof.

(b) The first seventy-five hundred dollars (\$7500.00) of income for an owner who is permanently disabled.

(c) If a person otherwise qualifies for the exemption and if the person can prove by clear and convincing evidence that the person's physical or mental health 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 person, 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 five thousand dollars (\$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; 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), adopted 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 36-85.3, 58.1-3210, 58.1-3211, 58.1-3217.

Sec. 15-704 Persons eligible for exemption.

Persons who satisfy all of the following requirements are eligible for the exemption established in section 15-703:

A. The person claiming the exemption shall have either:

1. Reached the age of sixty-five (65) years prior to the taxable year for which the exemption is claimed; or

2. Became permanently and totally disabled prior to the taxable year for which the exemption is claimed.

B. The person claiming the exemption shall be a person owning title or partial title in the dwelling.

1. The person 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.

2. A dwelling jointly owned by a husband and wife may qualify if either spouse is sixty-five (65) years of age or older or is permanently and totally disabled.

3. Except as provided in paragraph (B.2), the exemption shall not apply to a dwelling jointly owned by a person who is sixty-five (65) years of age or older or who is permanently and totally disabled (an "exempt person"), and a person who not an exempt person.

C. The person claiming the exemption shall occupy the dwelling as that person's sole dwelling.

1. The dwelling shall not be used for commercial purposes.

2. The fact that a person who otherwise qualifies for exemption established by this article resides in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of the person during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

D. A manufactured home is real estate eligible for the exemption established by this article if the person claiming the exemption demonstrates to the satisfaction of the director of finance that the manufactured home is permanently affixed. Either of the following shall be evidence that the manufactured home is permanently affixed:

1. The person claiming the exemption 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. Whether or not the manufactured home is located on land on which the person claiming the exemption owns title or partial title, the manufactured home rests on a permanent foundation and consists of two (2) 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.

E. The total combined income shall not exceed sixty-nine thousand four hundred fifty-two dollars (\$69,452.00) for the calendar year immediately preceding the taxable year.

F. The net combined financial worth shall not exceed two hundred thousand dollars (\$200,000.00) as of December thirty-first 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; 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), adopted 11-1-06, effective 1-1-07; Ord. 07-15(1), adopted 10-3-07, effective 1-1-08)

State law reference--Va. Code §§ 58.1-3210, 58.1-3211, 58.1-3212, 58.1-3214, 58.1-3215.

Sec. 15-705 Amount of exemption.

The amount of the exemption established by this article from the real estate tax for any taxable year shall be 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; 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), adopted 11-1-06, effective 1-1-07; Ord. 07-15(1), adopted 10-3-07, effective 1-1-08)

State law reference--Va. Code § 58.1-3212.

This ordinance shall be effective on and after January 1, 2008.