

**ACTIONS**  
**Board of Supervisors Meeting of September 2, 2009**

September 4, 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 11:03 a.m. by the Chairman, Mr. Slutzky. All BOS members were present. Also present were Bob Tucker, Larry Davis, and Meagan Hoy.</li> </ul>	
<p>4. Update on Status of Land Use Value Tax Revalidation Program.</p> <ul style="list-style-type: none"> <li>Received.</li> <li>Board members requested a list of property owners in their magisterial districts that have not yet responded.</li> </ul>	<p><u>Bob Willingham</u>: Proceed as directed.</p>
<p>5. Closed Meeting.</p> <ul style="list-style-type: none"> <li>At 12:07 p.m., the Board went into Closed Meeting to consider appointments to boards, committees, and commissions, and to discuss with legal counsel and staff specific matters requiring legal advice relating to a boundary line adjustment.</li> </ul>	
<p>6. Certify Closed Meeting.</p> <ul style="list-style-type: none"> <li>At 1:05 p.m., the Board reconvened into open meeting and certified the Closed Meeting.</li> </ul>	
<p>10. Appointments: Boards and Commissions.</p> <ul style="list-style-type: none"> <li><b>APPOINTED</b> Craig Evans to the Fiscal Impact Advisory Committee with said term to expire July 8, 2011.</li> <li><b>APPOINTED</b> Jay Fennell to the Public Recreational Facilities Authority with said term to expire December 13, 2010.</li> <li><b>REAPPOINTED</b> Robert Michael Burke to the Community Mobility Committee with said term to expire September 2, 2011.</li> <li><b>REAPPOINTED</b> Michael Erwin and Rochelle Garwood to the Natural Heritage Committee with said terms to expire September 30, 2013.</li> <li><b>REAPPOINTED</b> Christopher Dumler to the Region Ten Community Services Board with said term to expire June 30, 2012.</li> <li><b>REAPPOINTED</b> Barbara Franko, Bonnie Samuel, Robert Bakalian, and Martin Schulman to the Route 250 West Task Force, with said terms to expire September 5, 2012.</li> </ul>	<p><u>Clerk</u>: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>
<p>7. From the Board: Matters Not Listed on the Agenda.</p> <p><u>Sally Thomas</u>:</p> <ul style="list-style-type: none"> <li>Asked that the Board pass a resolution for Prato and Poggio a Caiano. By a vote of 6:0, the Board <b>ADOPTED</b> the attached resolution.</li> </ul> <p><u>Ann Mallek</u>:</p> <ul style="list-style-type: none"> <li>Passed out a list of Albemarle County teachers that were recently awarded teacher grants.</li> <li>Shared with the Board a letter that explains the Real Estate Tax Relief for the Elderly and Disabled Program, and asked that the</li> </ul>	<p>(Attachment 1)</p> <p><u>Clerk</u>: Forward information to JABA and the Senior Center.</p>

<p>information be sent to JABA and the Senior Center.</p> <ul style="list-style-type: none"> <li>• She plans to attend a green infrastructure workshop put on by the Agriculture Department on September 17, 2009. She invited other BOS members to come as well.</li> <li>• Reminded Board members about the 911 Memorial Ceremony scheduled for Friday, September 11 at the County Office Building.</li> <li>• A complaint was made concerning the location of the farm stand owned by Nathan Yoder. She hopes the Board will ask staff to look at this as a larger issue for the entire County.</li> </ul> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>• Asked when the petition for the Montvue Subdivision regarding dogs running at large would come to the Board. Mr. Davis answered it would come to the Board in October.</li> </ul> <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> <li>• Was invited by DCR for discussions on protective regulations for the Chesapeake Bay.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• Updated the Board on the Brownsville School Addition.</li> <li>• Sixteen years ago, in the Red Hill School District, she was faced with a household that had contaminated water. Finally, the issue has been resolved, and there will be a celebration on September 19<sup>th</sup> at 11:00 a.m.</li> </ul>	
<p>6. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li>• Robert Rash commented on the issue of the location of the Yoder's Market.</li> <li>• Neil Williamson, Free Enterprise Forum, mentioned a lunch event on Sept. 24<sup>th</sup>, held by the Chamber of Commerce and the Free Enterprise Forum that will focus on agricultural enterprises.</li> </ul>	
<p>9.2 FY 2009 Appropriations.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the budget amendment in the amount of \$28,902.45 and <b>APPROVED</b> Appropriation #2009068.</li> </ul>	<p><u>Clerk:</u> Forward signed appropriation form to Finance and appropriate individuals.</p>
<p>9.3 FY 2010 Appropriations.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the budget amendment in the amount of \$2,535,924.19 and <b>APPROVED</b> Appropriations #2010018, #2010019, #2010020, #2010021, and #2010022.</li> </ul>	<p><u>Clerk:</u> Forward signed appropriation forms to Finance and appropriate individuals.</p>
<p>9.4 Amended Economic Development Authority By-Laws and Rules and Procedures.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Amended EDA By laws and Rules and Regulations.</li> </ul>	<p><u>Clerk:</u> Forward to EDA for approval. (Attachments 2 &amp; 3)</p>
<p>9.5 Fiscal Year 2010 Community Services Performance Contract.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the Fiscal Year 2010 Community Services Performance Contract.</li> </ul>	<p><u>Bryan Elliott:</u> Proceed as approved.</p>
<p>9.6 Authorize County Executive to sign open space easements.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Resolution to authorize</li> </ul>	<p><u>Clerk:</u> Forward resolution to County Assessor and County Attorney. (Attachment 4)</p>

<p>the County Executive to enter into Open-Space Use Agreements on behalf of the County, provided that the Agreements are approved as to form and content by the County Attorney and apply to the whole parcel.</p> <ul style="list-style-type: none"> <li>• <b>DIRECTED</b> staff to leave the option of a 4 to 10 year period of time to be the term of Open-Space Use Agreements.</li> </ul>	
<p>9.7 Resolution of Intent to amend Zoning Ordinance Fees.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached resolution of intent to amend the Zoning Ordinance fees.</li> </ul>	<p><u>Clerk:</u> Forward resolution to Mark Graham, Wayne Cilimberg, Amelia McCulley, and County Attorney. (Attachment 5)</p>
<p>11. Pantops Community Advisory Council Update.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
<p>12. Proposed 2010 Legislative Priorities.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, by a vote of 6:0, the attached 2010 Legislative Priorities as modified at the BOS Meeting.</li> </ul>	<p><u>Clerk:</u> Forward adopted priorities to David Blount. (Attachment 6)</p>
<p>13. VDOT Monthly Report. Allan Sumpter provided the following additional updates:</p> <ul style="list-style-type: none"> <li>• Updated the Board on school crosswalks in the Forest Lakes area.</li> <li>• VDOT has been working on the timing of the traffic signal at Routes 250 and 20.</li> <li>• VDOT has been working with the City to get the traffic light timing on Pantops matched up with the traffic signal on High Street, which is in the City.</li> <li>• Mr. Rooker asked when the coordination of Route 29 with Emmet Street would be completed. Mr. Sumpter answered that they are close to completing that.</li> <li>• Updated the Board on sidewalk improvements on the Pantops area.</li> <li>• In Ms. Thomas's area, they recently completed the signal upgrade at Farmington. At the Ednam Forest traffic light, they will work on that signal and get the two to work together.</li> <li>• VDOT is also getting lots of requests for speed studies in various neighborhoods. In the future, the funding for the recommendations could be impacted.</li> </ul>	<p><u>Clerk:</u> Forward comments to Sue Kennedy and Allan Sumpter.</p>
<p>13b. Transportation Matters not Listed on the Agenda. <u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• In Michigan, they put rumble strips down the edge and the middle of the road. They should be looked into.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• Received a request from residents who live on Stony Point Pass to post a speed limit sign. Mr. Sumpter said that he will look at that road and make a determination. The decision will be based on traffic volume.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• Asked that VDOT get a signature from the resident on Buck Road regarding right of way.</li> <li>• Asked for an update on the camera from</li> </ul>	

<p>Lynchburg to look in the pipe to see what the obstruction was.</p> <ul style="list-style-type: none"> <li>• Thanked VDOT for the striping on Garth Road.</li> <li>• The bridge on Jacob's Run has loose pieces. Mr. Sumpter said they hope to get that on the list for a deck rehab.</li> <li>• The speed has increased on Walnut Level Road after the Rural Rustic paving. She asked about more traffic calming measures. Mr. Sumpter said VDOT is working on that situation.</li> </ul> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>• Requested that staff bring back a proposed change to the Six Year Secondary Road Plan to include shifting funding from Dickenson Road to the Broomley Bridge project.</li> </ul> <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> <li>• Asked the status of the Glenmore traffic light. Mr. Sumpter advised that it is a proffered signal, and they are waiting for the developer to apply for a land use permit in order to authorize the signal to be installed.</li> </ul> <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> <li>• Asked for updates on the status of the Hillsdale Safety Improvements, a schedule on the Sunridge Road project, and a report on Pen Park Lane. Who is responsible for the maintenance of the road?</li> </ul>	<p><u>Clerk:</u> Schedule discussion on October 7<sup>th</sup> and public hearing to amend Six Year Plan on October 14<sup>th</sup>.</p>
<p>14. <b><u>Uncontrolled Vegetation Ordinance.</u></b></p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, by a vote of 6:0, the attached ordinance.</li> </ul>	<p><u>Clerk:</u> Forward ordinance to Mark Graham, Rob Heide, Amelia McCulley, and County Attorney. (Attachment 7)</p>
<p>15. <b><u>AFD-2009-001. Ordinance to amend Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, Buck Mountain Agricultural and Forestal District.</u></b></p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b>, by a vote of 6:0, the attached Ordinance.</li> </ul>	<p><u>Clerk:</u> Forward ordinance to Mark Graham, Wayne Cilimberg, Scott Clark, and County Attorney. (Attachment 8)</p>
<p>16. <b><u>AFD-2009-002. Ordinance to amend Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, Yellow Mountain Agricultural and Forestal District.</u></b></p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> the attached Ordinance.</li> </ul>	<p><u>Clerk:</u> Forward ordinance to Mark Graham, Wayne Cilimberg, Scott Clark, and County Attorney. (Attachment 9)</p>
<p>17. From the Board: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• Item moved to end of day.</li> </ul>	
<p>Recess and Reconvene in Room 241.</p> <ul style="list-style-type: none"> <li>• At 3:34 p.m., the Board recessed.</li> </ul>	
<p>18. Call to Order.</p> <ul style="list-style-type: none"> <li>• At 3:43 p.m., the Board reconvened and called the meeting to order.</li> </ul>	
<p>19. Discussion: CIP Process Review and Modification.</p> <ul style="list-style-type: none"> <li>• <b>CONSENSUS</b> of both Boards to approve the "Guiding Principles", "CIP Ranking Criteria", "Technical Review Team Charter" and the "CIP Oversight Committee Charter" as listed in the Executive Summary, and to incorporate these items into this year's CIP process as a pilot program.</li> <li>• <b>CONSENSUS</b> of both Boards to also include the</li> </ul>	<p><u>Bill Letteri:</u> Proceed as approved.</p>

<p>following recommendations as discussed at the meeting:</p> <ol style="list-style-type: none"> <li>1) Pursue opportunities for collaboration between local government and schools: working together to advance opportunities for different generations to come together in any publically financed facility.</li> <li>2) Support working with our community non-profits (especially those receiving county funds) to seek opportunities to benefit ALL county residents by sharing spaces.</li> </ol>	
<p>From the Board: Matters Not Listed on the Agenda.  <u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• Provided an update to the Boards on the status of the Access Albemarle project.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• A nutrient diet on the Chesapeake Bay will be implemented by the State EPA. Decisions by the Board might need to made this November.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• She will leave a copy of land use tax literature for the Board members to read.</li> </ul> <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> <li>• The Whistle Stop Tour will be held on September 30<sup>th</sup>.</li> <li>• Norfolk Southern is planning on putting a one hundred and ninety two foot structure in the Rio District. He is trying to push back and see if they can attach to a different tower.</li> <li>• He will pay for the tickets for the table at the NAACP event, and will accept reimbursement checks from individual Board Members.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• The Rivanna Solid Waste Authority is looking at the possibility of putting together a business plan for expansion of the Ivy Transfer Station. He asked if the Boards opinion on the issue.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>• Updated the Board on the HPC's efforts to send packets out to people that will be burning historic houses and barns. They would like the letter to come from the BOS.</li> </ul>	
<p>20. Adjourn.  At 5:49 p.m., the Board meeting was adjourned.</p>	

/mrh

- Attachment 1 – Resolution – Prato and Poggio A Caiano
- Attachment 2 – EDA By laws
- Attachment 3 – EDA Rules and Regulations
- Attachment 4 – Resolution of Intent – Zoning Ordinance Fees
- Attachment 5 – Resolution – Open Space Use Agreements
- Attachment 6 – Albemarle County 2010 Legislative Priorities
- Attachment 7 – Uncontrolled Vegetation Ordinance
- Attachment 8 – Ordinance – Buck Mtn. Agricultural and Forestal District
- Attachment 9 – Ordinance – Yellow Mountain Agricultural and Forestal District



### **RESOLUTION FOR PRATO AND POGGIO A CAIANO**

- WHEREAS,** *Thomas Jefferson was born in Albemarle County on April 13, 1743, and, across the ocean, Filippo Mazzei was born on Christmas Day, 1730, in Poggio a Caiano; and*
- WHEREAS,** *Filippo Mazzei became an Albemarle County resident, neighbor and friend of Thomas Jefferson in 1773; and*
- WHEREAS,** *Filippo Mazzei also became deeply involved in helping our country pursue its desire for freedom in the Revolutionary War; and*
- WHEREAS,** *eventually Filippo Mazzei returned to Europe, but his vineyard, a creek named "Poggio," the descendents of his farm workers and the close associations with Tuscany were not forgotten; and*
- WHEREAS,** *during our nation's bi-centennial celebration, leaders in the communes of Poggio a Caiano and Prato suggested to Charlottesville and Albemarle that we mutually establish a permanent twin-community relationship "for the purpose of cultural association and exchange of international goodwill;" and*
- WHEREAS,** *many times in the subsequent years, we have shared our students, artists, musicians, politicians, businesspeople, soccer players and tourists, welcomed and assisted on both sides of the ocean; and*
- WHEREAS,** *one of our Board members will carry our good wishes to Prato and Poggio a Caiano this September, 2009;*

**NOW, THEREFORE, BE IT RESOLVED** *by the Board of Supervisors of Albemarle County, Virginia, that we do hereby express our continued friendship and appreciation to our twin communities; and*

**BE IT FURTHER RESOLVED,** *that we do hereby proclaim **September 14 to 21, 2009**, to be **PRATO and POGGIO A CAIANO WEEK**, to commemorate the Mazzei-Jefferson Friendship that began over 200 years ago and our twin-community relationship of the last 33 years. May it continue for another 200 years!*

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

**ARTICLE I**

**Name and Location**

Section 1. The name of the Authority shall be "Economic Development Authority of Albemarle County, Virginia".

Section 2. Its principal office shall be located in the City of Charlottesville, Virginia, in the County Office Building.

**ARTICLE II**

**Rules and Regulations, General**

Section 1. The Authority shall be governed by, and exercise the powers granted by, the provisions of the "Industrial Development and Revenue Bond Act", Title 15.2 of the Code of Virginia, as amended and as may hereafter be amended, subject to the provisions of that certain Ordinance creating the Authority adopted by the Board of Supervisors of Albemarle County, Virginia, on May 12, 1976, and as such Ordinance may hereafter be amended, such Ordinance being appended hereto and made a part hereof.

Section 2. The Authority may engage legal counsel, bond counsel, financial advisors, trustees and other experts as it deems necessary to assist it in the conduct of its business.

**ARTICLE III**

**Membership**

Section 1. The governing body of the Authority shall be the Board of Directors appointed by the Board of Supervisors of Albemarle County.

**ARTICLE IV**

**Officers and Committees**

Section 1. The officers of the Authority shall be a Chairman, a Vice-Chairman, a Secretary-Treasurer, all elected by the Directors annually from their membership, and an Assistant Secretary-Treasurer from outside of their membership. The officers shall hold office for terms of one year, or until the next annual meeting and until their successors shall have been duly elected and shall have qualified.

Section 2. The Chairman, or in his absence, the Vice-Chairman, shall preside over all meetings of the Authority. In the absence of both, a temporary presiding officer shall be elected from among the members present.

The Chairman shall exercise general supervision over all of the affairs of the Authority. The Chairman shall appoint all Committees.

Section 3. The Secretary-Treasurer shall keep the minutes of all proceeding and shall keep records of all correspondence and business transactions of the Authority. Minutes of proceedings shall be open to public inspection at all reasonable times. He shall keep the corporate books and have charge of the seal. He shall send notices of meetings by mail or otherwise to members of the Authority as the same may be required, and to others as required by Section 2 of Article V. He shall keep a roll of the members. He shall perform all other duties usually appertaining to the office of a secretary.

Section 4. The Secretary-Treasurer shall be responsible of the keeping of suitable records of all financial transactions of the Authority. Such records shall be audited annually and a copy of each such audit shall be furnished to the Board of Supervisors of Albemarle County and shall be open to public inspection. Subject to the provisions of the Industrial Development and Revenue Bond Act and all agreements, contracts, and other instruments, including any trust indenture securing bonds of the Authority, made and entered into pursuant thereto, he shall have charge and custody of all funds and be responsible for their investment and deposit in the name of the Authority as authorized by the Authority. In general, he shall perform all the duties incident to office the treasurer and such other duties as from time to time may be assigned by the Authority. The Secretary-Treasurer shall give bond in such sum as may be fixed by the Authority, payable to the Authority, with corporate surety authorized to act as such in the State of Virginia, the premium. On which bond shall be paid as an expense of the Authority. The Secretary-Treasurer shall make disbursement of funds of the Authority under the direction and approval of the Directors, and all checks drawn on deposits of the Authority shall bear his signature as Treasurer, and checks of over \$1,000.00 shall also bear the signature of the Chairman or Vice-Chairman. In his absence or incapacity, his power to sign checks may, at a duly constituted meeting, be delegated by the Directors, to the Assistant Secretary-Treasurer, or to one of the Directors other than the Chairman or Vice-Chairman. Certain of the functions of the Secretary-Treasurer may, at a duly constituted meeting, be delegated by the Directors to the Assistant Secretary-Treasurer.

The Clerk of the Board of Supervisors shall serve as Assistant Secretary-Treasurer, and shall perform such duties of the Secretary-Treasurer set forth herein as are delegated to the Clerk by the Secretary-Treasurer.

Section 5. Contracts, bonds, notes, deeds, conveyances and other formal documents as authorized by the Board of Directors shall be signed on behalf of the Authority by the Chairman and the Secretary-Treasurer or in their absence by two directors who shall be designated officers and approved by the Directors.

Section 6. The Secretary-Treasurer shall arrange for the books and records of the Authority to be kept in appropriate offices and/or vaults of the County Office Building.

## **ARTICLE V**

### **Meetings of the Directors and Fiscal Year**

Section 1. The annual meeting of the Board of Directors shall be the first meeting of the calendar year to be held no later than June 30 of the year, at the County Office Building.

Section 2. Other meetings of the Authority may be called at any time by the Chairman, or in his absence, by the Vice-Chairman or Secretary-Treasurer, or on written request made to the Secretary-Treasurer by a majority of the members of the Board of Directors. Written notice stating the place, date, hour and purpose of each meeting shall be given not less than three days, nor more than ten days, before the date of the meeting, either by mail or by telephone confirmed by mail, to each Director entitled to vote at such meeting and copies of such notice shall be sent to the Chairman of the Board of Supervisors of Albemarle County, the County Executive, and also to any member of the general public, including news media, requesting same. In cases of bona fide emergency, special meetings may be called and the foregoing notice waived by the Directors. A resolution by the Board of Directors that a bona fide emergency exists shall be conclusive proof thereof.

Section 3. Any business of the Authority may be acted upon at any meeting at which a quorum is present, subject to Section 4 of this Article V.

Section 4. Four members of the Board of Directors shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes; except that no facilities owned by the Authority shall be leased or disposed of in any manner without a majority vote of the members of the Board of Directors.

Section 5. All meetings shall be open to the public.

Section 6. The fiscal year of the Authority shall begin on July 1 and end on June 30 of the succeeding year.



## **ARTICLE VI**

### **Order of Business**

At any meeting of the Authority the following shall be the order of business.

1. Roll Call.
2. Minutes of previous meeting read and action thereon.
3. Report of the Chairman.
4. Unfinished business.
5. New business.

## **ARTICLE VII**

### **Voting**

Section 1. All Directors appointed to the Board of Directors pursuant to statutory authority are entitled to one (1) vote, and, except as provided in Section 4 of Article V of these by-laws, and Title 15.2 of the Code of Virginia, a simple majority of those present and voting shall be required to adopt any measure.

## **ARTICLE VIII**

### **Amendments**

Section 1. These by-laws may be amended, but no amendment to these by-laws shall be valid unless approved by a majority vote of the Board of Supervisors of Albemarle County, Virginia, present in their respective meetings to which said amendment is presented, and provided further that notice of the proposed amendment is given in the notices of said meetings.

## **ARTICLE IX**

### **Seal**

Section 1. There shall be a seal of the Authority which shall have the words "Economic Development Authority of Albemarle County, Virginia"

## **ARTICLE X**

### **Miscellaneous**

Section 1. All terms referring to gender herein shall be interpreted in a neutral fashion.

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

**RULES AND PROCEDURES**

**ARTICLE I**

**PURPOSE AND SCOPE**

**Section 1.1 Purpose.** These Rules shall govern the submission of Applications to the Authority, application and administrative fees, consideration of matters to be brought to the attention of the Authority relating to the authorization, issuance and sale of its Bonds, the adoption of Financing Documents, reports to be submitted to the Authority, and such other matters as are contained herein.

**Section 1.2 Scope.** These Rules supplement the Act. In the event of any conflict between the Act and these Rules, the provisions of the Act shall prevail.

**ARTICLE II**

**DEFINITIONS**

**Section 2.1 Definitions.** As used in these Rules and Procedures, the following terms shall have the meaning as set forth herein, unless the context clearly requires otherwise:

"Act" shall mean the Virginia Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended.

"Applicant" shall mean any individual, person, firm, corporation, partnership or other entity applying for industrial development revenue bond financing, or for whose benefit the Authority has issued its Bonds, or who requests the Authority to take any action.

"Application" shall mean the Authority's application for industrial development revenue bond financing as in effect from time to time.

"Authority" shall mean the Economic Development Authority of the County of Albemarle, Virginia, a political subdivision of the Commonwealth of Virginia.

"Bonds" shall mean any notes, bonds and other obligations authorized to be issued by the Authority pursuant to the Act.

"Code" shall mean the Code of Virginia of 1950, as amended.

"Financing Documents" shall mean any resolutions, instruments, documents, papers, elections, certificates or financing statements required to be adopted or authorized, executed and delivered by the Authority in connection with the authorization, issuance and sale of its Bonds.

"IRC" shall mean the Internal Revenue Code of 1954, as amended.

"Project" shall mean any land, improvements, machinery, equipment or property financed by the issuance and sale of the Authority's Bonds.

"Rules" shall mean these Rules and Procedures of the Authority, as may be in effect from time to time.

**ARTICLE III**

**GENERAL**

**Section 3.1 Copies to be Provided Applicants.** A copy of these Rules and Procedures shall be

furnished by the Authority's administrative agent, the County of Albemarle, by the Clerk of the Board of Supervisors, to each prospective Applicant.

**Section 3.2 Compliance with Rules and Procedures.** Each Applicant shall comply with these Rules and Procedures in the submission of its Application or any Financing Documents to the Authority and in requesting that the Authority take any action, including the adoption of Financing Documents. Failure to comply with these Rules and Procedures shall constitute sufficient reason for the Authority to refuse to consider any Application, Financing Documents, or any other matter to be brought before the Authority by or on behalf of any Applicant.

**Section 3.3 Amendments.** These Rules and Procedures may be changed from time to time by the Authority by the vote of a majority of its Directors present at any meeting of the Authority, provided notice of such change shall have been given to each Director before such meeting. These Rules and Procedures may, notwithstanding the foregoing, be amended without prior notice upon the affirmative vote of all Directors of the Authority.

**Section 3.4 Preparation and Distribution of Agenda and Minutes.**

(a) A preliminary agenda for the Authority's regular meeting shall be prepared and distributed by the Authority's Secretary to Authority members and the Authority's attorney before the Authority's regularly scheduled meeting date. In the case of special meetings of the Authority, the agenda shall be included in the call issued for such meeting. When action is to be taken with reference to a Project or the issuance of Bonds, the agenda shall contain a description of the type, nature and location of the Project, the name of the Applicant and the nature of the action to be taken by the Authority. The agenda for regular meetings of the Authority shall state that it is a preliminary agenda subject to change at or before the Authority's meeting.

(b) Preliminary drafts of the minutes of the Authority's meeting shall, as soon as practicable following the meeting, be mailed or delivered to each officer and Director of the Authority and the Authority's counsel. Each preliminary copy of the minutes so distributed shall be marked to indicate that it is a preliminary draft subject to additions or corrections at the Authority's next meeting. The date of approval of the Authority's minutes shall appear at the foot of the last page of the minutes which shall, when approved, be signed by the Assistant Secretary-Treasurer of the Authority.

**ARTICLE IV**

**APPLICATION PROCEDURES, FEES AND REQUIREMENTS**

**Section 4.1 Applications.** Each Applicant shall submit nine (9) fully and accurately completed Applications to the Clerk of the Board of Supervisors of Albemarle County at least ten (10) days before the Authority's meeting at which the Application is to be considered. Each Application shall include all requested exhibits. In the event all requested exhibits are not available or not to be made part of the public record, a statement of explanation will be attached to the Application.

**Section 4.2 Application Fee.** The Authority charges an Application fee of Five Hundred Dollars (\$500.00), payable to the County of Albemarle. The Application fee shall be paid to the Authority's administrative agent, the County of Albemarle, prior to consideration of the inducement resolution to be adopted on behalf of the Applicant. Application fees, upon acceptance by the Authority, are non-refundable. No interest shall be paid on Application fees.

**Section 4.3 Administrative Fees.**

(a) The Authority reserves the right in the future to charge an annual administrative fee for all projects financed by the Authority.

(b) The Authority requires reimbursement of its costs and expenses incurred in connection with the issuance and sale of its Bonds and by virtue of its Bonds being outstanding. (See Section 5.2).

**Section 4.4 Transcripts of Proceedings.** Each Applicant receiving Bond financing through the Authority shall furnish to the Authority upon the sale and delivery of the Bonds, two (2) complete transcripts of the Financing Documents relating to such Bonds. Bond transcripts shall be hardback bound in library standard quality binders at the cost and expense of the Applicant.

**Section 4.5 Bond Validation Proceedings.** The Authority may require that before issuance, its Bonds be validated by the Circuit Court of the County of Albemarle, Virginia, pursuant to the requirements of Article 6, Chapter 26, Title 15.2 of the Code. The costs, expenses and fees incurred in connection with any bond validation proceeding required by the Authority, including attorneys' fees, shall be paid by the Applicant.

**Section 4.6 Additional Information Required of Applicants.**

(a) The Authority may adopt an inducement resolution conditioned upon the subsequent furnishing of certain information satisfactory to the Authority. All required information shall be promptly furnished to the Authority and failure of any Applicant to furnish such information shall constitute a ground for rescission of any inducement resolution adopted pursuant to such conditions.

(b) The Authority may, at its option, require the furnishing of appraisals, evaluations or reports respecting the Project or any portion thereof. The Authority may retain advisors and consultants to advise it regarding any Project or other action which it is requested to undertake by any Applicant. All costs, fees and expenses of such appraisals, reports, consultants and advisors incurred by the Authority after prior notification to the Applicant shall be paid by the Applicant.

(c) Since the Authority usually acts based upon information furnished to it solely by the Applicant, the Authority reserves the right to require at any time the furnishing of additional information concerning the Applicant, its financial statements, and any other information deemed relevant by the Authority. In instances where the Applicant has undergone changes in form or management or where the security to be given for payment of the Bonds has changed, the Applicant shall report such changes promptly to the Authority.

**ARTICLE V**

**PROVISIONS TO BE INCORPORATED INTO RESOLUTIONS  
AND FINANCING DOCUMENTS**

**Section 5.1 Inducement Resolutions.** Each inducement resolution adopted by the Authority shall provide that it shall continue in full force and effect for a period of two (2) years unless specifically extended by the Authority or the Bonds contemplated by the resolution are issued.

**Section 5.2 Payment of Authority Expenses.** The Financing Documents adopted by the Authority for the benefit of any Applicant shall provide that the Applicant agrees to pay all costs, fees, and expenses incurred by the Authority (including attorneys' fees) in connection with:

- (a) the authorization, issuance and sale of the Authority's Bonds;
- (b) the ownership, occupation, operation or use of the Project being financed, whether owned by the Authority or the Applicant;
- (c) prepayment or redemption of the Authority's Bonds;
- (d) administrative costs and expenses of the Authority, including the fees of attorneys, accountants, engineers, appraisers, or consultants, paid or incurred by the Authority by reason of the Bonds being outstanding or pursuant to requirements of the Financing Documents; and
- (e) such other fees and expenses of the Authority, not directly related to the Project being financed for the Applicant, but attributable to the Authority's financing of industrial or commercial Projects, including without limitation, a share of costs of the Authority's annual audit as required by Title 15.2 of the Code of Virginia, determined as follows:

(1) All costs and fees relating to any annual audit and directly attributable to a particular Applicant or Project, shall be charged to such Applicant; and

(2) Any costs and fees of such audit not directly attributable to any Applicant or Project shall be allocated among all Applicants having Bonds outstanding, pro rata, as the amount of Bonds originally issued for such Applicant bears to the total face amount of Bonds issued by the Authority of which any portion of any issue remains outstanding and unpaid.

**Section 5.3 Indemnification of the Authority.** Each Applicant shall agree to indemnify and save harmless the Authority and its officers, directors, employees and agents (hereinafter the "Indemnitees") from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses (hereinafter referred to as "Damages"), including without limitation:

(a) all amounts paid in settlement of any litigation commenced or threatened against the Indemnitees, if such settlement is effected with the written consent of the Applicant;

(b) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Applicant, the Project or the Indemnitees;

(c) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(d) the reasonable fees of attorneys, auditors, and consultants; provided that the Damages arise out of:

(i) failure by the Applicant, or its officers, employees, or agents, to comply with the terms of the Financing Documents and any agreements, covenants, obligations, or prohibitions set forth therein;

(ii) any action, suit, claim or demand contesting or affecting the title of the Project;

(iii) any breach of any representation or warranty set forth in the Financing Documents or any certificate delivered pursuant thereto, and any claim that any representation or warranty of the Applicant contains or contained any untrue or misleading statement of fact or omits or omitted to state any material facts necessary to make the statements made therein not misleading in light of the circumstances under which they were made;

(iv) any action, suit, claim, proceeding or investigation of a judicial, legislative, administrative or regulatory nature arising from or in connection with the construction, acquisition, ownership, operation, occupation or use of the Project; or

(v) any suit, action, administrative proceeding, enforcement action, or governmental or private action of any kind whatsoever commenced against the Applicant, the Project or the Indemnitees which might adversely affect the validity or enforceability of the Bonds, the Financing Documents, or the performance by the Applicant or any Indemnitee of any of their respective obligations thereunder.

**Section 5.4 Bond Counsel Opinion Required.** Before issuing and delivering any of its Bonds, the Authority shall receive an unqualified approving opinion of recognized bond counsel, licensed to practice law in Virginia and approved by the Authority, stating, among other things, that the Bonds have been duly authorized, executed, issued and delivered, that the interest thereon is exempt from Federal income taxation under IRC § 103 (or other applicable provision of law) and taxation by the Commonwealth of Virginia, and that the Bonds are exempt from registration requirements under applicable State and Federal securities laws.

**Section 5.5 Covenants to Preserve Tax Exempt Status of Bonds.** All Financing Documents presented for approval by the Authority shall contain appropriate covenants of the Applicant designed to insure compliance with the requirements of IRC § 103 to preserve the tax exempt status of interest on the Bonds, including without limitation, "arbitrage" requirements, capital expenditure limitations and reporting requirements.

**Section 5.6 Payments in Lieu of Taxes.** In event title to the Project is held by any person or entity not subject to real or personal property taxes, the Applicant and any user of the Project, unless specifically exempted by the Authority, shall enter into an agreement to pay all taxes, levies, assessments, charges or other impositions which may be levied by any taxing authority on the Project as if such Applicant or user held title to the Project or any portion thereof.

## ARTICLE VI

### REPORTS

**Section 6.1 Interim Reports by Applicants.** Each Applicant shall file with the Authority a written report describing the status of its proposed financing no later than the last day of the second month after the adoption of an inducement resolution for the Applicant and every three (3) months thereafter until the adoption

of any Financing Documents by the Authority. Such written report shall include the proposed purchaser of the Bonds, the proposed terms of the Bonds, the status of Financing Documents, and the current status of the Project. Each Applicant shall promptly notify the Authority of any significant or material changes to any information previously furnished by the Applicant to the Authority.

**Section 6.2 Annual Reports of Applicants.** Each Applicant, after the issuance and sale of the Authority's Bonds for the benefit of such Applicant, shall annually report to the Authority no later than June 30 the status of the Project, which shall include the outstanding and unpaid balance of Bonds issued for the Project, whether any event of default has occurred under the Financing Documents, and other information relating to the financing of the Project and benefits to the County of Albemarle.

**Section 6.3 Reports by Authority Chairman, Directors, etc.** At each regular meeting of the Authority, the Chairman, each Director, the Secretary-Treasurer and the Authority's counsel shall report any action taken on behalf of the Authority since the last regular meeting, including as may be applicable, receipt of reports required under Section 4.6. No later than September 1 of each year, the Chairman of the Authority may also report to the Authority on the status, as of the end of the Authority's fiscal year, of each active and outstanding inducement resolution of the Authority and the status of each issue of the Authority's Bonds.

## **ARTICLE VII ENFORCEMENT**

**Section 7.1 Enforcement of Provisions.** The Authority may refuse to consider or adopt any inducement resolutions, Financing Documents or any other matters presented for its consideration if the Applicant has failed to comply with the requirements of these Rules.

**Section 7.2 Repeal of Actions Previously Taken.** The Authority may rescind or repeal any inducement resolution previously adopted by it or any other action taken by the Authority because of failure of the Applicant to comply with the provisions of these Rules or because of substantial changes in the management, ownership, Project plan or financial circumstances of the Applicant; provided, however, no inducement resolution or action taken by the Authority shall be repealed or rescinded unless prior written notice of such proposed action shall have been mailed to the Applicant at least three (3) weeks before the date upon which such action is proposed to be taken. Notwithstanding the foregoing, no such action shall be taken by the Authority which will impair or adversely affect the interests of the holders of the Authority's Bonds.

## **ARTICLE VIII STATEMENTS OF POLICY**

**Section 8.1 Construction, Operation and Effect of Rules.** These Rules are intended as guidelines to promote and insure the orderly and consistent consideration of Applications, Financing Documents, and other matters brought before the Authority. For good cause, application of these Rules may be modified and waived upon a case-by-case basis upon the consent of the Authority. Any action taken by the Authority not in conformity with these Rules shall, nevertheless, be fully effective as if taken in compliance with these Rules. It is, however, the policy of the Authority that each Applicant comply fully and completely with these Rules, and failure to comply with these Rules may constitute grounds for refusal by the Authority to take any action requested.

**Section 8.2 Approval of Inducement Resolution Not to Constitute an Endorsement of Applicant.** The purpose of the Authority, as set forth in the Act, is to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth of Virginia. Pursuant to the Act, the Authority's powers shall be exercised for the benefit of the inhabitants of Virginia through the promotion of their safety, health, welfare, convenience or prosperity. Accordingly, the Authority's decision to adopt an inducement resolution or take other action will be based largely upon these factors. Further, the Act prohibits the Authority from operating any enterprise or Project. Since the Authority is a conduit for providing tax-exempt financing to promote the commerce and industry of the Commonwealth of Virginia and the County of Albemarle, and given the express prohibition against operating enterprises or Projects, the Authority believes it is improper for it to inquire into matters relating to the business judgment of the management of any Applicant not relevant to the foregoing factors. The Authority may, however, examine the business decisions and other aspects of management of the Applicant should it deem such matters relevant to the authorization, issuance and sale of its Bonds.

In view of the foregoing limitations, the adoption of an inducement resolution or any other action taken by the Authority is not to be used by any Applicant in any manner whatsoever as an endorsement or approval of the Applicant, its policies or its management.

**Section 8.3 Security for Payment of Bonds.** The Authority will require a showing that any issue of its Bonds is fully and adequately secured. If the Bonds are secured by a lien upon or security interest in the Project financed with the proceeds of such Bonds, the Authority may require an appraisal of the Project showing that it is valued in an amount sufficient to pay the outstanding principal amount of the Bonds issued to finance such Project.

**Section 8.4 Compliance with Rules.** These Rules were adopted by the Authority to assist in the orderly and expeditious conduct of its business. As stated in Section 3.2 of these Rules, the Authority has reserved the right to require that any Applicant strictly conform to the requirements of the Rules. Among other things, the Rules require that each Applicant inform the Authority of any new developments or material changes in information which has been submitted to the Authority, either orally or in writing. Matters concerning the structure of the financing, the prospective purchasers of the Bonds, and the security for payment of the Bonds are items of particular interest to the Authority; however, the Authority expects to be kept informed of all material changes to information submitted to it.

By submitting an Application to the Authority, the Applicant agrees to abide by these Rules. Thus, the burden is placed upon the Applicant to review and to comply with these Rules. The principal sanction which may be applied by the Authority against any Applicant for failure to comply with the Rules would be a refusal to take any action requested by the Applicant. Such a refusal might result in embarrassment to or considerable financial expense on the part of the Applicant. To avoid such embarrassment or expense, the Authority urges each Applicant to keep the Authority fully informed of any new developments or material changes to information previously submitted to the Authority, including in particular, changes in the contemplated financing structure or the proposed security for the Bonds. As noted above, the burden is upon the Applicant to convey this information to the Authority in a timely manner. What constitutes "timely" depends upon the circumstances of each case; however, each Applicant is urged to provide all such information before considerable time and expense is incurred upon matters which may prove unacceptable to the Authority. Any such communications should be made directly to the Authority's officers, directors, and counsel.

#### **Notes to Application**

1. Applicants are referred to the Authority's Rules and Procedures for provisions governing the submission of the application to the Authority.

2. Applications and all exhibits should be submitted to:

**Clerk of the Board of Supervisors of Albemarle County,  
4th Floor, County Office Building, 401 McIntire Road,  
Charlottesville, Virginia 22902-4596,**

at least ten (10) days before the meeting at which the application is to be considered.

3. A \$500.00 application fee, made payable to the County of Albemarle, should be submitted to the Authority's administrative agency, the County of Albemarle, with the application or at the time the application is considered.

4. Questions concerning the qualification of a project or certain expenses of economic development revenue bond financing or other legal questions relating to the issuance of bonds should be directed to the Authority's counsel or to recognized bond counsel.

**RESOLUTION OF INTENT**

**WHEREAS**, Section 35, Fees, of the Zoning Ordinance (Chapter 18 of the Albemarle County Code) establishes a schedule of fees for various zoning related applications and approvals under the Zoning Ordinance; and

**WHEREAS**, the fees imposed are inadequate to cover the reasonable cost of the services provided by the County in the implementation and administration of the Zoning Ordinance; and

**WHEREAS**, the County has conducted an extensive fee study to determine the cost of services provided by the County under the Zoning Ordinance; and

**WHEREAS**, it is desired to amend Section 35 of the Zoning Ordinance in order to establish a schedule of fees that is adequate to cover the reasonable cost of the services provided.

**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 Section 35 of the Zoning Ordinance 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 pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.



**RESOLUTION TO AUTHORIZE COUNTY EXECUTIVE TO ENTER INTO OPEN SPACE USE AGREEMENTS WITH LANDOWNERS**

**WHEREAS**, Albemarle County has established a special land assessment program for the preservation of real estate devoted to open space pursuant to *Virginia Code § 58.1-3233*; and

**WHEREAS**, a landowner may qualify for the special land assessment program for the preservation of open space upon the execution and recordation of a written open space use agreement between the landowner and the Board of Supervisors; and

**WHEREAS**, to qualify for the special land assessment program for the preservation of open space, the real estate to be entered into the program must meet the general and specific standards promulgated by the Director of the Department of Conservation and Historic Resources as set forth in the Manual of the State Land Evaluation Advisory Council; and

**WHEREAS**, certain landowners have requested that the Board of Supervisors enter into Open Space Use Agreements for the preservation of certain land owned by them for the purposes of qualifying for the special land assessment program under the open space category.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors authorizes the County Executive, on behalf of the County, to execute Open Space Use Agreements with landowners whose land meets the general and specific standards as promulgated by the Director of the Department of Conservation and Historic Resources for entering into an Open Space Use Agreement committing the landowner not to change the use of the land to a nonqualifying use for a time period of 4-10 years, provided that such Agreements apply to an entire parcel and are approved as to form and content by the County Attorney.

## Albemarle County 2010 Legislative Priorities

### Growth Management, Land Use and Transportation

- **Local Authority:** Request that the legislature 1) strengthen localities' authority by enabling them to utilize adequate public facilities ordinances; and 2) not pass legislation that preempts or circumvents existing local authority to regulate land use.
- **Impact Fee Authority:** Request that the legislature support impact fee legislation that allows for 1) a fair allocation of costs representing a "pro-rata" off-set of new growth on public facilities; 2) impact fees for facility costs related to transportation, schools, fire, police, emergency medical services, libraries, stormwater management, open space and parks/recreation lands; 3) effective implementation through simple locally-based formulae and reasonable administrative requirements; 4) does not cap or limit localities' impact fee updates; and 5) does not diminish the existing proffer system.
- **Conservation Easements:** Request the legislature support and augment local efforts in natural resource protection through 1) Continuing to fund the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (e.g. ACE Program in Albemarle County); 2) Retaining provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological and scenic value that attract tourism; and 3) Increase incentives for citizens to create conservation easements.
- **Scenic Protection and Tourist Enhancement:** Request enabling legislation for an Albemarle County to provide for a scenic protection and tourist enhancement overlay district. As the County pursues options to protect the visual quality of land as an aesthetic and economic resource, this legislation would provide a method to ensure full consideration of visual resources and scenic areas when the County or state makes land use decisions in designated areas.
- **Transportation Funding:** Request the legislature 1) Establish stable and consistent state revenues for Virginia's long-term transportation infrastructure needs; 2) Direct funding efforts at all transportation modes; 3) Coordinate planning for transportation and land use, being mindful of local Comprehensive and regional Transportation Plans when planning transportation systems within a locality; and 4) Not shift transportation responsibilities, including maintenance, to localities.
- **Unpaved Road Program:** Request the legislature to amend Virginia Code § 33.1-23.1:1(C) to allow for the allocation of unpaved secondary road funds for other secondary road transportation projects without penalizing the locality by reducing the amount of the unpaved secondary road funds in future years.

### Health and Human Services

- **Comprehensive Services Act (CSA):** Request the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) Fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA; 2) Enhancing state funding for grants to localities to create community-based alternatives for children served in CSA; 3) Establishing state contracts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs; and 4) Encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.
- **Child Care for Low Income Working Families:** Request the legislature provide additional funds to local governments to assist low-income working families with childcare costs. This funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.
- **Local Department of Social Services (LDSS):** Request the legislature increase funds for LDSS to match all available federal dollars to assist LDSS staffing needs in order to meet state mandated services and workloads.

### **Local Government Administration and Finance**

- ***Full Funding of State Mandates:*** Request the state provide full funding for its mandates in all areas of local government including the Standards of Quality (SOQs), positions approved by the Compensation Board, costs related to jails and juvenile detention centers and human services positions.
- ***Local Control of Local Revenues:*** Request the legislature take no action to restrict or limit the existing local control of local revenues so that local government leaders can take appropriate measures to generate sufficient revenues to sustain and improve services.
- ***Drug Court Funding:*** Request the legislature fully fund the Drug Court Program, which provides effective treatment and intensive supervision to drug offenders through the Circuit Courts of several Virginia localities.
- ***Cost to Compete Pay Differential:*** Due to the documented high cost of living in Albemarle County, request the legislature include Albemarle County Schools in the “Cost to Compete Pay Differential” so that the County may reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.
- ***Land Use Taxation:*** Request the legislature to amend Virginia Code § 58.1-3237 to provide for a locality to have a local option to increase the roll-back taxes assessed against property under land use taxation to an amount equal to the sum of the deferred tax for up to ten of the most recent complete tax years. Currently the roll-back tax applies only to the deferred taxes relating to the five most recent tax years.
- ***Donations to nonprofit organizations:*** Request the legislature to amend Virginia Code § 15.2-953 to authorize localities to make donations to nonprofit organizations, associations, or agencies which are engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality.

**ORDINANCE NO. 09-07(2)**

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, 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 7, Health and Safety, is hereby amended and reordained as follows:

**By Adding:**

Article V	Uncontrolled Vegetation
Sec. 7-501	Definitions
Sec. 7-502	Grass, Weeds, Brush and Other Uncontrolled Vegetation
Sec. 7-503	Exemptions
Sec. 7-504	Enforcement
Sec. 7-505	Lien Against Property
Sec. 7-506	Civil Penalty
Sec. 7-507	Criminal Penalty

**CHAPTER 7. HEALTH AND SAFETY**

**ARTICLE V. UNCONTROLLED VEGETATION**

**Sec. 7-501. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) *Developed*. The term “developed” means any real property where improvements have been made to change it from its natural state.

(2) *Improvements*. The term “improvements” means permanent changes or additions to real property that enhance its value or utility or adapt it for new or further purposes.

(3) *Natural landscaping*. The term “natural landscaping” means a managed area specifically set aside by a land owner for conservation purposes, using native plants, which aims to blend residential or commercial property into the natural surroundings. Natural landscaping shall:

- (i) not encroach within a minimum of five (5) feet from any developed areas, roads, or buildings;
- (ii) include a plan to identify and manage native plant material as well as a plan to manage and eliminate noxious weeds; and
- (iii) include and maintain at least eighty percent (80%) native plants (by area coverage).

(4) *Owner*. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

(5) *Undeveloped*. The term “undeveloped” means any real property that remains unimproved.

(6) *Vacant*. The term “vacant” means any real property, with or without improvements, that is not occupied.

(Ord. 09-7(2), 9-2-09)

**Sec. 7-502. Grass, Weeds, Brush and Other Uncontrolled Vegetation.**

A. Except as provided in section 7-503, no owner of any vacant developed or undeveloped property, including property upon which buildings or other improvements are located, shall permit to remain

thereon, any grass, weeds, brush or other uncontrolled vegetation in excess of twelve (12) inches in height where such vegetation is located:

- (i) on any vacant developed property, or
- (ii) on that portion of any undeveloped property that is within seventy-five (75) feet of any public right-of-way or developed property under separate ownership.

B. Upon remedying any such unlawful condition, the owner shall dispose of such vegetation in a lawful manner that eliminates any potential fire hazard.

**State law reference**--Va. Code § 15.2-901(A)(3).

(Ord. 09-7(2), 9-2-09)

**Sec. 7-503. Exemptions.**

Notwithstanding section 7-502, this article shall not have any force and effect within

- a) the corporate limits of the Town of Scottsville;
- b) the Monticello Historic District;
- c) the Rural Areas District;
- d) areas used for pastures, under cultivation, forested, or subject to utility transmission easements;
- e) areas where the vegetative growth is regulated under state or federal laws or programs;
- f) any stream buffer required by County ordinance or protected under permanent conservation easement;
- g) areas under an approved plan of natural landscaping;
- h) property designated through an approved zoning or subdivision plat as open space, green space, conservation or preservation area and that is intended to remain in its natural state;
- i) public park lands; or
- j) stormwater management facilities such as detention ponds.

(Ord. 09-7(2), 9-2-09)

**Sec. 7-504. Enforcement.**

A. Whenever the County Executive or his designee has determined by reports, inspections or otherwise, that any such unlawful condition exists, he shall notify the owner of the land upon which the violation exists to cut or cause to be cut the grass, weeds, brush or other uncontrolled vegetation within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and shall be complied with by the owner.

B. If such grass, weeds, brush or other uncontrolled vegetation is not cut within the required time, the County Executive or his designee may cause them to be cut and the costs and expenses thereof, including an administrative handling charge of one hundred dollars (\$100.00), shall be billed to the property owner, and if not paid, shall be added to and collected in the same manner as the real estate tax on such property. The County Executive or his designee shall certify the costs and expenses to the Director of Finance of the county, who shall collect such amount; and if such amount shall remain unpaid for a period of sixty (60) days, then the Director of Finance shall certify such charges as being unpaid to the clerk of the circuit court of the county, who shall maintain a record book of such delinquent costs and expenses in the records of the clerk's office.

(Ord. 09-7(2), 9-2-09)

**Sec. 7-505. Lien Against Property.**

Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia. The County may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

**State law reference**--Va. Code § 15.2-901(B).

(Ord. 09-7(2), 9-2-09)

**Sec. 7-506. Civil Penalty.**

Violations of this section shall be subject to a civil penalty of fifty dollars (\$50) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be two hundred dollars (\$200). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000) in a twelve (12) month period.

**State law reference**--Va. Code § 15.2-901(C).

(Ord. 09-7(2), 9-2-09)

**Sec. 7-507. Criminal Penalty.**

In the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a twenty-four (24) month period, such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

**State law reference**--Va. Code § 15.2-901(D).

(Ord. 09-7(2), 9-2-09)

**ORDINANCE NO. 09-3(2)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, 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 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3-209 Buck Mountain Agricultural and Forestal District

**Chapter 3. Agricultural and Forestal Districts**

**Article II. Districts of Statewide Significance**

**Division 2. Districts**

**Sec. 3-209 Buck Mountain Agricultural and Forestal District.**

The district known as the "Buck Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 8, parcels 16A, 16C, 17E, 17F; tax map 17, parcels 26B, 26C, 26C1, 26C2, 26C3, 31 (part), 32. This district, created on January 4, 1989 for not more than 10 years and last reviewed on September 2, 2009, shall next be reviewed prior to September 2, 2019.

(4-12-95; Code 1988, § 2.1-4(o); Ord. 98-A(1), 8-5-98; Ord. 99-3(1), 1-13-99; Ord. 99-3(5), 10-6-99; Ord. 09-3(2), 9-2-09)

**ORDINANCE NO. 09-3(3)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, 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 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3-228 Yellow Mountain Agricultural and Forestal District

**Chapter 3. Agricultural and Forestal Districts**

**Article II. Districts of Statewide Significance**

**Division 2. Districts**

**Sec. 3-228 Yellow Mountain Agricultural and Forestal District.**

The district known as the "Yellow Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 54, parcel 71B; Tax map 55, parcel 15; tax map 70, parcels 15, 15A, 15D, 15E, 29, 37B, 37B1 (part), 37D (part), 37K, 37L; tax map 71, parcels 2B, 22, 22A, 22B, 64, 64A. This district, created on March 8, 1989 for not more than 10 years and last reviewed on September 2, 2009, shall next be reviewed prior to September 2, 2019.

(Code 1988, § 2.1-4(p); Ord. 98-A(1), 8-5-98; Ord. 99-3(1), 1-13-99, Ord. 99-3(4), 5-12-99; Ord. 09-3(3), 9-2-09)