

**ACTIONS**  
**Board of Supervisors Meeting of August 5, 2009**

August 10, 2009

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>• Meeting was called to order at 9:02 a.m. by the Chairman, Mr. Slutzky. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan and Meagan Hoy.</li> </ul>	
<p>4. <del>Recognitions.</del></p> <ul style="list-style-type: none"> <li>• Removed from agenda.</li> </ul>	
<p>5. From the Board: Matters Not Listed on the Agenda.</p> <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> <li>• Updated the Board on the Hatton Ferry fund-raising efforts.</li> </ul> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>• Congratulated Sally Thomas on receiving the Robert W. Baker Achievement Award from the Virginia Association of Planning District Commissions (VAPDC) at its annual conference on July 31<sup>st</sup>.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• The HPC now has an agreement with the Fire Department in which the County will be notified when historic properties are to be burned or being considered to be burned.</li> <li>• The Board sent a letter to Governor Kaine requesting that guidelines/standards be developed for the use of rain water.</li> <li>• Updated the Board on her attendance at the Rivanna Water and Sewer Authority meetings.</li> <li>• Updated the Board on her attendance at the Chesapeake Bay Program meetings. Localities will receive a total maximum daily load for all of the tributaries. The State will be charged with developing implementation programs.</li> </ul> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>• Updated the Board on the recent conference call with Congressman Perriello. The main topic of discussion was grants.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• Discussed the construction and noise issues going on in and near the Fontana Subdivision neighborhood. He asked if Board members would be interested in developing an ordinance to protect the homeowners.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• Recognized the long service and loss of Richard Cogan, former Planning Commissioner and BZA member.</li> <li>• Asked to add to a future agenda the topic of mandatory training for BZA members.</li> <li>• This week is Farmer's Market Week, and she updated the Board on various activities going on around the area.</li> <li>• Asked that a list of the local farmer's markets</li> </ul>	

<p>and their locations be added to the County's web page.</p> <ul style="list-style-type: none"> <li>Updated the Board on the Advance Mills Bridge project.</li> </ul>	
<p>6. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li>Frank Melli spoke in support of local farmer's markets, and updated the Board on the "Meet the Farmer" TV series.</li> <li>David Blount, of TJPDC, spoke about development of the regional legislative program for 2010.</li> <li>Neil Williamson, of the Free Enterprise Forum, asked the Board to have staff meet with neighborhood associations and developers to resolve the problem of damage to personal property close to construction sites.</li> <li>Jeff Werner, of PEC, commented that he does not believe that developers have a problem developing in the growth areas.</li> </ul>	
<p>7.2 Resolution to approve the County's participation in the Virginia Department of Transportation (VDOT) Revenue Sharing Program for FY 09-10.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> the attached resolution to participate in VDOT's Revenue Sharing Program for FY 2010 which includes \$426,000 from the Local Transportation Improvement Program funding in the CIP in addition to the current unencumbered balance in Revenue Sharing funds to provide sufficient funding to cover the \$1.5 million local match. Staff to bring back for final consideration after more information is available regarding the project's status and the County's overall financial condition.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to David Benish, Juan Wade and County Attorney's office. (Attachment 1)</p> <p><u>David Benish/Juan Wade:</u> Bring back to Board when ready for final consideration.</p>
<p>7.3 Approval of FY 2009 ACE Appraisals and Easement Acquisitions.</p> <ul style="list-style-type: none"> <li><b>APPROVED</b> the six (6) appraisals by Pape and Company for applications from the year FY 09 applicant pool;</li> <li><b>APPROVED</b> the purchase of ACE easements on the top five ranked properties for Round 9, (namely: McDaniel, E.N. Garnett, Hudson (Mike), Magerfield, and Hudson (Charles); and</li> <li><b>APPROVED</b> staff to invite these five applicants to make written offers to sell conservation easements to the County.</li> <li><b>AUTHORIZED</b> the County Executive to sign the grant agreement for the USDA Farm and Ranchlands Protection Program.</li> </ul>	<p><u>Ches Goodall/David Benish:</u> Proceed as approved.</p>
<p>7.4 FY 2009 Appropriations.</p> <ul style="list-style-type: none"> <li><b>APPROVED</b> the budget amendment in the amount of \$30,200.00 and the approval of Appropriation #2009067.</li> </ul>	<p><u>Clerk:</u> Forward signed appropriation forms to Finance and appropriate individuals.</p>
<p>7.5 Health Department Lease Amendment &amp; Charlottesville Free Clinic License.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> the attached Resolution to authorize the County Executive to execute the 2009 First Amendment to the Deed of Lease between the</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Bryan Elliott and County Attorney's office. <u>County Attorney's office:</u> Provide Clerk with fully executed copy of document. (Attachment 2)</p>

	City of Charlottesville, the County of Albemarle and the Commonwealth of Virginia, Department of Health.	
7.6	ZTA 2009-13 Home Occupations and ZTA 2009-12 Churches. Resolutions of Intent to amend the Zoning Ordinance to allow certain churches and home occupations to be permitted as by-right uses. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Resolutions of Intent for Churches and Home Occupation, Class B.</li> </ul>	Clerk: Forward copy of signed resolutions to Community Development and the County Attorney's office. (Attachments 3 and 4)
7.7	Authorization to charge direct project management expenses incurred by the Office of Facilities Development against the Capital Fund. <ul style="list-style-type: none"> <li>• As requested by staff, the Board: <ul style="list-style-type: none"> <li>• <b>AUTHORIZED</b> the OFD to charge direct costs associated with Project Management services, including the Capital Program Manager position, to the Capital Fund;</li> <li>• <b>CONVERTED</b> two contracted employees to permanent FTE's;</li> <li>• <b>TRANSFERRED</b> 50% of salaries of three project inspectors from Community Development to OFD;</li> <li>• <b>DIRECTED</b> staff to include a 4.5% Project Management fee in all future CIP budgets;</li> <li>• <b>DESIGNATED</b> a portion of savings from completed projects in the Capital Fund to a "Project Management" line item in the Capital Fund to fund FY 10 project management expenses.</li> </ul> </li> </ul>	<u>Bill Leteri</u> : Proceed as approved.
7.8	Resolution of Endorsement for New Amtrak Passenger Service through the Region. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached resolution.</li> </ul>	Clerk: Forward copy of adopted resolution to Susan Stimart. (Attachment 5)
8.	Annual Housing Report. <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
9.	<b><u>Appeal: Denial of Plat: SUB-2008-100. Wyant Family Division.</u></b> <ul style="list-style-type: none"> <li>• At the request of Mr. Wyant, the Board <b>ACCEPTED</b> the withdrawal of the application and <b>DIRECTED</b> staff to reopen the subdivision application with the consent of Mr. Wyant to resolve the outstanding issues.</li> </ul>	<u>Bill Fritz</u> : Proceed as directed.
10.	<b><u>Public Hearing: FY 2010 Budget Amendment.</u></b> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> of the FY 2010 Budget Amendment in the amount of \$3,229,119.30 after the public hearing, and <b>APPROVED</b> Appropriations #2010009, #2010010, #2010011, #2010012, #1010013, #2010014, #2010015, #2010016, and #2010017 to provide funds for various local government and school projects and programs.</li> </ul>	Clerk: Forward copy of signed appropriation forms to Finance and appropriate individuals.
11.	<b><u>Public Hearing: ZTA-2008-004. Beauty/Barber Shops in CO District.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	Clerk: Forward copy of adopted ordinance to Community Development and County Attorney's Office. (Attachment 6)
12.	<b><u>Public Hearing: ZTA-2009-008. Body Shops and Towing Services in HI Heavy Industrial District.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	Clerk: Forward copy of adopted ordinance to Community Development and County Attorney's Office. (Attachment 7)
13.	<b><u>Public Hearing: ZTA-2009-011. Definitions, including Home Occupations.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	Clerk: Forward copy of adopted ordinance to Community Development and County Attorney's Office. (Attachment 8)

<p>14. <b>Public Hearing: WPTA-2009-0002. Water Protection Ordinance.</b></p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	<p><u>Clerk:</u> Forward copy of adopted ordinance to Community Development and County Attorney's Office. (Attachment 9)</p>
<p>15. <b>Public Hearing: Ordinance to amend Chapter 9, Motor Vehicles and Traffic, of the Albemarle County Code.</b></p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	<p><u>Clerk:</u> Forward copy of adopted ordinance to Police Department and County Attorney's Office. (Attachment 10)</p>
<p>16. <b>Work Session:</b> ZTA-2008-02. Planned Developments and Neighborhood Model District.</p> <ul style="list-style-type: none"> <li>• <b>HELD.</b></li> <li>• <b>SET</b> public hearing for next available date.</li> </ul>	<p><u>Clerk:</u> Schedule public hearing for next available Board meeting.</p>
<p>17. Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 2:10 p.m., the Board went into Closed Meeting to consider appointments to boards, committees, and commissions; to discuss the acquisition of real property necessary for a library; and to discuss the acquisition of real property necessary for a public safety facility.</li> </ul>	
<p>18. Certify Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 3:13 p.m., the Board reconvened into open meeting and certified the Closed Meeting.</li> </ul>	
<p>19. Appointments: Boards and Commissions.</p> <ul style="list-style-type: none"> <li>• <b>APPOINTED</b> Jason Trujillo to the Pantops Advisory Council.</li> <li>• <b>REAPPOINTED</b> Sherry Buttrick, Jean Lean Lorber, David Callihan and Bill Edgerton to the ACE Committee, with said terms to expire August 1, 2012.</li> <li>• <b>APPOINTED</b> Lieutenant Ernie Allen to the Jefferson Area Community Criminal Justice Board, with said term to expire June 30, 2012.</li> </ul>	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>
<p>20a. VDOT Monthly Report.</p> <ul style="list-style-type: none"> <li>• Joel DeNunzio provided the following additional updates: <ul style="list-style-type: none"> <li>• Regarding the skip lines on Hydraulic Road (white dotted pavement markings separating the two westbound lanes on Hydraulic Road just west of the Route 29/Hydraulic intersection in front of the 7-11 store), VDOT has put them on the re-trace schedule.</li> <li>• Regarding the drainage issue on Buck Road, VDOT has received verbal approval from the landowner that he will sign the right-of-entry form.</li> </ul> </li> <li>• Regarding the signal upgrades at Farmington, Ms. Thomas asked if the change in the phasing of the two lights will be a major improvement. Mr. DeNunzio said VDOT hopes the changes will be a major improvement in traffic flow. He added that VDOT found that they had some bad controllers which have now been replaced. It is hoped that replacement of the controllers and the work at Farmington will help relieve a lot of the congestion.</li> <li>• Mr. Boyd asked if VDOT has received any feedback on the traffic signal modifications at Route 20/250. Mr. DeNunzio said it is hard to</li> </ul>	<p><u>Clerk:</u> Forward comments to Allan Sumpter.</p>



<p>21. <b>Public Hearing: PROJECT: SP 2008-0025. Earlysville Service Center.</b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED SP-2008-0025, by a vote of 6:0,</b> subject to the conditions as recommended and amended at the Board meeting.</li> </ul>	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 11)</p>
<p>22. Work Session: Zoning Ordinance Fee Amendments.</p> <ul style="list-style-type: none"> <li>• <b>HELD.</b></li> <li>• <b>CONSENSUS</b> that staff prepare a resolution of intent for the Board to consider on September 2, 2009 to initiate the process to amend the Zoning Ordinance fees as recommended by staff.</li> </ul>	
<p>23. From the Board: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0,</b> the attached resolution regarding the Virginia Soil and Water Conservation Board proposed amendment to regulations associated with the Virginia Stormwater Management Program.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• Will be traveling to the County's Sister City in Italy in September. She added that she will be paying her own expenses.</li> </ul>	<p><u>Clerk:</u> Forward copy of adopted resolution to the Secretary Bryant, Virginia Soil and Water Conservation Board, Larry Land, High Growth Coalition, SELC, David Blount and Greg Harper. (Attachment 12)</p>
<p>24. Adjourn.</p> <ul style="list-style-type: none"> <li>• At 5:20 p.m., the Board meeting was adjourned.</li> </ul>	

ewj/mrh

- Attachment 1 – Resolution - VDOT Revenue Sharing Program for FY 09-10
- Attachment 2 – Resolution - Health Department Lease Amendment & Charlottesville Free Clinic License
- Attachment 3 – Resolution of Intent - ZTA 2009-13 Home Occupations
- Attachment 4 – Resolution of Intent - and ZTA 2009-12 Churches
- Attachment 5 – Resolution of Endorsement For New Amtrak Passenger Rail Service through the Region
- Attachment 6 – Ordinance - ZTA-2008-004. Beauty/Barber Shops in CO District
- Attachment 7 – Ordinance - ZTA-2009-008. Body Shops and Towing Services in HI Heavy Industrial District
- Attachment 8 – Ordinance - ZTA-2009-011. Definitions, including Home Occupations
- Attachment 9 – Ordinance - WPTA-2009-0002. Water Protection Ordinance
- Attachment 10 - Ordinance - Chapter 9, Motor Vehicles and Traffic, of the Albemarle County Code
- Attachment 11 – Conditions of Approval – SP-2008-0025. Earlysville Service Center.
- Attachment 12 - Resolution - Virginia Stormwater Management Program

**RESOLUTION TO PARTICIPATE IN  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
REVENUE SHARING PROGRAM FOR FISCAL YEAR 2010**

**WHEREAS**, the County of Albemarle desires to submit an application for up to \$1.0 million of revenue sharing funds through the Virginia Department of Transportation Fiscal Year 2010/11 Revenue Sharing Program; and

**WHEREAS**, the County is willing to commit a \$1.5 million match in order to compete for Tier Two funding; and

**WHEREAS**, these funds are requested to fund the Jarmans Gap Road improvements project between Crozet Avenue and 0.597 miles east of Route 684 – Half Mile Branched Road.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby commits to provide \$1.5 million of matching funds in its application for \$1.0 million of revenue sharing funds from the Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

**RESOLUTION APPROVING THE FIRST AMENDMENT TO THE DEED OF LEASE BETWEEN THE CITY OF CHARLOTTESVILLE, THE COUNTY OF ALBEMARLE AND THE COMMONWEALTH OF VIRGINIA DEPARTMENT OF HEALTH**

**WHEREAS**, the City of Charlottesville and County of Albemarle jointly own the Health Department property and building located at 1138 Rose Hill Drive leased to the Commonwealth of Virginia (Thomas Jefferson Health Department); and

**WHEREAS**, the current lease authorizes the Health Department to license the Charlottesville Free Clinic, which offers free or reduced cost medical care to qualifying residents of the community, to occupy 1,426 square feet of the Health Department facility; and

**WHEREAS**, the current lease, dated July 1, 1995, renews automatically unless either party terminates the lease; and

**WHEREAS**, on January 7, 2009, the Albemarle County Board of Supervisors approved a request from the Charlottesville Free Clinic to renovate approximately 2,800 square feet of office space located in the Health Department facility to expand its office and dental clinic space; and

**WHEREAS**, the attached First Amendment to Deed of Lease extends the lease term to June 30, 2014 and consents to the execution of the License Agreement between the Health Department and the Charlottesville Free Clinic for the Clinic's sole use of 3,386 square feet of the facility.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the County Executive to sign, in a form approved by the County Attorney, the Amendment to the Lease Agreement between the City of Charlottesville, the County of Albemarle and the Commonwealth of Virginia Department of Health to allow for the expansion of the Charlottesville Free Clinic and to extend the Health Department Lease through June 30, 2014.



**RESOLUTION OF INTENT**

**WHEREAS**, home occupations, Class A, are permitted by right in the Rural Areas zoning district; and

**WHEREAS**, home occupations, Class B, are permitted by special use permit in the Rural Areas zoning district; and

**WHEREAS**, several standard conditions have been imposed over the years in conjunction with the approval of special use permits for home occupations, Class B; and

**WHEREAS**, County and applicant resources would be more efficiently used if the eligibility for a home occupation was more fully delineated and if proposed home occupations, Class B, meeting specified criteria were allowed by right in the Rural Areas zoning district, subject to supplementary regulations under Section 5 of the Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance §§ 3.1, 5 and 10 and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

**RESOLUTION OF INTENT**

**WHEREAS**, churches are permitted by special use permit in the Rural Areas zoning district; and

**WHEREAS**, several standard conditions have been imposed over the years in conjunction with the approval of special use permits for proposed churches and church structures, and minor changes to church structures or uses; and

**WHEREAS**, although the term “churches” has a longstanding and consistent administrative interpretation that includes all religious uses and religious structures, it may be desirable to expressly define the term in the Zoning Ordinance; and

**WHEREAS**, the County’s and the churches’ resources would be more efficiently used if proposed church structures and uses meeting specified criteria, and minor changes to church structures and uses, were allowed by right in the Rural Areas zoning district, subject to supplementary regulations under Section 5 of the Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance §§ 5 and 10 and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

**Resolution of Endorsement  
For  
New Amtrak Passenger Rail Service through the Region**

**WHEREAS**, Albemarle County, Charlottesville and the Central Virginia Region have enjoyed a rich history of passenger rail service connecting the region to Northern Virginia and Washington, D.C.; and

**WHEREAS**, the railroads were vital to the growth of Central Virginia's economy and to the development, strength and diversity of its educational, cultural and civic institutions; and

**WHEREAS**, these historical ties to Northern Virginia and Washington, D.C. continue to be critical to the strength of our economy, to the health and vitality of our academic and research institutions, to our tourism industry, and to Central Virginia's increasing role as host to federal defense agencies and their allied contractors; and

**WHEREAS**, the Amtrak Crescent is the only daily passenger train connecting Charlottesville to Washington, D.C. and the Northeast Corridor, supplemented three days a week by the Amtrak Cardinal; and

**WHEREAS**, neither of these Amtrak trains provides peak hour service to Northern Virginia and Washington, D.C., nor do they, as part of Amtrak's national system, provide a sufficient level of on-time performance to meet the needs of the business or non-business traveler who must arrive early in the day, arrive on-time, and return the same evening; and

**WHEREAS**, in spite of these limitations, Charlottesville maintains one of the highest, most consistent ridership levels of any Amtrak station in Virginia; and

**WHEREAS**, the Charlottesville Regional Chamber of Commerce found that 63 percent of its member businesses regularly send employees to Northern Virginia and Washington, D.C. for business purposes, 84 percent of the time they travel there by car, and 66 percent said they would use a reliable passenger rail link if one were available; and

**WHEREAS**, multiple state-funded studies over the past decade have identified Charlottesville-Washington as the route segment having the greatest potential for ridership growth in the US29/I-81 corridor; and

**WHEREAS**, in a 2008 report to the Virginia Department of Rail and Public Transportation (VDRPT), Amtrak recommended new service in the Lynchburg-DC corridor "as soon as possible," describing it as "underserved" and "a route segment that frequently sells out." and Amtrak proposed a new service structure, along with a schedule; and

**WHEREAS**, both VDRPT and Amtrak expressed interest in providing peak hour service for Washington-bound passengers; for example, Amtrak described the proposed schedule as offering "...a good service pattern for business travel to Washington - a first for the region."; and

**WHEREAS**, Central Virginians rallied around the Amtrak proposal, providing broad-based public input to the Department of Rail and Public Transportation to demonstrate that current Amtrak service is not currently meeting the region's needs, particularly for business and non-business travel to Washington, D.C.; and

**WHEREAS**, the City of Charlottesville and the Counties of Albemarle, Greene, Nelson, Fluvanna, and Louisa unanimously joined twenty-two political subdivisions in the US29 corridor that executed a resolution of support for the proposed Lynchburg-DC service; and

**WHEREAS**, on May 7, 2008, the Board of Supervisors of Albemarle County, Virginia, expressed support for additional passenger rail service from Central Virginia to Washington, D.C. by adopting a Resolution; and

**WHEREAS**, Governor Timothy M. Kaine has secured the necessary agreements with the host railroads, Amtrak and Virginia Railway Express, and the Commonwealth Transportation Board has appropriated the funds to operate Lynchburg-DC intercity passenger service for three years as a Demonstration Project; and

**WHEREAS**, VDRPT recently released the approved schedule for the Lynchburg-DC train, but this schedule is not useful for the business traveler or for a day trip to Washington, D.C., having a 7:43 a.m. departure from Lynchburg and 11:20 a.m. arrival in Washington; and

**WHEREAS**, according to DRPT, "...the actual schedule for the new trains was developed based on the available time slots for new trains to be added in each corridor and compatibility with Amtrak Northeast Corridor service schedules, as defined in the agreements executed with the applicable host railroads and Amtrak." ; and

**WHEREAS**, with the approved schedule, the Lynchburg-DC train will add to the rail options available for recreational travelers and others making extended stays, but will perpetuate the existing situation wherein passenger rail is of limited utility to the business, professional, academic, government and defense-related sectors of the Charlottesville and Central Virginia region, and will not serve the citizens of the US29 corridor who would choose the train for a day-trip to Washington, D.C. if an early morning arrival were available; and

**WHEREAS**, in order to demonstrate success and to justify future investments in the corridor, the ridership for the Lynchburg-DC train must materialize;

**NOW THEREFORE BE IT RESOLVED**, that the Board of Supervisors of Albemarle County, Virginia, urges VDRPT to closely monitor ridership performance of the Lynchburg-DC train, providing origin and destination figures during the first year to determine if it is meeting expectations, as well as support the conduct of a comprehensive, valid market study to determine if a peak hour schedule, such as the schedule originally published by Amtrak, would result in greater use of the service, as well as generate additional revenue; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of Albemarle County, Virginia, urges Governor Kaine, Secretary Homer and the VDRPT to do everything within the State of Virginia's legal power and authority to negotiate additional, peak hour slots in Northern Virginia, including an appeal with the Surface Transportation Board, if necessary, to mediate additional access for this and future trains serving the US29 corridor.

**ORDINANCE NO. 09-18(6)**

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. 23.2.1 By right

**Chapter 18. Zoning**

**Article III. District Regulations**

**Sec. 23.2.1 By right**

The following uses shall be permitted in any CO district, subject to the requirements and limitations of these regulations:

1. Administrative and business offices.
2. Professional offices, including medical, dental and optical.
3. Financial institutions.
4. Churches, cemeteries.
5. Libraries, museums.
6. Accessory uses and structures incidental to the principal uses provided herein. The aggregate of all accessory uses shall not occupy more than twenty (20) percent of the floor area of the buildings on the site. The following accessory uses shall be permitted:
  - Eating establishments;
  - Newsstands;
  - Establishments for the sale of office supplies and service of office equipment;
  - Data processing services;
  - Central reproduction and mailing services and the like;
  - Ethical pharmacies, laboratories and establishments for the production, fitting and/or sale of optical or prosthetic appliances on sites containing medical, dental or optical offices;
  - (Repealed 3-17-82)
  - Sale/service of goods associated with the principal use such as, but not limited to: musical instruments, musical scores, text books, artist's supplies and dancing shoes and apparel; (Added 12-3-86)
  - Barber shops; (Added 8-5-09)
  - Beauty shops. (Added 8-5-09)

7. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
8. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
9. Temporary construction uses (reference 5.1.18).
10. Dwellings (reference 5.1.21). (Added 3-17-82)
11. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
12. Day care, child care or nursery facility (reference 5.1.6). (Added 9-9-92)
13. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-01)
14. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

(§ 20-23.2.1, 12-10-80; 3-17-82; 3-5-86; 12-3-86; 11-1-89; 9-9-92; 5-12-93; Ord. 01-18(6), 10-9-01; Ord. 04-18(2), 10-13-04; Ord. 09-18(6), 8-5-09)

**ORDINANCE NO. 09-18(7)**

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. 28.2.1 By right

**Chapter 18. Zoning**

**Article III. District Regulations**

**Sec. 28.2.1 By right**

Except as otherwise limited by section 28.2.2.14, the following uses shall be permitted by right in the HI district: (Amended 2-13-85)

1. Automotive, farm and construction and machinery products assembly.
2. Brick manufacturing, distribution.
3. Concrete mixing plant, storage, distribution.
4. Dry-cleaning plants.
5. Fire and rescue squad stations (reference 5.1.09).
6. Machine shops, tool and die, blacksmithing, boiler shops and similar operations.
7. Manufacture of heavy household, commercial and industrial appliances.
8. Manufacture of building components.
9. Manufacture, distribution, service of individual sewage disposal systems.
10. Manufacture and recycling of tires.
11. Metal fabrication and welding operations.
12. Mobile home manufacturing, distribution.
13. Moving businesses, including storage facilities.
14. Petroleum, gasoline, natural gas and manufactured gas bulk storage (reference 5.1.20).
15. Recreational vehicle and components manufacturing, distribution.
16. Sawmills (reference 5.1.15), planing mills, wood preserving operations, woodyards.
17. Veterinary or dog/cat hospitals, indoor accessory kennels (reference 5.1.11).
18. Warehouse facilities.

19. Storage yards. (Amended 11-12-08)
  20. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. (Amended 5-12-93)
  21. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
  22. Temporary construction uses (reference 5.1.18).
  23. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
  24. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
  25. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
  26. Heavy equipment and heavy vehicle parking and storage yards. (Added 11-12-08)
  27. Body shops (reference 5.1.31(a) and (b)). (Added 8-5-09)
  28. Towing and temporary storage of motor vehicles (reference 5.1.32(b)). (Added 8-5-09)
- (§ 20-28.2.1, 12-10-80; 2-13-85; 3-5-86; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 09-18(7), 8-5-09)



ORDINANCE NO. 09-18(8)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, 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 18, Zoning, Article I, General Provisions, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3.1                      Definitions

**Chapter 18. Zoning**

**Article I. General Provisions**

**Sec. 3.1 Definitions**

...

*Home Occupation, Class A:* An occupation conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit; provided that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit to engage in the occupation.

*Home Occupation, Class B:* An occupation conducted for profit within a dwelling unit solely by one or more members of the family residing within the dwelling unit and up to two (2) additional persons not residing within the dwelling unit, with or without the use of one or more accessory structures; provided that nothing herein prohibits the occupation from engaging other persons who work off-site and do not come to the dwelling unit or any accessory structure to engage in the occupation.

...

**ORDINANCE NO. 09-17(1)**

AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA, BY AMENDING ARTICLE II, EROSION AND SEDIMENT CONTROL, AND ARTICLE III, STORMWATER MANAGEMENT AND WATER QUALITY

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection, Article II, Erosion and Sediment Control, and Article III, Stormwater Management and Water Quality, are amended and reordained as follows:

**By Amending:**

- Sec. 17-203 Erosion and sediment control plan
- Sec. 17-204 Review and approval of erosion and sediment control plan
- Sec. 17-207 Issuance of permit; surety
- Sec. 17-304 Review and approval of stormwater management/BMP plan
- Sec. 17-306 Issuance of permit; surety

**Chapter 17. Water Protection**

**Article II. Erosion and Sediment Control**

**Sec. 17-203 Erosion and sediment control plan.**

Except as provided in section 17-205, each owner subject to this article shall submit to the program authority for review and approval an erosion and sediment control plan as provided herein:

A. The owner shall submit a completed application on an application form provided by the program authority, the fee required by section 17-209, an erosion and sediment control plan that satisfies the requirements of paragraphs (B) and (C), and a certification stating that all requirements of the approved plan will be complied with.

B. The plan shall include specifications for temporary and permanent controls of soil erosion and sedimentation in such detail as the program authority shall deem reasonably adequate, considering the nature and extent of the proposed land disturbing activity, and a statement describing the maintenance responsibilities of the owner to assure that the land disturbing activity will satisfy the purposes and requirements of this article. The plan shall be in accordance with the applicable provisions of the handbook, including the criteria, techniques and methods set forth in 4 VAC 50-30-40. The plan shall identify the person holding a certificate of competence, as described in Virginia Code § 10.1-561, who shall be in charge of and responsible for carrying out the land disturbing activity.

C. The program authority may require additional information as may be necessary for a complete review of the plan.

D. In lieu of paragraphs (A), (B) and (C), if the land disturbing activity involves land also under the jurisdiction of another local erosion and sediment control program, the owner may, at his option, choose to have a conservation plan approved by the Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation Board. The owner shall notify the program authority of such plan approval by such board.

E. If land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of a plan shall be the responsibility of the owner.

(§ 19.3-11, 2-11-98; § 7-3, 6-18-75, § 5, 2-11-76, 4-21-76, 2-11-87, 3-18-92; § 7-4, 6-18-75, § 6, 10-22-75, 4-21-76, 11-10-76, 3-2-77, 4-17-85, 2-11-87, 12-11-87, 12-11-91, 3-18-92; Code 1988, §§ 7-3, 7-4, 19.3-11; Ord. 98-A(1), 8-5-98; Ord. 01-17(1), 7-11-01; Ord. 09-17(1), 8-5-09)

**State law reference--**Va. Code § 10.1-563.

**Sec. 17-204 Review and approval of erosion and sediment control plan.**

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

A. The plan shall be reviewed by the program authority to determine whether it complies with the requirements of section 17-203 and all other requirements of this article.

B. During its review of the plan, the program authority may meet with the owner from time to time to review and discuss the plan with the owner, and shall inform the owner in writing of any modifications, terms, or conditions required to be included in the plan in order for it to be approved. The program authority may also consider and act on a variance request under the following criteria: (i) the owner shall explain in writing the reasons for requesting the variance; and (ii) the variance may be approved if the program authority determines that the approved plan, with the variance and any associated conditions of approval, would protect off-site properties and resources from damage to the same extent or better than if the variance was not granted.

C. Except as provided in paragraph (E), the program authority shall approve or disapprove a plan in writing within forty-five (45) days from the date the complete application was received by the program authority. The decision of the program authority shall be based on the plan's compliance with the requirements of this article. The decision shall be in writing and shall be served by first class mail to the address provided by the owner in the application for approval of the plan or by personal delivery to the owner. The date of the decision shall be either the date that it is deposited for mailing or the date that it is personally delivered to the owner. If the plan is disapproved, the reasons for disapproval shall be stated in the writing.

D. If the program authority fails to act on the plan within forty-five (45) days from the date the application was received by the program authority, the plan shall be deemed approved.

E. If the owner is required to obtain approval of a site plan or plat, the program authority shall not approve an erosion and sediment control plan unless and until the site plan or plat is approved as provided by law. For purposes of this paragraph, a site plan or plat may be deemed approved by the program authority if its approval is conditioned upon the approval of an erosion and sediment control plan pursuant to this article, and the program authority determines that review and approval of the erosion and sediment control plan will not affect approval of the site plan or plat. The program authority may approve an erosion and sediment control plan prior to approval of a required site plan or plat in the following circumstances:

1. to correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God or other cause beyond the control of the owner; provided, that the activity proposed shall be strictly limited to the correction of such condition;

2. to clear and grub stumps and other activity directly related to the selective cutting of trees, as permitted by law;

3. to install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have been previously approved by the operating utility and approved by the county as being substantially in accord with the comprehensive plan, if necessary;

4. to fill earth with spoils obtained from grading, excavation or other lawful earth disturbing activity;

5. to clear, grade, fill or engage in similar related activity for the temporary storage of earth, equipment and materials, and to construct temporary access roads; provided, that in each case, the area disturbed shall be returned to substantially its previous condition, with no significant change in surface contours. The return to previous condition shall occur within thirty (30) days of the completion of the activity or temporary use, or within thirteen (13) months of the commencement of any land disturbing activity on the land which is related to the activity, whichever period shall be shorter; or

6. to establish borrow, fill or waste areas in accordance with sections 5.1.28 and 10.2.1.18 of the zoning ordinance.

F. An application for an erosion and sediment control plan that requires modifications, terms, or conditions to be included in order for it to be approved shall be deemed to be withdrawn if the owner fails to submit a revised plan addressing the omitted modifications, terms or conditions within six (6) months after the owner is informed of the omitted information as provided under paragraph (B).

G. An approved erosion and sediment control plan shall be void if the owner fails to obtain a grading, building or other permit for activities involving land disturbing activities within one (1) year after the date of the approval.

(§ 7-5, 6-18-75, § 7, 2-11-76, 4-21-76, 6-2-76, 7-9-80, 7-8-81, 2-11-87, 3-18-92; § 19.3-12, 2-11-98; Code 1988, §§ 7-5, 19.3-12; Ord. 98-A(1), 8-5-98; Ord. 08-17(3), 8-6-08; Ord. 09-17(1), 8-5-09)

**State law reference--**Va. Code § 10.1-563.

**Sec. 17-207 Issuance of permit; surety.**

A grading, building or other permit for activities involving land disturbing activities may be issued by a permit-issuing department only as provided herein:

A. The owner shall submit with his application for such permit an erosion and sediment control plan, submitted for review and approval pursuant to this article, or an approved and valid erosion and sediment control plan and certification that the plan will be followed. The permit-issuing department shall not issue a permit until an approved and valid erosion and sediment control plan and certification are submitted.

B. Each permit shall also be subject to the following:

1. The permitted land disturbing activity shall be deemed to have commenced on the date the permit was issued, provided that the program authority may establish another date of commencement based on documentation submitted by the owner that clearly demonstrates that the land disturbing activity commenced on that date.

2. Permanent vegetation shall be installed on all denuded areas within nine (9) months after the date the land disturbing activity commenced, except for areas that the program authority finds are necessary parts of the construction that are subject to an active building permit and areas where erosion is prevented by a non-erosive surface. For the purposes of this section, a "non-erosive surface" includes, but is not limited to, roadways and sidewalks covered by gravel, asphalt pavement, or concrete; trails or paths covered by gravel, stone dust, or mulch; buildings and other permanent structures; and such other surfaces that the program authority determines would adequately provide a permanent barrier to erosion.

3. The time limit for installing permanent vegetation as required by paragraph (B)(2) may be extended by either the program authority or the board of supervisors, or both, as follows:

a. The program authority may extend the time limit for installing permanent vegetation up to an additional six (6) months, provided the owner submits a written request to the program authority no less than one (1) month prior to the deadline for installing the permanent vegetation. The program authority may grant the extension if it finds that: (i) the additional time is necessary due to factors beyond the control of the owner; (ii) the owner had made good faith efforts to comply with the time limit; and (iii) the owner has effectively controlled erosion and sedimentation on the property during the land disturbing activity. In granting an extension, the program authority may impose reasonable conditions.

b. The board of supervisors may extend the time limit for installing permanent vegetation for duration it determines to be appropriate, provided the owner submits a written request to the clerk of the board of supervisors no less than two (2) months prior to the deadline for installing the permanent vegetation. The program authority shall provide its opinion to the board as to the condition of the property with respect to compliance with this chapter and an estimate of the minimum time needed to complete grading and install permanent vegetation for the land disturbance covered by this permit. The board may grant the extension if it finds that: (i) the additional time is necessary due to factors beyond the control of the owner; (ii) the owner had made good faith efforts to comply with the time limit; and (iii) the owner has plans to effectively

control or has effectively controlled erosion and sedimentation on the property during the land disturbing activity. In granting an extension, the board shall set a time limit and may impose other reasonable conditions.

4. An application to amend the erosion and sediment control plan shall not extend the time limit for installing permanent vegetation authorized by paragraph (B)(3).

5. The installation of permanent vegetation required by paragraph (B)(2) shall be required only for those land disturbing activities that are subject to an erosion and sediment control plan approved on or after September 5, 2009, or an erosion and sediment control plan that was approved prior to that date but was renewed on or after September 5, 2009.

C. Prior to the issuance of such permit, the permit-issuing department shall require, or in the case of an agreement in lieu of a plan may require, the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the permit-issuing department and the county attorney, to ensure that measures could be taken by the permit-issuing department or the program authority at the owner's expense should he fail, after proper notice as provided in section 17-213, to take timely corrective action specified in the notice.

D. A bond or other surety required by the permit-issuing department pursuant to paragraph (C) shall not exceed the total of the estimated cost to initiate, maintain and repair all erosion and sediment control structures and systems, and to comply with all other terms and conditions of the erosion and sediment control plan. The amount of the bond or other surety shall be based on unit price for new public or private sector construction, including architectural engineering, inspection and project management expenses, in Albemarle County, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed ten (10) percent of the estimated cost to initiate, maintain and repair all erosion and sediment control structures and systems, and to comply with all other terms and conditions, of the erosion and sediment control plan.

E. If the program authority is required to take corrective action pursuant to section 17-213, upon the failure of the owner to do so, the county may collect from the owner for the difference if the amount of the reasonable cost of the corrective action exceeds the amount of the surety.

F. Within sixty (60) days of achieving adequate stabilization of the land disturbing activity in any project or section thereof, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner or terminated based upon the percentage of stabilization accomplished in the project or section thereof.

G. If a bond or other surety is provided under paragraph (D) and the erosion and sediment control plan expires before the permit is issued, the permit-issuing department shall return the bond or other surety to the owner.

(§ 7-5, 6-18-75, § 7, 2-11-76, 4-21-76, 6-2-76, 7-9-80, 7-8-81, 2-11-87, 3-18-92; § 19.3-15, 2-11-98; Code 1988, §§ 7-5, 19.3-15; Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09)

**State law reference--**Va. Code § 10.1-565.

### **Article III. Stormwater Management and Water Quality**

#### **Sec. 17-304 Review and approval of stormwater management/BMP plan.**

Each stormwater management/BMP plan submitted pursuant to this article shall be reviewed and approved as provided herein:

A. Within ten (10) days from the receipt of an application, the program authority shall conduct a preliminary review of the application for completeness. During this period, the program authority shall either accept the application for review, which will begin the forty-five (45) day review period set forth in paragraph (D), or reject the application for incompleteness. If the program authority rejects the application because it is incomplete, it shall inform the owner in writing of the information necessary to complete the application. If the program authority accepts the application for review, it shall send an acknowledgment of the acceptance of the application to the owner.

B. The plan shall be reviewed by the program authority to determine whether it complies with the requirements of section 17-303 and all other requirements of this article.

C. During its review of the plan, the program authority may meet with the owner from time to time to review and discuss the plan with the owner, and to request any additional data as may be reasonably necessary for a complete review of the plan.

D. The program authority shall approve or disapprove a plan within sixty (60) days from the date the application was accepted for review; provided that the program authority shall act on any plan that was previously approved within forty-five (45) days after the plan was revised, resubmitted to the program authority, and accepted for review. The decision of the program authority shall be based on the plan's compliance with this article. The decision shall be in writing and shall be served by first class mail to the address provided by the owner in the application for approval of the plan or by personal delivery to the owner. The date of the decision shall be either the date that it is deposited for mailing or the date that it is personally delivered to the owner. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.

E. Each stormwater management/BMP plan approved by the program authority shall be subject to the following:

1. The owner shall comply with all applicable requirements of the approved plan, this article, the Virginia Stormwater Management Act (Virginia Code §§ 10.1-603.2 et seq.), and the state stormwater management regulations set forth in 4 VAC 50-60-10 et seq.;

2. The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;

3. Land development shall be conducted only within the area specified in the approved plan;

4. The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by provision (E)(2);

5. The program authority may require, in conjunction with its approval of a plan, that the owner first enter into a stormwater management/BMP facilities maintenance agreement as provided in section 17-323;

6. The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections as provided in section 17-324; and

7. The program authority may require, as a condition of plan approval, that the owner enter into a right of entry agreement or grant an easement for purposes of inspection and maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.

F. Nothing in this section shall require approval of a plan or part thereof that is determined by the program authority to pose a danger to the public health, safety, or general welfare or to deviate from sound engineering practices.

(§ 19.1-7, 9-29-77, art. II, § 2, 7-11-90; § 19.1-8, 9-29-77, art. II, § 3, 7-11-90; § 19.3-28, 2-11-98; Code 1988, §§ 19.1-7, 19.1-8, 19.3-28; Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09)

**State law reference--**Va. Code §§ 10.1-603.2, 10.1-603.8.

#### **Sec. 17-306 Issuance of permit; surety.**

A grading, building or other permit for activities involving land development may be issued by a permit-issuing department only as provided herein:

A. The owner shall submit with his application for such permit an approved stormwater management/BMP plan and certification by the owner that all land clearing, construction, land development and drainage will be done according to the approved plan. The permit-issuing department shall not issue a permit until an approved stormwater management/BMP plan and certification are submitted.

B. Prior to the issuance of any such permit, the permit-issuing department shall require the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the permit-issuing department and the county attorney, to ensure that measures could be taken by the permit-issuing department or the program authority at the owner's expense should he fail, after proper notice as provided in section 17-325, to take timely corrective action specified in the notice. The performance bond or other surety shall be provided from a date prior to the issuance of any permit by the permit issuing department until sixty (60) days after the requirements of the approved stormwater management/BMP plan have been completed, as determined by the program authority. If approved by the program authority and the county attorney, the owner may submit the performance bond or other surety as part of, or included in, any performance bond or surety required in conjunction with a site plan, plat, or the performance bond or surety required by section 17-207.

C. A performance bond or other surety required by the permit-issuing department pursuant to paragraph (B) shall not exceed the total of the estimated cost to initiate, maintain and repair all stormwater management facilities, practices and other appropriate actions which may be required of the owner pursuant to the approved stormwater management/BMP plan as a result of the land development. The amount of the bond or other surety shall be based on unit price for new public or private sector construction, including architectural engineering, inspection and project management expenses, in Albemarle County, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed ten (10) percent of the estimated cost to initiate, maintain and repair all stormwater management facilities, practices and other appropriate actions which may be required of the owner pursuant to the approved stormwater management/BMP plan.

D. If the program authority is required to take corrective action pursuant to section 17-325 upon the failure of the owner to do so, the county may collect from the owner for the difference if the amount of the reasonable cost of the corrective action exceeds the amount of the surety.

E. Within sixty (60) days of the completion of the requirements of the approved stormwater management/BMP plan, as determined by the program authority, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner or terminated. Thereafter, compliance with the requirements of this article shall be assured by a maintenance agreement entered into by and between the owner and the program authority, which agreement shall be in a form approved by the county attorney.

F. If a bond or other surety is provided under paragraph (B) and the stormwater management/BMP plan expires before the permit is issued, the permit-issuing department shall return the bond or other surety to the owner.

(§ 19.1-7, 9-29-77, art. II, § 2, 7-11-90; § 19.3-30, 2-11-98; Code 1988, §§ 19.1-7, 19.3-30; Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09)

**State law reference--**Va. Code § 10.1-603.8.

This ordinance shall be effective on and after September 5, 2009.

## ORDINANCE NO. 09-9(1)

AN ORDINANCE TO AMEND CHAPTER 9, MOTOR VEHICLES AND TRAFFIC, 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, is hereby amended and reordained as follows:

**By Adding:**

Article VII Traffic Light Signal Monitoring Systems

Sec. 9-700 Definition

Sec. 9-701 Establishment and implementation

Sec. 9-702 Traffic signal violations; penalty

**CHAPTER 9. MOTOR VEHICLES AND TRAFFIC****ARTICLE VII. TRAFFIC LIGHT SIGNAL MONITORING SYSTEMS****Sec. 9-700 Definition.**

For the purposes of this article and, unless otherwise required by the context, "traffic light signal violation monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of Virginia Code §§46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

**Sec. 9-701 Establishment and implementation.**

A. *Establishment.* The county hereby establishes a traffic signal enforcement program pursuant to Virginia Code §15.2-968.1. The program shall include the installation and operation of traffic light signal violation monitoring systems in a number up to the maximum number permitted by state law. No traffic light signal violation monitoring system shall be operated for enforcement purposes at an intersection until all prerequisites required for such operation have been fulfilled.

B. *Implementation.* The county executive shall (i) have the authority to implement the provisions of this section, (ii) promulgate the rules and regulations necessary to administer the traffic signal enforcement program in compliance with all requirements of Virginia Code §15.2-968.1 and this article, and (iii) be responsible for the compliance of all aspects of the traffic signal enforcement program with applicable state law. The county shall annually certify compliance with Virginia Code §15.2-968.1 and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee. In addition, the county shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

C. *Private entities.* The county may enter into an agreement with a private entity to provide the traffic light signal violation monitoring system or equipment and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by the county may swear to or affirm the certificate required by Virginia Code §15.2-968.1(C). A private entity may not obtain records on behalf of the county regarding the registered owners of vehicles that fail to comply with traffic light signals.

D. *Restricted uses of information; penalty.*

1. Information collected by a traffic light signal violation monitoring system installed and operated pursuant to this article shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. Notwithstanding any other provision of law, all photographs,



microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of Virginia Code §§[46.2-833](#), [46.2-835](#), or [46.2-836](#) or requested upon order from a court of competent jurisdiction.

2. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If the county does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days.

3. Any person who discloses personal information in violation of the provisions of this section shall be subject to a civil penalty of \$1,000.

**Sec. 9-702 Traffic signal violations; penalty.**

A. *Monetary penalty.* The operator of a vehicle shall be liable for a monetary penalty of fifty dollars (\$50.00) imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

B. *Evidence of violation.* Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by the county authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

C. *Summons.* Summonses for traffic light signal violations under this article shall be executed by first-class mail and accompanied by a written notice in accordance with Virginia Code §15.2-968.1.

**CONDITIONS OF APPROVAL  
SP-2008-0025 EARLYSVILLE SERVICE CENTER RELOCATION**

1. Development of the use shall be in accord with the conceptual plan titled "Special Use Permit Earlysville Service Center, 4036 Earlysville Road Earlysville, VA 22936", prepared by DW Enterprises and dated March 23, 2009 (hereafter, the "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Concept Plan, development shall reflect the following major elements within the development essential to the design of the development:
  - The area designated for the special use (public garage);
  - The size, height and location of the proposed building, including the shed, (no more than five thousand, five hundred (5,500) square feet/maximum thirty-five (35) feet high);
  - The location of the perimeter landscaping and limits of clearing, with the exception of minimum clearing possible to install drainfields and utilities; and
  - The number of parking spaces (maximum forty-six [46] spaces) and general location/arrangement of the parking spaces.
2. A public garage use on the C-1 Commercial district portion of TMP 31-14 shall be permanently terminated upon issuance of a Certificate of Occupancy for the garage constructed with SP-2008-25;
3. Additional landscape materials, either replanted from the area to be cleared for the garage site or new landscape materials, shall be installed in the undisturbed buffer area inside the boundary of the special use permit as may be necessary to achieve very little visibility between the garage site and the public right-of-way and adjacent properties, as depicted on Attachment B;
4. A minimum six (6) feet high fence shall be constructed in the location shown on Attachment B (twenty [20] feet inside the special use permit boundary and outside the seventy-five [75] foot front setback) to provide an additional buffer for the adjacent property (TMP 31-14H);
5. The sale or rental of vehicles or other motorized equipment is prohibited;
6. Gasoline sales are prohibited;
7. The outdoor storage of parts, equipment, machinery and junk is prohibited. All storage shall take place inside the storage shed and/or inside the building;
8. The sale or rental of vehicles or other motorized equipment is prohibited;
9. All repairing or equipping of vehicles shall take place inside the existing garage;
10. Parking of vehicles associated with the public garage shall take place only in the parking spaces depicted on the Concept Plan;
11. The hours of operation shall be no earlier than 7:00 A.M. nor later than 10:00 P.M., Monday through Friday and no earlier than 8:00 A.M. nor later than 1:00 P.M. on Saturdays. These hours do not prohibit customers from dropping off vehicles before or after the permitted hours of operation;
12. A maximum of twelve (12) employees shall be permitted on-site at any one time;
13. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at the north, west, and south property lines and the east boundary of the area designated to the special use permit to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
14. Approval from the Department of Environmental Quality shall be required prior to issuance of the Certificate of Occupancy;
15. Approval from the Health Department shall be required prior to issuance of a building permit; and
16. If the use, structure, or activity for which this special use permit is issued is not commenced by August 5, 2016, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate.

**RESOLUTION**

**Whereas**, the Virginia Soil and Water Conservation Board proposes to amend regulations associated with the Virginia Stormwater Management Program (VSMP) and published the proposed regulations in the June 22, 2009 edition of the Virginia Register of Regulations; and

**Whereas**, the Albemarle County Board of Supervisors has repeatedly affirmed its commitment to protect and preserve natural resources from degradation resulting from stormwater runoff by establishing ordinance requirements that exceed state minimum standards; and

**Whereas**, Albemarle County recognizes that, as an MS4 community, we will be required by the proposed regulations to implement a local storm-water management program; and

**Whereas**, these regulations provide the option for Albemarle County and regional partners, such as the Rivanna River Basin Commission, to develop a comprehensive watershed stormwater management plan that allows off-site nutrient offsets; and

**Whereas**, Albemarle County shares the Commonwealth's stated interest in promoting new urbanism as expressed in §15.2-2223.1 of the Code of Virginia; and

**Whereas**, local governments are currently under severe fiscal stress and any new unfunded mandate will likely result in funding reductions for other public health and safety concerns; and

**Whereas**, §10.1-603.3 of the Code of Virginia specifies local governments will not manage the VSMP before October 2011, thus providing adequate time to further refine the proposed regulations; and

**Whereas**, the new channel protection standards may conflict with the Commonwealth's policy to promote new urbanism as expressed in §15.2-2223.1 of the Code of Virginia in part by promoting the unintended consequences of reduced density and stale zoning:

**Whereas**, §4VAC50-60-96 of the proposed VSMP provides the possibility of using offsite credits in lieu of onsite Best Management Practices (BMPs) for compliance with the water quality criteria requirements and this practice may provide reasonable alternatives to cost prohibitive BMPs;

**Now, Therefore, Be It Resolved**, that the Albemarle County Board of Supervisors strongly recommends the Virginia Soil and Water Conservation Board move forward expeditiously to develop this program, providing that the fees associated with the proposed regulations adequately fund local governments' responsibility for establishing the local program and the costs associated with ongoing inspections and regulation of stormwater facilities; and

**Be It Further Resolved**, that the Albemarle County Board of Supervisors strongly recommends that the Virginia Soil and Water Conservation Board, as part of expeditiously developing this program, provide clear and unambiguous direction within §4VAC50-60-122 of the proposed regulations that a locality may include consideration of circumstances where strict application of these regulations would be inconsistent with the Commonwealth's interest in promoting urban development areas as envisioned by §15.2-2223.1 of the Code of Virginia and the locality's Comprehensive Plan.