

ACTIONS
Board of Supervisors Meeting of December 2, 2009

December 8, 2009

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 9:03 a.m. by the Chairman, Mr. Slutzky. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan, and Meagan Hoy. 	
<p>4. Recognitions:</p> <p>a. VML Go Green Virginia Award.</p> <ul style="list-style-type: none"> • Chairman presented award to George Shadman and Sarah Temple of the General Services Department. <p>b. Proclamation in Support of Census 2010.</p> <ul style="list-style-type: none"> • Chairman read proclamation into the record. 	(Attachment 1)
<p>5. From the Board: Matters Not Listed on the Agenda. <u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Circulated a letter of support regarding the JABA grant with the Telemedicine Center at UVA to provide monitoring through telemedicine to Mountainside Senior Living in Crozet. CONSENSUS of the Board to send the letter. • Asked the Board to adopt a Resolution of Support Opposing Increases in Truck Weights and Lengths. ADOPTED, by a vote of 6:0, the attached resolution. • Participated in a successful planting effort at the Airport. • Visited with the robotics team at Crozet Elementary School, and mentioned that they went to a competition at James Madison University. • There is an upcoming meeting on the proposed Wayside Stand ordinance changes on December 10th from 3-5 p.m. in Room 241. • The fundraising calendars for the Local Food Hub is a great Holiday gift idea. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • She, Ms. Mallek and Mr. Dorrier attended the VACO annual meeting. Learned that Counties throughout the State are having their sovereign immunity attacked, and this is an issue the County needs to pay close attention to. • Updated the Board on a meeting of the High Growth Coalition. • She and Ms. Mallek are members of the Planning District Commission, they have talented staff, and they might be able to help the County in the future. • The EPA will host a meeting here on December 17, 2009 to discuss TMDL Proposals at 2:00 p.m. • The Historic Preservation Committee would like to know of places that the Lost Albemarle exhibit could feature. The exhibit is traveling, and is 	<p><u>Clerk:</u> Prepare and send letter to Dr. Carol Manning.</p> <p><u>Clerk:</u> Forward resolution to Congressmen Perriello, Warner, and Webb. (Attachment 2)</p>

<p>now at the Colonnades Nursing Home.</p> <ul style="list-style-type: none"> • Land Use Revalidation forms are due on December 5th, 2009. • Updated the Board on the Rivanna Water and Sewer Authority and the Ragged Mountain Dam. • The Meadow Creek Interceptor burst. Rivanna is trying to repair and replace the crumbling infrastructure. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Updated the Board on the Rivanna Solid Waste Authority, and the privatization of the Ivy Landfill. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • Handed out a Resolution of Intent to amend the Zoning Ordinance to change the definition of “family” so it is consistent throughout the County. • The MPO received a report from CTS, and ridership has increased. • The MPO and the Planning Commission will work on the remaining Regional Transit Authority questions and issues. 	<p><u>Clerk:</u> Forward copy of signed Resolution of Intent to Wayne Cilimberg, Mark Graham, Amelia McCulley, and County Attorney’s office. (Attachment 3)</p>
<p>6. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 	
<p>7.2 “Safe Routes To School Resolution of Support for Infrastructure Grant Application for Crozet Elementary School area.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution to apply for a Safe Routes to School Infrastructure Grant. 	<p><u>Clerk:</u> Forward signed resolution to Juan Wade, David Benish, Mark Graham, and County Attorney’s office. (Attachment 4)</p>
<p>7.3 Adoption of Charlottesville-UVA-Albemarle Emergency Operations Plan.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<p><u>Clerk:</u> Forward signed resolution to Tom Hanson, Marge Thomas and County Attorney’s Office. (Attachment 5)</p>
<p>7.4 Resolution - Acceptance of FY 2008-09 landowners’ offers to sell conservation easements.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Resolution accepting’ the offers of the approved FY 2008-09 applicants (McDaniel, E.N. Garnett, M. Hudson, Magerfield, and C. Hudson) to sell conservation easements to the County, for the prices specified and subject to the terms and conditions contained in the deeds of easement, and AUTHORIZED the County Executive to sign the final deed of easement in a form acceptable to the County Attorney for each property. 	<p><u>Clerk:</u> Forward signed resolution to David Benish, Wayne Cilimberg, Ches Goodal, and County Attorney’s office. (Attachment 6)</p>
<p>7.5 Resolution – Urban Development Area (UDA) Certification for Albemarle County Comprehensive Plan with Section 15.2-2223 of the Virginia Code. (Removed from agenda.)</p>	
<p>7.6 Resolution to accept the addition and discontinuance of a portion of Route 20 (Scottsville Road), VDOT Project #0020-002-126,C501,B-608.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<p><u>Clerk:</u> Forward signed copy of Resolution and AM-4.3 form to County Engineer. (Attachment 7)</p>
<p>7.7 Resolution - Free State Road.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<p><u>Clerk:</u> Forward signed copy of resolution to VDOT, Mark Graham, and the County Attorney’ Office.</p>

		(Attachment 8)
7.8	Resolutions of intent to amend the Subdivision and Zoning Ordinances to allow for the subdivision of existing parcels with multiple dwellings on them. <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Resolutions of Intent to amend the Subdivision and Zoning Ordinances. 	<u>Clerk</u> : Forward signed copies of resolutions to Bill Fritz, Mark Graham, Wayne Cilimberg, and the County Attorney's office. (Attachments 9 & 10)
7.9	FY 2010 Appropriations. <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, the budget amendment in the amount of \$41,081.00. • APPROVED appropriations #2010050, #2010051, and #2010052. 	<u>Clerk</u> : Forward copy of signed appropriation forms to Finance, OMB and appropriate individuals.
7.10	Resolution authorizing County Executive's execution of contract to purchase property necessary for construction of the Downtown Crozet Stormwater Management project. <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Resolution to approve the proposed Sales Contract dated September 30, 2009 between the Moyer Family Trust and the County and AUTHORIZED the County Executive to execute the proposed Sales Contract, deed, and any other documents, as approved by the County Attorney, necessary to purchase and accept the property on behalf of the County. 	<u>Clerk</u> : Forward signed resolution to George Shadman, Greg Harper, and County Attorney's office. (Attachment 11)
7.11	Resolution to accept road(s) in Bending Branch Subdivision into the Secondary System of State Highways. <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<u>Clerk</u> : Forward signed copy of Resolution and AM-4.3 form to County Engineer. (Attachment 12)
7.12	Resolution to accept road(s) in Wayland's Grant Subdivision into the Secondary System of State Highways. <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<u>Clerk</u> : Forward signed copy of Resolution and AM-4.3 form to County Engineer. (Attachment 13)
7.13	Resolution to accept road(s) in Red Hill Meadows Subdivision into the Secondary System of State Highways. <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<u>Clerk</u> : Forward signed copy of Resolution and AM-4.3 form to County Engineer. (Attachment 14)
8.	Public Hearing: <u>Ordinance Approving U.S. Route 29 and Hydraulic Road Official Map.</u> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the Official Map and Ordinance. 	<u>Clerk</u> : Forward signed copy of Ordinance to David Benish, Jack Kelsey, and County Attorney's office. (Attachment 15)
9.	Public Hearing: <u>Proposal to amend the Albemarle County Service Authority Jurisdictional Area to designate properties within the Piney Mountain Development Area for water and sewer service consistent with the Albemarle Comprehensive Plan.</u> <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, an amendment to the ACSA Jurisdictional Area to include Tax Map 32, Parcels 5C, 5C1, 5C2; Tax Map 33, Parcels 1A, 1D, 1D1, 1G, and that separate western portion of Parcel 14 located within the Development Area for "Water and Sewer" service, and Tax Map 33, Parcel 1 for "Water and Sewer service only for the portion of the 	<u>David Benish</u> : Proceed as approved.

<p>property zoned PRD as of 12/2/09.”</p>	
<p>10. Public Hearing: <u>ZTA-2009-015. Nonconforming Lots.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached ordinance. 	<p>Clerk: Forward signed copy of Ordinance to Amelia McCulley, Francis MacCall, and County Attorney’s office. (Attachment 16)</p>
<p>11. Public Hearing: <u>09-03() – Agricultural and Forestal Districts.</u></p> <ul style="list-style-type: none"> • <u>AFD-2009-3; 09-55; 09-59; 09-60. Sugar Hollow AFD – District review and additions.</u> • <u>AFD-2009-4; 09-62; 09-67. Chalk Mountain AFD – District review and additions.</u> • <u>AFD-2009-5; 9-18; 09-44; 09-47. Jacob’s Run AFD – District review and additions.</u> • <u>AFD-2009-34; 09-48. Batesville AFD – District additions.</u> • <u>AFD-2009-27; 09-45; 09-65. Blue Run AFD – District additions.</u> • <u>AFD-2009-25; 09-57. Buck Mountain AFD – District additions.</u> • <u>AFD-2009-20; 09-29; 09-40; 09-53; 09-66; 09-71; 09-73. Buck’s Elbow Mountain AFD – Creation of district.</u> • <u>AFD-2009-11; 09-12; 09-37; 09-46; 09-50; 09-51; 09-52; 09-64. Carter’s Bridge AFD – District additions.</u> • <u>AFD-2009-36; 09-69; 09-70. Eastham AFD – District additions.</u> • <u>AFD-2009-43. Fox Mountain AFD – Creation of district.</u> • <u>AFD-2009-23; 09-26; 09-38; 09-41. Free Union AFD – District additions.</u> • <u>AFD-2009-39. Hardware AFD – District additions.</u> • <u>AFD-2009-56. High Mowing AFD – District additions.</u> • <u>AFD-2009-63. Ivy Creek AFD – District additions.</u> • <u>AFD-2009-28; 09-49. Keswick AFD – District additions.</u> • <u>AFD-2009-16; 09-17; 09-54. Kinloch AFD – District additions.</u> (Public hearing deferred to December 9, 2009) • <u>AFD-2009-22; 09-24; 09-42; 09-58. Lanark AFD – District additions.</u> • <u>AFD-2009-08; 09-09; 09-10; 09-35; 09-61; 09-68; 09-74. Moorman’s River AFD – District additions.</u> • <u>AFD-2009-13; 09-14; 09-15; 09-30. South Garden AFD – District additions.</u> • <u>AFD-2009-06; 09-07; 09-21; 09-72. Yellow Mountain AFD – District additions.</u> • ADOPTED, by a vote of 6:0, the attached ordinance amending Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the County Code to establish the next review 	<p>Clerk: Forward signed copy of Ordinance to Mark Graham, Wayne Cilimberg, Eryn Brennan, and County Attorney’s office. (Attachment 17)</p>

<p>periods and to revise the parcels within those districts under review, to revise the parcels within those districts for which additions were requested, and to establish the new districts. The ordinance will continue the Chalk Mountain, Jacob's Run and Sugar Hollow Agricultural and Forestal Districts for additional 10-year periods, authorize the addition of parcels to the Batesville, Blue Run, Buck Mountain, Carter's Bridge, Eastham, Free Union, Hardware, High Mowing, Ivy Creek, Keswick, Lanark, Moorman's River, South Garden, and Yellow Mountain Agricultural and Forestal Districts, and establish the Buck's Elbow Mountain and Fox Mountain Agricultural and Forestal Districts.</p>	
<p>12. Establish Emergency Medical Services (EMS) Cost Recovery Billing Rates.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution. 	<p><u>Clerk</u>: Forward copy of signed resolution to Dan Eggleston and County Attorney's office. (Attachment 18)</p>
<p>13. Work Session: Five Year Financial Plan.</p> <ul style="list-style-type: none"> • APPROVED, by a vote of 5:1 (Boyd), the County's Five-Year Financial Plan as presented. 	<p><u>County Executive and OMB staff</u>: Proceed as approved.</p>
<p>14. Closed Meeting.</p> <ul style="list-style-type: none"> • At 12:07 p.m., the Board went into Closed Meeting to consider appointments to boards, committees, and commissions, to consider specific legal matters requiring legal advice regarding a contract for services provided by the City of Charlottesville, and to consider a matter of probable litigation regarding a claim arising from an accident at a County recreational facility. 	
<p>15. Certify Closed Meeting.</p> <ul style="list-style-type: none"> • At 2:00 p.m., the Board reconvened into open session and certified the closed meeting. 	
<p>16. Appointments: Boards and Commissions.</p> <ul style="list-style-type: none"> • APPOINTED Don Franco to the Fiscal Impact Advisory Committee, as the Planning Commission representative, with said term to expire December 31, 2009. • APPOINTED Bill Kehoe as the joint City/County appointee to the Joint Airport Commission and Airport Authority Board, with said term to expire December 1, 2012. • APPOINTED Christopher Dumler to the Natural Heritage Committee, with said term to expire September 30, 2013. • APPOINTED Randall Switz to the Route 250 West Task Force, with term to expire September 5, 2012. • REAPPOINTED Joseph Samuels and Ross Stevens to the ACE Appraisal Review Committee, with said terms to expire December 31, 2010. • REAPPOINTED Paul Beyer, Drew Holzwarth and Ida Simmons to the Housing Committee, with said terms to expire December 31, 2012. • REAPPOINTED David Emmitt and Hamilton 	<p><u>Clerk</u>: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>

<p>Moses to the Public Recreational Facilities Authority, with said terms to expire December 13, 2012.</p> <ul style="list-style-type: none"> • REAPPOINTED Jeffery Greer as the joint City/County appointee to the Rivanna Solid Waste Authority Advisory Committee, with said term to expire on December 31, 2010. 	
<p>NonAgenda.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached resolution denying claim asserted by Violet Seabolt. • ADOPTED, by a vote of 6:0, the attached resolution approving an amendment of the Fire Services agreement between the City of Charlottesville and Albemarle County. • ADOPTED, by a vote of 5:0:1(Boyd abstained), the attached Equal Rights Amendment (ERA) resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 19)</p> <p><u>Clerk:</u> Forward copy of signed resolution to County Executive's office and County Attorney's office. (Attachment 20)</p> <p><u>Clerk:</u> Forward copy of signed resolution to County legislative representatives and Governor. (Attachment 21)</p>
<p>17a. VDOT Monthly Report. Allan Sumpter provided the following additional updates:</p> <ul style="list-style-type: none"> • Summarized monthly report. • Provided additional update on Jarmans Gap Road. Currently looking at approximately \$900,000 shortfall to take the project to construction. VDoT is continuing with right-of-way phase. The project impacted monies are in the out-year funds (2011-2015) so all previous monies are intact. They will need to address this \$900,000 before going to the construction phase. VDoT is looking to see if anything can be done in terms of easements, etc., to help lower the project cost. He added that between now and the February 2011 scheduled advertisement date, there will be some updates to the estimates which will hopefully be favorable to the project. Mr. Rooker commented that the current bidding climate is favorable for putting the project out to bid suggesting that the bid may even come in lower than the projected shortfall. Mr. Sumpter stated that VDoT policy requires them to show that a project is fully funded at the year of completion before it can go to bid. • Announced that the Route 795 bridge over the Hardware River, Blenheim Road, has been reduced from five tons to three tons. VDoT will be doing some repairs to the structures but do not think the weight limit will be raised back up. 	<p><u>Clerk:</u> Forward comments to Sue Kennedy and Allan Sumpter.</p>
<p>17c. Transportation Matters not Listed on the Agenda. <u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Asked for an update on the idea of rumble strips on Earlysville Road. Mr. Sumpter replied that VDoT will not put the rumble strips on Earlysville Road at this time. Did put the rumble affect on the stop ahead coming in. VDoT wants to monitor the situation, make some changes in the sizes of the signs. The Police Department 	

<p>has indicated they will continue enforcement.</p> <ul style="list-style-type: none"> • There are problems with the traffic signal at Western Albemarle High School is at 8:00 a.m. When school buses come in, traffic backs up for miles in both directions because only two to three cars can go through the intersection at a time. <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> • As you are heading east on Rio Road, right after Old Brook Road is the light Hillsdale/Northfields Roads; the timing sequence is off such that at the beginning of the light at Northfields is a left turn arrow that nobody can take advantage of. By the time drivers get to Northfields the turn arrow is gone and the light stays green heading east longer than it does heading west. Suggested meeting at the light with Mr. Sumpter to look at the problem. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> • Asked the status of the safety speed analysis on Owensville Road. Mr. Sumpter said VDoT is still looking at that location. They have not been able to find anything obvious that can be changed. • Asked about a message sign she saw as you come into Albemarle County on I-64 from Richmond. She thought it was very useful. Mr. Sumpter said VDoT has some portable boards that are stationed in various locations that are access controlled by their Regional Operations Center. Ultimately they hope to install some more permanent boards throughout Route 29 and I-64 that will be somewhat larger and serve the same purpose. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Asked about the status of speed signs on Stony Point Pass. Mr. Sumpter said he had asked their Sign Foreman to install signs on the gravel portion. He will confirm that it has been done. <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> • About five miles west on Route 6, after the intersection of Route 20 and Route 6, near the rescue squad building, he asked if the speed limit can be reduced from 55 mph to 45 mph. Residents who live in that area have a difficult time getting out onto Route 6. Mr. Sumpter said VDoT looked at that area several months ago and it did not meet the criteria to justify reducing the speed limit. He will look at it again and respond back. 	
<p>17b. Hatton Ferry - Acceptance of donation from VDOT and transfer to nonprofit entity.</p> <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, to authorize the County Executive to take what action is necessary to accept and transfer ownership of the Hatton Ferry contingent on the following conditions: <ol style="list-style-type: none"> 1. The Albemarle Charlottesville Historical 	<p><u>County Attorney's Office/Parks and Rec:</u> Proceed as approved.</p>

	<p>Society or another qualifying not-for-profit entity agrees to accept immediate ownership of the Ferry upon transfer of the Ferry to the County from VDoT.</p> <p>2. The appropriate documents allowing for the County's acceptance of the Ferry and guaranteeing the immediate transfer of ownership from the County and acceptance by the not-for-profit entity are prepared and are acceptable to the County Attorney.</p>	
18.	<p>Public Hearing: ZTA-2009-017. Fees.</p> <ul style="list-style-type: none"> • DEFERRED ZTA-2009-017, by a vote of 6:0, to February 3, 2009. 	<u>Clerk:</u> Schedule on February 3 agenda.
19.	<p>Public Hearing: 09-07() – Health and Safety.</p> <ul style="list-style-type: none"> • ADOPTED Ord. No. 09-07(3), by a vote of 6:0. 	<u>Clerk:</u> Forward copy of adopted ordinance to County Attorney's office and Police Department (Attachment 22)
20.	<p>From the Board: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 	
	<p>At 4:06 p.m., the Board recessed and reconvened in Room 241 – Joint Meeting with School Board.</p>	
21.	<p>Call to Order</p> <ul style="list-style-type: none"> • The meeting was called back to order at 4:11 p.m. 	
22.	<p>Capital Improvements Program (CIP) Oversight Committee Recommendations.</p> <ul style="list-style-type: none"> • RECEIVED. 	
23.	<p>Proposed Voluntary Early Retirement Incentive Plan (VERIP) Amendments.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Resolution to amend Personnel Policy P-63, Retirement to phase out the VERIP stipend and to revise the service requirements for retirees on group medical and dental plans. 	<u>Clerk:</u> Forward copy of adopted resolution to Human Resources and County Attorney's office. (Attachment 23)
24.	<p>FY 2010-11 Budget Issues:</p> <ol style="list-style-type: none"> Financial Forecast Compensation Health Care Premiums <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, staff's recommendation for no scale adjustment, merit increase or teacher increase due to the current economic and market conditions and the projected revenue shortfalls; and APPROVED applying a portion of the Health Care Reserve Fund to offset some of the increase in medical plan costs (the projected cost increase in medical is anticipated at 8%). 	
25.	<p>From the Boards: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 	
24.	<p>Adjourn.</p> <ul style="list-style-type: none"> • The meeting was adjourned at 6:21 p.m. 	

ewj/mrh

Attachment 1 – Proclamation in Support of Census 2010
Attachment 2 – Resolution of Support Opposing Increases in Truck Weights and Lengths

Attachment 3 – Resolution of Intent – definition of “Family”
Attachment 4 – Resolution of Support for the Safe Routes to School Infrastructure Grant Application
Attachment 5 – Resolution to Approve Charlottesville-UVA-Albemarle Emergency Operations Plan
Attachment 6 – Resolution Accepting Offer to Sell A Conservation Easement Under the ACE Program
Attachment 7 – Resolution – Scottsville Road
Attachment 8 – Resolution – Free State Road
Attachment 9 – STA Resolution of Intent
Attachment 10 – ZTA Resolution of Intent
Attachment 11 – Resolution to Authorize Acquisition of Property – Downtown Crozet
Attachment 12 – Resolution – Bending Branch Subdivision
Attachment 13 – Resolution – Wayland’s Grant Subdivision
Attachment 14 – Resolution – Red Hill Meadows Subdivision
Attachment 15 – Ordinance No. 09-A(1) – Ordinance Approving US Route 29 and Hydraulic Road Official Map
Attachment 16 – Ordinance No. 09-18(10) – Nonconforming Lots
Attachment 17 – Ordinance No. 09-03(4) – Agricultural and Forestal Districts
Attachment 18 – Resolution – To Establish a Schedule of Fees for Emergency Medical Services Vehicle
Transportation Services
Attachment 19 – Resolution to Deny Claim Asserted by Violet Seabolt
Attachment 20 – Resolution Approving Amendment of the Fire Services Agreement
Attachment 21 – Equal Rights Amendment (ERA) Resolution
Attachment 22 – Ordinance No. 09-07(3) – Health and Safety
Attachment 23 – Resolution – Amendment to Personnel Policy P-63, Retirement

**PROCLAMATION
IN SUPPORT OF CENSUS 2010**

WHEREAS, the decennial Census serves as the basis for the reapportionment of seats in the U.S. House of Representatives, and the redrawing of legislative district boundaries in the Virginia General Assembly and is the foremost method of gathering information about our nation and our community; and

WHEREAS, census population totals are used to determine the annual distribution of billions of dollars in federal, state and local funds for major programs in areas such as transportation, education, community and health services, and housing; and

WHEREAS, the Census is also used to help determine where to locate roads, schools, day care centers, senior citizen centers, libraries and other facilities and is used to make decisions concerning business growth and jobs; and

WHEREAS, the Census reaches every population group from long time residents to the most recent immigrants, every age group from newborn to centenarian and every social class, racial and ethnic group; and

WHEREAS, the County of Albemarle has a significant interest in working with regional entities and community partners in ensuring a full and accurate count for the upcoming Census 2010;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors, on behalf of all the residents of Albemarle County, does hereby endorse the formation of a regional Complete County Committee in partnership with the City of Charlottesville charged with working with community and business organizations, the faith community, and organizations serving our diverse ethnic, racial, and cultural population to encourage full participation in the 2010 Census.

**RESOLUTION OF SUPPORT
OPPOSING INCREASES IN TRUCK WEIGHTS AND LENGTHS**

WHEREAS, the Albemarle County Board of Supervisors is concerned for the health, welfare and safety of the residents of the County of Albemarle and the City of Charlottesville and the conditions of its infrastructure; and

WHEREAS, the Board of Supervisors is concerned that attempts are being made at the federal level to increase the size, weight and allowable number of trailers beyond the capacity of existing road infrastructure; and

WHEREAS, bigger and heavier trucks cause greater acceleration of the deterioration of our roads and bridges putting further pressure on local taxpayers to fund regional infrastructure; and

WHEREAS, the investments in our County, City, State and Federal road systems have not kept up with increased traffic levels; current funding for roads and bridges across all government levels in the state is inadequate; and investments by local governments have been curbed by cuts in local government aide, municipal state aide, county state aide and a shrinking state truck highway fund; and

WHEREAS, the Board of Supervisors strongly opposes all legislation that attempts to shift costs and liability of private businesses on to local governments and threatens the general safety of those who live in Albemarle County;

NOW, THEREFORE BE IT RESOLVED, that the Albemarle County Board of Supervisors endorses HR 1618 the Safe Highways and Infrastructure Preservation Act and opposes any legislation increasing truck and weight size beyond the capacity of our road systems and putting our roads and bridges at risk of increased damage or deterioration.

RESOLUTION OF INTENT

WHEREAS, the current definition of “family” in the Albemarle County Zoning Ordinance has two meanings depending on the zoning district to which it is applied, and these varied meanings allow a dwelling unit to be more intensely occupied within some zoning districts than in others; and

WHEREAS, the impacts resulting from a family’s occupation of a dwelling unit are generally the same in all zoning districts; and

WHEREAS, it is desired to amend the Zoning Ordinance’s definition of “family” to establish a single meaning applicable to all zoning districts.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance § 3.1 and any other sections of the Zoning Ordinance determined to be 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 SUPPORT
FOR THE SAFE ROUTES TO SCHOOL INFRASTRUCTURE GRANT APPLICATION**

WHEREAS, the County of Albemarle supports the goals of the Safe Routes To School to enable and encourage children, including those with disabilities, to walk and bicycle to school, to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age, and to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors supports the Safe Routes to School Infrastructure application for Crozet Elementary School in 2009; and

BE IT FURTHER RESOLVED that the Board of Supervisors acknowledges that this is a locally-administered reimbursement project; and

BE IT FURTHER RESOLVED that the County Executive is authorized to enter into a legal agreement with the Virginia Department of Transportation on behalf of the County of Albemarle once that agreement is approved as to form by the County Attorney's Office.

**RESOLUTION TO APPROVE CHARLOTTESVILLE-UVA-ALBEMARLE
EMERGENCY OPERATIONS PLAN**

WHEREAS, the Commonwealth of Virginia Emergency Services and Disaster Law of 2000 requires that local governments develop and maintain a current Emergency Operations Plan (“EOP”); and

WHEREAS, Virginia Code § 44-146.19(E), as amended effective July 1, 2007, requires that each EOP be reviewed and updated every four years; and

WHEREAS, the City of Charlottesville, the University of Virginia, and the County of Albemarle have jointly reviewed and updated their joint EOP; and

WHEREAS, the Charlottesville-UVA-Albemarle Emergency Operations Plan, attached hereto, is found to be current and consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby adopts the attached Charlottesville-UVA-Albemarle Emergency Operations Plan and certifies that it is current and consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000.

**RESOLUTION ACCEPTING OFFER TO SELL
A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

WHEREAS, the County has received an offer to sell a conservation easement under the ACE Program from the owner(s) of the following properties:

McDaniel, James (Scottsville)	TM 135, Parcel 15A	(0.902 acres)
	TM 135, Parcel 18	(24.371 acres)
	TM 135, Parcel 19 "A"	(87.481 acres)
	TM 135, Parcel 19 "B"	(24.785 acres)
	<u>TM 135, Parcel 22</u>	<u>(39.720 acres)</u>
	Total	(177.259 acres)
Garnett, E.N. (North Garden)	TM 73, Parcel 25	(113.000 acres)
Hudson, Michael (North Garden)	TM 100, Parcel 1	(217.140 acres)
Sarah Magerfield (North Garden)	TM 73, Parcel 42	(38.000 acres)
	<u>TM 73, Parcel 42A</u>	<u>(70.860 acres)</u>
	Total	(108.860 acres)
Charles P. Hudson (Walnut Creek)	TM 100, Parcel 20B	(55.997 acres)
	<u>TM 100, Parcel 21</u>	<u>(68.990 acres)</u>
	Total	(124.987 acres)

WHEREAS, the owner(s) offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County's invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner; and

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby accepts the offer to sell a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

The Board of County Supervisors of Albemarle County, Virginia, in a regular meeting on the 2nd day of December, 2009, adopted the following:

R E S O L U T I O N

WHEREAS, the Virginia Department of Transportation has provided the Board of County Supervisors of Albemarle County, Virginia, with Form AM-4.3 dated December 2, 2009, depicting the additions, discontinuances and abandonments required in the secondary system of state highways; and

WHEREAS, the portions of Route 20 (Scottsville Road) identified to be discontinued is deemed to no longer serve public convenience warranting maintenance at public expense; and

WHEREAS, the new road serves the same citizens as those portions of old road identified to be abandoned and those segments no longer serve a public need;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors abandons as part of the secondary system of state highways those portions of Route 20 (Scottsville Road), identified as from the intersection of Route 627 (Carters Mountain Road) to .06 of a mile south, for a length of 0.06 miles, and Route 627 (Carters Mountain Road), identified as from the intersection of Route 20 (Scottsville Road) to .01 of a mile north, for a length of 0.01 miles, pursuant to Section 33.1-150, of the Code of Virginia; and

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby requests the Virginia Department of Transportation to add to the secondary system of state highways those portions of Route 20 (Scottsville Road) identified as from the intersection of Route 627 (Carters Mountain Road) to .09 of a mile south, for a length of 0.09 miles, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County, in Deed Book 2200, pages 463, and Deed Book 2205, pages 98 and 207, with a 35-foot variable right-of-way width, for a length of 0.09 miles, pursuant to Section 33.1-229, of the Code of Virginia; and

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

**RESOLUTION
FREE STATE ROAD**

Whereas, the Free State Road bridge (Route 651) over the Norfolk Southern Railroad provides an important vehicular, pedestrian and bicycle connection/linkage of neighborhoods to community facilities, including the Fairview Swim and Tennis Club, future SOCA soccer field complex, various churches in the area, and other future office/service areas that serve the immediate neighborhoods; and

Whereas, the Free State Road bridge provides a connection for the developing and existing neighborhoods to Rio Road and Route 29; and

Whereas, the interconnection reduces demands and impacts on the capacity/level of service and safety of Rio Road, which in 2008 carried 27,000 vehicle trips per day; and

Whereas, maintaining this connection is consistent with goals and recommendations of both the County's Comprehensive Plan and the UnJAM 2035 Regional Transportation Plan for the Charlottesville region, both of which recommend establishing an interconnected land use pattern and road network and a multimodal transportation network.

Now, Therefore, Be It Resolved that the Albemarle County Board of Supervisors does hereby request that the Virginia Department of Transportation maintain this section of Free State Road, including the bridge over the Norfolk Southern Railroad, as a public road and part of the State Secondary System.

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

RESOLUTION OF INTENT

WHEREAS, the Zoning Ordinance allows multiple dwellings to be established on a single parcel in various circumstances; and

WHEREAS, the owner of such a parcel may need or desire to subdivide the parcel in the future and one of the current requirements in order to subdivide such a parcel is that the existing travelway exist as or be improved to a public or private street standard and the proposed lots must have public street frontage, be served by an approved private street, and/or the owner must obtain VDOT approval of the entrance of the street or travelway onto an existing state road; and

WHEREAS, the ownership or easement interests in a travelway that would have to be approved as a public or private street under the Subdivision Ordinance, or to obtain VDOT approval of the entrance onto an existing state road, may be beyond the subdivider's control; and

WHEREAS, in order to reconcile the Zoning Ordinance allowing multiple dwellings on a single parcel and the possibility that an owner may not be able subdivide such a parcel, it is desired to allow the subdivision of existing parcels on which there are multiple dwellings without requiring the proposed lots to have public street frontage, a private street approval, or VDOT approval of the entrance of the access easement onto a state road.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good land development practices, the Board of Supervisors hereby adopts a resolution of intent to amend Albemarle County Code §§ 14-316, 14-400, 14-403, 14-404 and any other sections of the Subdivision 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 subdivision 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, the Zoning Ordinance allows multiple dwellings to be established on a single parcel in various circumstances; and

WHEREAS, the owner of such a parcel may need or desire to subdivide the parcel in the future and one of the current requirements in order to subdivide such a parcel is that the existing travelway exist as or be improved to a public or private street standard and the proposed lots must have public street frontage, be served by an approved private street, and/or the owner must obtain VDOT approval of the entrance of the street or travelway onto an existing state road; and

WHEREAS, the ownership or easement interests in a travelway that would have to be approved as a public or private street under the Subdivision Ordinance, or to obtain VDOT approval of the entrance onto an existing state road, may be beyond the subdivider's control; and

WHEREAS, in order to reconcile the Zoning Ordinance allowing multiple dwellings on a single parcel and the possibility that an owner may not be able subdivide such a parcel, it is desired to allow the subdivision of existing parcels on which there are multiple dwellings without requiring the proposed lots to have public street frontage, a private street approval, or VDOT approval of the entrance of the access easement onto a state road; and

WHEREAS, in order to eliminate the future possibility of an owner establishing multiple dwellings on a parcel without the ability to subdivide the parcel for the reasons stated hereinabove, it also is desired to amend the Zoning Ordinance to allow only one dwelling per parcel unless the parcel has public street frontage upon and after a date to be established in the ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Albemarle County Code §§ 18-4.6.1, 18-4.6.6, 18-10.2.1, 18-10.3 and any other sections of the Zoning Ordinance deemed to be 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 TO AUTHORIZE
ACQUISITION OF PROPERTY**

WHEREAS, the County of Albemarle desires to acquire certain property within the County in the community of Crozet for the purpose of providing stormwater management facilities and other public improvements; and

WHEREAS, an agreement for the acquisition of such property owned by Richard W. Moyer, Catharine F. Moyer Williams, and Edward Ross Moyer, Trustees under the Joanne L.G. Moyer Family Trust, identified as Parcel ID 05600-00-00-01100 in Crozet, has been negotiated.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute the Sales Contract dated September 30, 2009 between the County and Richard W. Moyer, Catharine F. Moyer Williams, and Edward Ross Moyer, Trustees under the Joanne L.G. Moyer Family Trust, for the purchase of approximately 5.51 acres of property, identified as Albemarle County Parcel ID 05600-00-00-01100, and authorizes the County Executive to execute the deed and all other documents approved by the County Attorney necessary to purchase and accept the property on behalf of the County upon a determination that all the contingencies in the Sales Contract have been satisfied.

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 2nd day of December 2009, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Bending Branch Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Bending Branch**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

The road(s) described on Additions Form AM-4.3 is:

- 1) **Bending Branch (State Route 1357)** from the intersection of Route 1350 (Still Meadows Road) to cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3327, page 386, with a 50-foot right-of-way width, for a length of 0.16 miles.

Total Mileage – 0.16

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 2nd day of December 2009, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Wayland's Grant Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Wayland's Grant**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

The road(s) described on Additions Form AM-4.3 is:

- 1) **Wayland's Grant Drive (State Route 1393)** from the intersection of Route 691 (Jarmans Gap Road) to the intersection of Route 1394 (Freedom Boulevard), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 60-foot right-of-way width, for a length of 0.05 miles.
- 2) **Freedom Boulevard (State Route 1394)** from the intersection of Route 1393 (Wayland's Grant Drive) to the intersection of Route 1394 (Edmond Drive), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 44-foot right-of-way width, for a length of 0.05 miles.
- 3) **Freedom Boulevard (State Route 1394)** from the intersection of Route 1393 (Wayland's Grant Drive) to the intersection of Route 1394 (Clay Drive), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 44-foot right-of-way width, for a length of 0.05 miles.
- 4) **Clay Drive (State Route 1394)** from the intersection of Route 1394 (Freedom Boulevard) to the intersection of Route 1383 (Laura Lane), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.04 miles.
- 5) **Clay Drive (State Route 1394)** from the intersection of Route 1383 (Laura Lane), to the intersection of Route 1394 (Edmond Drive), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.14 miles.

- 6) **Edmond Drive (State Route 1394)** from the intersection of Route 1394 (Clay Drive) to the intersection of Route 1383 (Laura Lane), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.06 miles.
- 7) **Edmond Drive (State Route 1394)** from the intersection of Route 1383 (Laura Lane), to the intersection of Route 1394 (Freedom Boulevard), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.04 miles.
- 8) **Laura Lane (State Route 1383)** from the intersection of Route 1394 (Edmond Drive) to the intersection of Route 1394 (Clay Drive), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.09 miles.
- 9) **Laura Lane (State Route 1383)** from the intersection of Route 1394 (Edmond Drive) to the existing end of State maintenance as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 50-foot right-of-way width, for a length of 0.02 miles.

Total Mileage – 0.54

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 2nd day of December 2009, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Red Hill Meadows Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Red Hill Meadows**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

The road(s) described on Additions Form AM-4.3 is:

- 1) **Via Creek Drive (State Route 1047)** from the intersection of Route 708 (Red Hill Road) to cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2249, pages 388-395, with a 50-foot right-of-way width, for a length of 0.17 miles.

Total Mileage – 0.17

ORDINANCE NO. 09-A(1)

AN ORDINANCE TO APPROVE AN OFFICIAL MAP PURSUANT TO VIRGINIA CODE § 15.2-2233 ET SEQ. FOR A SEGMENT OF U.S. ROUTE 29 ABUTTING COUNTY TAX MAP AND PARCEL NUMBERS 61W-3-19B, 61W-3-24 AND 61W-3-25, AND A SEGMENT OF HYDRAULIC ROAD ABUTTING COUNTY TAX MAP AND PARCEL NUMBERS 61W-3-23, 61W-3-24 AND 61W-3-25

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that, pursuant to the authority contained in Virginia Code § 15.2-2233 *et seq.*, the attached map entitled "Plat Showing Future Right of Way for a Single Point Urban Interchange Across TMP 61W-3-19B, 23, 24 and 25 and a Temporary 24' Easement for Ingress/Egress Across TMP 61W-3-19A and 19B as Shown Hereon, Rio Magisterial District, Albemarle Co., Virginia, March 2, 2009," prepared by Kirk Hughes & Associates, which depicts the respective locations, centerlines, existing right-of-way widths, and future rights-of-way widths of the legally established segment of U.S. Route 29 abutting County Tax Map and Parcel Numbers 61W-3-19B, 61W-3-24 and 61W-3-25, and the legally established segment of Hydraulic Road abutting County Tax Map and Parcel Numbers 61W-3-23, 61W-3-24 and 61W-3-25, is hereby approved as an official map.

This ordinance shall be effective immediately.

ORDINANCE NO. 09-18(10)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article II, Basic Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 6.4 Nonconforming lots

By Amending and Renaming:

- Sec. 2.1.4 Reduction of lots or areas below minimum prohibited

Chapter 18. Zoning

Article I. General Provisions

Sec. 2.1.4 Reduction of lots below minimum prohibited

The size, frontage and width of any lot of record existing on the effective date of this chapter shall not be reduced below the minimum requirements of the zoning district in which the lot is located and section 4 of this chapter except as the result of the dedication of land to public use or the exercise of eminent domain by a public entity. Any lot created after the effective date of this chapter shall satisfy at least the minimum requirements of this chapter, except for lots created for use by a public entity to the extent that the public use may be justifiable under the powers of eminent domain. (Amended 9-9-92)

Sec. 3.1 Definitions

...

Nonconforming lot: The term “nonconforming lot” means a lawful lot of record existing on the effective date of the zoning regulations applicable to the district in which the lot is located, that does not comply with section 4 of this chapter and the minimum applicable size, frontage, width, building site or other lot requirements of that zoning district. (Added 6-14-00)

...

Article II. Basic Regulations

Sec. 6.4 Nonconforming lots

A nonconforming lot may continue, subject to the provisions, conditions and prohibitions set forth herein.

A. *Uses allowed on a nonconforming lot.* A nonconforming lot may be used as though it satisfies the zoning regulation that makes it nonconforming, provided that:

1. The use is either a nonconforming use or is a use that complies with the zoning regulations applicable to the district in which the lot is located; and

2. The zoning administrator determines that the lot may be occupied consistently with the public health, safety and general welfare.

B. *Subdivision that includes a nonconforming lot.* A nonconforming lot may be subdivided as part of a subdivision provided that all of the resulting lots comply with the requirements of the zoning district in which they are located and all other applicable requirements of the Albemarle County Code.

C. *Combination of a nonconforming lot with another lot.* A nonconforming lot may be combined with a conforming lot or a nonconforming lot provided the size, area or frontage of the resulting lot is increased to make it conforming or not more nonconforming.

D. *Boundary line adjustment between a nonconforming lot and a conforming lot.* One or more boundary lines between a nonconforming lot and a conforming lot may be adjusted provided:

1. The boundary line adjustment does not make the conforming lot nonconforming or the nonconforming lot more nonconforming; and

2. If the lots are in the rural areas zoning district, the boundary line adjustment does not result in an increase in the number of lots or dwelling units that could otherwise be established on each lot.

E. *Boundary line adjustment between nonconforming lots.* One or more boundary lines between two or more nonconforming lots may be adjusted provided:

1. The boundary line adjustment does not make either nonconforming lot more nonconforming; and

2. If the lots are in the rural areas zoning district, the boundary line adjustment does not result in an increase in the number of lots or dwelling units that could otherwise be established on each lot.

F. *Subdivision, combination, or adjustment of boundary line of nonconforming lot used by country store.* A nonconforming lot may be subdivided, combined with any other lot, or have one or more of its boundary lines adjusted provided: (i) the resulting lot or lots serve a country store, Class A or B; (ii) the subdivision, combination or boundary line adjustment is required to allow the country store use to meet the requirements of the Virginia Department of Health; (iii) the location of all structures on the resulting lot or lots will not become nonconforming or more nonconforming; (iv) the size of the resulting lot or lots will not become more nonconforming.

G. *Change to nonconforming lot resulting from public dedication or eminent domain.* The area of a nonconforming lot may be reduced by the dedication of land for public use or by the exercise of eminent domain.

H. *Setbacks applicable to a nonconforming lot.* The current front, rear and side yard minimum setbacks applicable to the district in which the lot is located shall apply to a nonconforming lot; provided, that, if any such setback is thereafter reduced as a result of an amendment to the setbacks applicable to the district in which the lot is located, and is in effect when an existing structure is extended or enlarged, then that reduced setback shall apply.

I. *Effect of change of ownership.* A change of the ownership or occupancy of a nonconforming lot shall not affect the status of the nonconforming lot.

(§§ 20-6.1.1, 6.1.2, 6.5.1, 6.5.2, 6.5.4, 12-10-80, 4-15-81, 9-21-88, 6-14-89, 9-9-92; § 18-6.4, Ord. 98-A(1), 8-5-98; Ord. 00-18(4), 6-14-00; Ord. 08-18(7), 11-12-08; Ord. 09-18(10), 12-2-09)

State law reference – Va. Code § 15.2-2307.

ORDINANCE NO. 09-03(4)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, 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, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

3-207	Batesville Agricultural and Forestal District
3-208	Blue Run Agricultural and Forestal District
3-209	Buck Mountain Agricultural and Forestal District
3-210	Carter's Bridge Agricultural and Forestal District
3-211	Chalk Mountain Agricultural and Forestal District
3-212	Eastham Agricultural and Forestal District
3-213	Free Union Agricultural and Forestal District
3-214	Hardware Agricultural and Forestal District
3-216	High Mowing Agricultural and Forestal District
3-217	Ivy Creek Agricultural and Forestal District
3-218	Jacobs Run Agricultural and Forestal District
3-219	Keswick Agricultural and Forestal District
3-221	Lanark Agricultural and Forestal District
3-222	Moorman's River Agricultural and Forestal District
3-225.5	South Garden Agricultural and Forestal District
3-226	Sugar Hollow Agricultural and Forestal District
3-228	Yellow Mountain Agricultural and Forestal District

By Adding:

3-209.5	Buck's Elbow Mountain Agricultural and Forestal District
3-212.5	Fox Mountain Agricultural and Forestal District

Chapter 3. Agricultural and Forestal Districts
Article II. Districts of Statewide Significance
Division 2. Districts

Sec. 3-207 Batesville Agricultural and Forestal District.

The district known as the "Batesville Agricultural and Forestal District" consists of the following described properties: Tax map 70, parcels 40, 40A; tax map 71, parcels 23A, 23C, 24B, 24C, 24C1, 26, 26A, 26B, 26B1, 26B2, 26C, 27A, 29C, 29D, 29E, 29G, 29H, 29I; tax map 84, parcels 35A, 69; tax map 85, parcels 3, 3A (part), 4J, 17, 17B, 21, 22B, 22C, 30D, 31; tax map 85A, parcel 1. This district, created on May 2, 1990 for not more than 10 years and last reviewed on April 19, 2000, shall next be reviewed prior to May 2, 2010.

(Code 1988, § 2.1-4(s); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 00-3(3), 9-13-00; Ord. 01-3(2), 7-11-01; Ord. 04-3(1), 3-17-04; Ord. 09-3(4), 12-2-09)

Sec. 3-208 Blue Run Agricultural and Forestal District.

The district known as the "Blue Run Agricultural and Forestal District" consists of the following described properties: Tax map 35, parcels 22, 23, 24A, 26, 26B, 26C, 26D, 28A, 29, 31, 32A, 41A, 41E, 43; tax map 36, parcels 6A, 9, 20; tax map 49, parcels 4A1, 4A5, 24; tax map 50, parcels 5, 5B, 32A, 45B, 47, 47A, 47B; tax map 51, parcel 13. This district, created on June 18, 1986 for not more than 8 years, since amended

at its last review on July 10, 2002 to continue for not more than 10 years, shall next be reviewed prior to July 10, 2012.

(5-11-94; 7-13-94; 4-12-95; Code 1988, § 2.1-4(d); Ord. 98-A(1), 8-5-98; Ord. 01-3(3), 8-8-01; Ord. 02-3(3), 7-10-02; Ord. 09-3(4), 12-2-09)

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, 37, 43A, 44; tax map 17, parcels 2D6, 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; Ord. 09-3(4), 12-2-09)

Sec. 3-209.5 Buck’s Elbow Mountain Agricultural and Forestal District.

The district known as the “Buck’s Elbow Mountain Agricultural and Forestal District” consists of the following described properties: Tax map 25, parcel 1; tax map 38, parcels 4, 7, 8, 10, 20; tax map 39, parcels 1, 1F, 1F1, 1G, 2B, 8, 10A, 21Q. This district, created on December 2, 2009 for not more than 10 years, shall next be reviewed prior to December 2, 2019.

(Ord. 09-3(4), 12-2-09)

Sec. 3-210 Carter’s Bridge Agricultural and Forestal District.

The district known as the “Carter’s Bridge Agricultural and Forestal District” consists of the following described properties: Tax map 101, parcels 55A, 60; tax map 102, parcels 17A, 17B, 17B1, 17C, 17D, 18, 19, 19A, 19C, 20B; tax map 111, parcel 48; tax map 112, parcels 1, 3, 15, 15A, 16E, 16E1, 16E2, 16F2, 18H, 19E, 19F, 20, 21, 33A, 37D; tax map 113, parcels 1, 1A, 6A, 11A, 11F, 11F1, 11F2, 11F3, 11G, 11G1, 11G2, 11H, 11I, 11J, 11K; tax map 114, parcels 2, 25A, 30, 31B, 31C, 31D, 51, 55, 56, 57, 57C, 57D, 67C, 67D, 67E, 67F, 67G, 67H, 68, 69, 70; tax map 115, parcel 10; tax map 122, parcels 4, 4A, 6, 7, 8, 9, 10, 12, 12D, 12E 12N, 33, 33A, 36; tax map 123, parcel 13B; tax map 124, parcel 11; tax map 130, parcel 19B. This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(Code 1988, § 2.1-4(j); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(4), 5-12-99; Ord. 08-3(1), 7-9-08; Ord. 09-3(4), 12-2-09)

Sec. 3-211 Chalk Mountain Agricultural and Forestal District.

The district known as the “Chalk Mountain Agricultural and Forestal District” consists of the following described properties: Tax map 97, parcels 2, 21A1, 21B1, 22, 22A, 22B, 27; tax map 98, parcels 1G (part), 11, 12, 13, 14; tax map 99, parcel 30. This district, created on September 6, 1989 for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(Code 1988, § 2.1-4(r); Ord. 98-A(1), 8-5-98; Ord. 99-3(5), 10-6-99; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09)

Sec. 3-212 Eastham Agricultural and Forestal District.

The district known as the “Eastham Agricultural and Forestal District” consists of the following described properties: Tax map 46, parcels 91B, 91C, 91E; tax map 63, parcels 1, 1A, 1A1, 2, 4, 14G, 14H, 14I, 26, 26A, 27, 28, 28A, 30F, 30G, 41A, 41A1, 41A2. This district, created on October 2, 1985 for not more than 10 years and last reviewed on April 14, 2004, shall next be reviewed prior to April 14, 2014.

(12-8-93; 5-11-94; Code 1988, § 2.1-4(c); Ord. 98-A(1), 8-5-98; Ord. 04-3(2), 4-14-04; Ord. 09-3(4), 12-2-09)

Sec. 3-212.5 Fox Mountain Agricultural and Forestal District.

The district known as the “Fox Mountain Agricultural and Forestal District” consists of the following described properties: Tax map 15, parcel 10A. This district, created on December 2, 2009 for not more than 10 years, shall next be reviewed prior to December 2, 2019.

(Ord. 09-3(4), 12-2-09)

Sec. 3-213 Free Union Agricultural and Forestal District.

The district known as the “Free Union Agricultural and Forestal District” consists of the following described properties: Tax map 7, parcels 6, 7, 8A, 9, 9A, 9B, 9B1, 9C, 33; Tax map 16, parcels 4B, 4C, 13A, 13D, 15A, 15A3, 15C, 15E, 15G, 16B, 17, 26, 30B, 36, 37, 52B1, 52B2, 54; Tax Map 17, parcels 8B, 8C, 17C, 18H, 20A2, 22, tax map 29, parcels 1D, 1H (part), 31A. This district, created on September 21, 1988 for not more than 10 years and last reviewed on October 8, 2008, shall be next reviewed prior to October 8, 2018.

(Code 1988, § 2.1-4(m); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 08-3(3), 10-8-08; Ord. 09-3(4), 12-2-09)

Sec. 3-214 Hardware Agricultural and Forestal District.

The district known as the “Hardware Agricultural and Forestal District” consists of the following described properties: Tax map 73, parcels 38, 39C, 41A, 41B1, 41B2, 42, 42A, 43, 44; tax map 74, parcels 6N, 26, 28; tax map 86, parcels 14, 16A, 16C, 16D, 16E, 16F, 27; tax map 87, parcels 10, 13A, 13E (part consisting of 89.186 acres); tax map 88, parcels 2A, 3V, 6A, 20A, 20B, 20C, 20D, 20F, 23, 23E, 23F, 24, 24A, 26B, 29, 40, 42; tax map 99, parcels 29, 52. This district, created on November 4, 1987 for not more than 10 years and last reviewed on September 12, 2007, shall next be reviewed prior to September 12, 2017.

(Code 1988, § 2.1-4(h); Ord. No. 98-A(1), 8-5-98; Ord. 00-3(2), 7-12-00; Ord. 07-3(2), 9-12-07; Ord. 09-3(4), 12-2-09)

Sec. 3-216 High Mowing Agricultural and Forestal District.

The district known as the “High Mowing Agricultural and Forestal District” consists of the following described properties: Tax map 84, parcel 69A; tax map 85, parcels 33B, 39, 39A1, 39H, 41A, 41A1. This district, created on January 16, 1991 for not more than 10 years and last reviewed on June 20, 2001, shall next be reviewed prior to January 16, 2011.

(Code 1988, § 2.1-4(t); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 09-3(4), 12-2-09)

Sec. 3-217 Ivy Creek Agricultural and Forestal District.

The district known as the “Ivy Creek Agricultural and Forestal District” consists of the following described properties: Tax map 44, parcels 19, 19A, 19B, 20, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 21A1, 21A2, 21D, 35, 35A; tax map 45, parcels 5F, 5F4, 7A. This district, created on November 2, 1988 for not more than 7 years, since amended at its last review on July 9, 2003 to continue for not more than 10 years, shall next be reviewed prior to July 9, 2013.

(4-14-93; 2-14-96; Code 1988, § 2.1-4(n); Ord. 98-A(1), 8-5-98; Ord. 03-3(1), 7-9-03; Ord. 09-3(4), 12-2-09)

Sec. 3-218 Jacobs Run Agricultural and Forestal District.

The district known as the “Jacobs Run Agricultural and Forestal District” consists of the following described properties: Tax map 19, parcels 25, 25A; tax map 20, parcel 6J; tax map 30, parcel 32B; tax map 31, parcels 1B, 8, 8E, 16, 16B, 44C, 45, 45B, 45C. This district, created on January 6, 1988 for not more than 6

years, since amended to continue for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(3-2-94; Code 1988, § 2.1-4(i); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09)

Sec. 3-219 Keswick Agricultural and Forestal District.

The district known as the “Keswick Agricultural and Forestal District” consists of the following described properties: Tax map 48, parcels 30, 30A, 30B, 30C, 30D, 30E; tax map 63, parcels 39, 39A, 39B, 40, 42A; tax map 64, parcels 5, 7, 7A, 8, 8A, 9, 10 10A, 10B, 10C, 10D, 11 12, 13, 13A, 14; tax map 65, parcel 13; tax map 79, parcel 46; tax map 80, parcels 1, 2, 2A, 3A, 3A1, 3G, 3H, 3I, 4, 61D, 88, 114A, 115, 164, 169, 169A, 169C, 169C1, 174, 176, 176A, 182, 182A, 183, 183A, 190, 192, 194; tax map 81, parcels 1, 8A, 15A6, 15B, 63. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 3, 2004, shall next be reviewed prior to November 3, 2014.

(10-12-94; 4-12-95; 8-13-97; Code 1988, § 2.1-4(e); Ord. 98-A(1), 8-5-98; Ord. 04-3(3), 11-3-04; Ord. 09-3(4), 12-2-09)

Sec. 3-221 Lanark Agricultural and Forestal District.

The district known as the “Lanark Agricultural and Forestal District” consists of the following described properties: Tax map 90, parcels 12, 14A; tax map 90B, parcel A-11; tax map 91, parcels 21, 21A, 21B, 31; tax map 92, parcels 64, 64A, 64C; tax map 102, parcels 33, 35, 35A, 35B, 35C, 37, 40, 40B, 40C; tax map 103, parcels 1, 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1J, 1K, 1L, 1M, 2A, 2B, 3, 3A, 3B, 3C, 3G, 5, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10A, 10B, 10D, 43, 43D, 43F, 43J, 43L, 43L1, 43M, 68 (part). This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(Code 1988, § 2.1-4(k); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(5), 10-6-99; Ord. 08-3(1), 7-9-08; Ord. 09-3(4), 12-2-09)

Sec. 3-222 Moorman’s River Agricultural and Forestal District.

The district known as the “Moorman’s River Agricultural and Forestal District” consists of the following described properties: Tax map 27, parcels 32, 34, 34A, 40, 40A, 40A1, 42, 42A; tax map 28, parcels 2, 2A, 3, 4, 5, 6, 6A, 6B, 7, 7A, 7A1, 7B, 8, 12, 12A, 12B, 13, 17A, 17C, 18, 23B, 23B1, 30, 30A, 30B 32B, 32D, 34B, 35, 35B, 37, 37A, 37B, 37C, 38; tax map 29, parcels 2C, 4E, 8, 8B, 8E, 8E1, 8H, 8J, 8K, 9, 10, 15C, 40B, 40C, 40D, 45, 45H1, 45H2, 49C, 50, 54A, 61, 62, 63, 63A, 63D, 67C, 69D, 69F, 70A, 70B, 70C, 70F, 70F1, 70G, 70H1, 70K, 70L, 70M, 71, 71A, 73B, 74A, 76, 78, 78A1, 79C, 80, 84, 85; tax map 30, parcels 10, 10A, 12, 12C, 12D, 17A, 18E, 23; tax map 41, parcels 8, 8B, 8C, 8D, 9E, 15, 15A, 17C, 18, 41C, 41H, 44, 50, 67, 67B, 68, 70, 72, 72B, 72C, 72D, 89; tax map 42, parcels 5, 6, 6B, 7, 8, 8A, 8C, 10, 10A, 10D, 37F, 37J, 38, 40, 40C, 40D, 40D1, 40G, 40H2, 41, 42B, 43, 43A, 44; tax map 43, parcels 1, 1F, 2A1, 3, 3A, 3C, 3D, 4C, 4D, 5, 5A, 9, 10, 16B2, 16B3, 18E4, 18G, 18J, 19I, 19N, 19P, 20A, 20B, 20C, 2I, 21A, 24, 25A, 25B, 30, 30A, 30B, 30D, 30G, 30H, 30M, 30N, 32H, 33, 33E, 34D1, 41, 42, 43, 43A1, 44, 45, 45C, 45D; tax map 44, parcels 1, 2, 24, 26, 26A, 26C, 27B, 27C, 28, 29, 29A, 29D, 30, 30A, 30B, 31, 31A, 31A1, 31D, 31F, 31G, 31H; tax map 57, parcel 69; tax map 59, parcels 32, 32A, 34, 35, 82A; tax map 60E3, parcel 1. This district, created on December 17, 1986 for not more than 10 years and last reviewed on December 1, 2004, shall be next reviewed prior to December 1, 2014.

(4-14-93; 12-21-94; 4-12-95; 8-9-95; Code 1988, § 2.1-4(g); Ord. 98-A(1), 8-5-98; Ord. 99-3(4), 5-12-99; Ord. 00-3(1), 4-19-00; Ord. 04-3(4), 12-1-04; Ord. 05-3(2), 7-6-05; Ord. 08-3(2), 8-6-08; Ord. 09-3(4), 12-2-09)

Sec. 3-225.5 South Garden Agricultural and Forestal District.

The district known as the “South Garden Agricultural and Forestal District” consists of the following described properties: Tax map 99, parcel 35; tax map 109, parcel 70; tax map 110, parcels 8, 18, 18E, 27. This district, created on October 6, 1999 for not more than 7 years, since amended at its last review on October 4, 2006 to continue for not more than 10 years, shall next be reviewed prior to October 4, 2016.

(Ord. 99-3(5), 10-6-99; Ord. 06-3(1), 10-4-06; Ord. 09-3(4), 12-2-09)

Sec. 3-226 Sugar Hollow Agricultural and Forestal District.

The district known as the “Sugar Hollow Agricultural and Forestal District” consists of the following described properties: Tax map 25, parcels 11C, 12, 13, 14, 14A, 14B, 14C, 18, 18A, 18B, 21, 21A, 24, 25, 26, 27, 28; tax map 26, parcels 5A, 10, 10B, 10D, 10F, 11C, 11D, 12A, 13, 19, 40B, 40C, 41A, 52, 52D; tax map 27, parcels 8, 8E (part), 24A, 25, 26; tax map 39, parcels 2, 2A, 3, 4, 13C3, 14, 15, 25, 25A; tax map 40, parcels 1, 9, 9C, 10, 10A, 10B, 10C, 12B1, 22, 22A, 27A, 46C1, 49. This district, created on September 6, 1989 for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(11-17-93; Code 1988, § 2.1-4(q); Ord. 98-A(1), 8-5-98; Ord. 99-3(5), 10-6-99; Ord. 02-3(1), 1-9-02; Ord. 02-3(2), 4-3-02; Ord. 09-3(4), 12-2-09)

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, parcels 41, 43, 43A, 43D, 71B; tax map 55, parcel 15; tax map 70, parcels 15, 15A, 15D, 15E, 15G, 29, 37B, 37B1 (part), 37D (part), 37K, 37L; tax map 71, parcels 2B, 22, 22A, 22B, 22K, 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; Ord. 09-3(4), 12-2-09)

**RESOLUTION TO ESTABLISH A SCHEDULE OF FEES FOR
EMERGENCY MEDICAL SERVICES VEHICLE TRANSPORT SERVICES**

WHEREAS, on September 9, 2009, the Board enacted Chapter 6, Article V of the Albemarle County Code, which authorizes the Albemarle County Department of Fire and Rescue and any volunteer rescue squad that obtains a permit from the County to charge fees for emergency medical services (EMS) vehicle transports; and

WHEREAS, County Code §6-503 provides that the Board shall establish a schedule of fees for EMS vehicle transport services; and

WHEREAS, the Board has determined that the following proposed fees are reasonable and has charged the County Executive to develop policies and procedures to implement the County's EMS revenue recovery program, including payment standards for persons demonstrating economic hardship.

NOW, THEREFORE, BE IT RESOLVED that the following EMS vehicle transport service fees are hereby established for all EMS vehicle transport services provided in accordance with Chapter 6, Article V of the County Code:

1. For Basic Life Support (BLS) transport services: \$350. BLS is defined as the emergency response and transport of a patient that requires assessment and treatment by a BLS Technician and no Advanced Life Support procedures.
2. For Advanced Life Support Level 1 (ALS1): \$450. ALS1 is defined as the emergency response and transport of a patient that requires assessment and treatment by an ALS Technician and one or more Advanced Life Support procedures.
3. For Advanced Life Support Level 2 (ALS2): \$550. ALS2 is defined as the transport of a patient that requires defibrillation, pacing, intubation, or the administration of 3 or more Schedule IV medications.
4. For Ground Transport Miles (GTM): \$8.50/mile. GTM is defined as the charge per patient transport mile.

BE IT FURTHER RESOLVED THAT no person shall be denied transport services due to his or her inability to pay.

**RESOLUTION TO DENY CLAIM
ASSERTED BY VIOLET SEABOLT**

WHEREAS, Violet Seabolt, by counsel, has asserted a \$400,000 claim against the County of Albemarle arising from alleged wrongful actions of the Albemarle County Department of Parks & Recreation; and

WHEREAS, the Board of Supervisors finds that the claim is not supported by the facts or by law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia denies the claim of Violet Seabolt for alleged damages in the amount of \$400,000.

**A RESOLUTION APPROVING AN AMENDMENT OF THE
FIRE SERVICES AGREEMENT BETWEEN
THE CITY OF CHARLOTTESVILLE
AND ALBEMARLE COUNTY**

WHEREAS, on May 3, 2000 the City of Charlottesville (the "City") and the County of Albemarle (the "County") entered into an agreement governing the provision of fire services for both localities (the "Fire Services Agreement"), which remains in full force and effect; and

WHEREAS, Section 6 of the Fire Services Agreement provides that the Agreement shall expire on June 30, 2010 but that the parties may, by mutual written agreement executed prior to June 30, 2007, extend the Agreement for a second term lasting three (3) additional years, through June 30, 2013; and

WHEREAS, the City and County by written mutual agreement executed the Amendment of Fire Services Agreement Between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement dated August 6, 2008 to extend the Fire Services Agreement through June 30, 2013; and

WHEREAS, the Fire Services Agreement has been mutually beneficial to both the City and the County, and the parties may desire to extend the Agreement for five additional years, beginning July 1, 2013 and ending June 30, 2018; and

WHEREAS, the City is agreeable to an extension of the Agreement, notwithstanding the termination date provided in Section 6.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Albemarle County, Virginia that it hereby approves the Second Amendment of Fire Services Agreement Between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement to allow for the Agreement to be extended for five additional years beginning July 1, 2013 and ending June 30, 2018.

BE IT FURTHER RESOLVED that its Chairman is hereby authorized to execute the Second Amendment of Fire Services Agreement Between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement.

WHEREAS, the Equal Rights Amendment (ERA) ensures that women will have equal rights under the United States Constitution; and

WHEREAS, the County of Albemarle supports the advancement of women's rights; and

WHEREAS, the United States Constitution fails to guarantee equal rights and equal justice for women to their continuing detriment; and

WHEREAS, the Equal Rights Amendment would provide the only incontestable remedy for gender discrimination for both women and men by providing a Constitutional guarantee of equal rights; and

WHEREAS, the 14th Amendment to the United States Constitution and the various state constitutional statements of gender equality generally do not provide the strict scrutiny of equal protection for the matters of gender as is now accorded race, religion, and national origin; and

WHEREAS, the only permanent right women explicitly have in the U.S. Constitution is the right to vote and rights not supported by the Constitution can be undermined in legislatures and courts; and

WHEREAS, in past years, laws and policies in the Commonwealth of Virginia have unjustly discriminated against girls and women in general, and against particular classes of women, such as in matters of reproductive rights, sexual assault, marital property, and sexual harassment, and although some such laws and policies have become somewhat less discriminatory, such improvements can be, have been, and are being reversed; and

WHEREAS, the ERA, introduced in 1972, requires ratification by three more states; and

WHEREAS, some institutional policies, whether overtly discriminatory or "facially neutral," in public, voluntary, and private institutions, still have inequitable effects on women; policies such as those dealing with insurance, pension, family medical leave from employment, job promotions, occupational choice, recreational opportunities, and access to medical care, and stereotypes still exist which limit women's roles and activities; and

WHEREAS, most of the care of the young and the elderly is still given primarily by women, many of whom through economic necessity must also work in the job market and/or at home; and

WHEREAS, in many other ways the tasks of providing equal opportunities to women and men, and the tasks of removing burdens which fall unjustly on women as compared with men remain uncompleted;

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of the County of Albemarle, Virginia, does hereby indicate its support for the principal that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." and

AND BE IT FURTHER RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia hereby urges the General Assembly of the Commonwealth of Virginia to ratify the ERA during the 2010 session.

Signed and sealed this 2nd day of December 2009.

ORDINANCE NO. 09-07(3)

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, ARTICLE I, NOISE, AND ARTICLE II, NAMING OF ROADS AND NUMBERING OF PROPERTIES, 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, Article I, Noise, and Article II, Naming of Roads and Numbering of Properties, are hereby amended and reordained as follows:

By Amending:

- Sec. 7-100 Purpose and intent
- Sec. 7-101 Administration and enforcement
- Sec. 7-102 Applicability
- Sec. 7-103 Definitions
- Sec. 7-105 Prohibited acts enumerated
- Sec. 7-106 Exempt sounds
- Sec. 7-107 Complaints of noise
- Sec. 7-108 Violation and penalty

By Amending and Renaming:

- Sec. 7-104 Prohibited noise to General prohibition

Chapter 7. Health and Safety

Article I. Noise

Sec. 7-100 Purpose and intent.

The purpose and intent of this article is to establish reasonable time, place and manner regulations pertaining to excessive or unwanted sound. Through content-neutral regulations, this article strikes an appropriate balance between the rights of individuals to engage in activities that create or disseminate sounds at reasonable levels, and the right of the public to a peaceful and healthful environment. It is not the purpose and intent of this article to interfere unduly with the rights of free speech or the exercise of religion and, further, it is not the purpose and intent of this article to implement these regulations in a manner that is based on the content of the sound. In establishing these regulations, the board of supervisors hereby finds the following:

A. *Threat to the public health, safety and welfare posed by excessive or unwanted sound.* Inadequately controlled sound presents a growing danger to the public health, safety and welfare. Studies have found that these dangers include hearing impairment, interference with spoken communication, sleep disturbances, cardiovascular disturbances, disturbances in mental health, impaired task performance, and unwanted emotional responses. These effects can lead to, among other things, a wide range of physical problems such as hearing disabilities, increased blood pressure, increased heart rates, abnormal heart rhythms and fatigue, mental health problems such as depression, anxiety, nervousness, stress, and emotional instability, an increased risk of accidents and errors in task performance, and negative effects on learning, reading attention, work performance, school performance, and interpersonal relationships.

B. *Persons particularly vulnerable to excessive or unwanted sound.* Studies have found that the elderly, medical patients, infants and children are particularly vulnerable to excessive or unwanted sound.

C. *Public safety danger posed by excessive or unwanted sound created by or emanating from motor vehicles.* Excessive or unwanted sound created by, or emanating from, motor vehicles interferes with the safe operation of other motor vehicles.

D. *Effects of increases in sound pressure levels.* Studies have characterized the human reaction to increases in sound pressure levels over ambient levels, as measured in decibels (dB), as “intrusive” for

increases of five (5) to ten (10) decibels, “very noticeable” for increases of ten (10) to fifteen (15) decibels, “objectionable” for increases of fifteen (15) to twenty (20) decibels, and “very objectionable to intolerable” for increases of twenty (20) or more decibels.

E. *Right of public to be free from an environment of excessive or unwanted sound.* The public has a right to and should be free from an environment of excessive or unwanted sound, and the board has a significant governmental interest in providing an environment free of excessive or unwanted sound.

(§ 12.1-1, 9-10-80, § 1; Code 1988, § 12.1-1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-101 Administration and enforcement.

The chief of police is hereby designated the agent of the board of supervisors in the administration and enforcement of this article. The chief of police may be assisted in the enforcement of this article by employees of the department of community development, the department of general services, and other officers and employees of the county.

(§ 12.1-3, 9-10-80, § 3; 11-14-84; Code 1988, § 12.1-3; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-102 Applicability.

This article shall apply to sound generated within the county, regardless of whether the complainant or the receiving property is within or without the county. This article shall be in addition to any sound or noise regulations set forth in chapter 18 of the Code.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-103 Definitions.

The following definitions shall apply to this article:

(1) *Audible.* The term “audible” means a sound that can be detected by a person using his or her unaided hearing faculties, provided that a sound shall be determined to be audible even if specific words or phrases cannot be discerned. Sound is audible within a building under section 7-105 if it is audible at least four (4) feet from the wall nearest the sound source, with the doors and windows of the dwelling unit or applicable room of the complainant’s building closed and, where audibility is determined from a dwelling unit or hotel room, the dwelling unit or hotel room is located on a different parcel than the parcel on which the sound source is located.

(2) *Dwelling unit.* The term “dwelling unit” means a single unit designed to provide complete and independent living facilities for one (1) or more persons and having permanent provisions for sleeping and sanitation.

(3) *Emergency operation.* The term “emergency operation” means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

(4) *Hospital.* The term “hospital” means any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is the provision of diagnosis, treatment, and medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known under various names such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

(5) *Hotel*. The term “hotel” means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including but not limited to facilities known under various names such as hotels, motels, travel lodges, tourist homes, or hostels.

(6) *Hotel room*. The term “hotel room” means a room within a hotel designed for sleeping.

(7) *Mixed-use site*. The term “mixed-use site” means a single unified development on one or more units or pieces of real property on which both commercial and residential uses exist.

(8) *Motorcycle*. The term “motorcycle” means every motor vehicle that is designed to travel on not more than three (3) wheels in contact with the ground and is capable of traveling at speeds in excess of thirty-five (35) miles per hour.

(9) *Motor vehicle*. The term “motor vehicle” means every vehicle that is self-propelled or designed for self-propulsion and includes, but is not limited to, any device defined in Virginia Code § 46.2-100 as an “electric personal assistive mobility device,” “electric power-assisted bicycle,” “golf cart,” “moped,” “motorized skateboard or scooter” or “utility vehicle,” but does not include a device moved by human power or used exclusively on stationary rails or tracks that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle.

(10) *Multi-family dwelling unit*. The term “multi-family dwelling unit” means a structure composed of two (2) or more dwelling units including, but not limited to, apartments, condominiums, townhouses, and duplexes.

(11) *Nursing home*. The term “nursing home” means any facility or any identifiable component of any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known under various names such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

(12) *Off-road vehicle*. The term “off-road vehicle” means every vehicle that is: (i) an all-terrain vehicle, which is a three-wheeled or four-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, and which is intended for off-road use by an individual rider on various types of unpaved terrain; (ii) a go-cart, which is a four-wheeled vehicle that has a low center of gravity and is typically used in racing or riding on relatively level surfaces; (iii) an off-road motorcycle, which is a motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground; and (iv) a motorcycle-like device commonly known as a trail-bike or mini-bike. The term “off-road vehicle” does not include: (i) a farm utility vehicle, which is a motor vehicle that is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle; or (ii) a utility vehicle, which is a motor vehicle that is designed and used as a general maintenance, security or other similar service vehicle.

(13) *Parcel*. The term “parcel” means, as appropriate when the term is applied in conjunction with a reference to a property line, either: (i) a separate unit or piece of real property; (ii) any area within a multi-family dwelling unit that is beyond the vertical and horizontal boundaries of the dwelling unit of the complainant; or (iii) any area within a mixed-use site that is beyond the interface between the portion of the site owned or occupied by the complainant.

(14) *Person*. The term “person” means any natural person, association, partnership, corporation or other legal entity.

(15) *Place of public entertainment*. The term “place of public entertainment” means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall or other place of entertainment open to the public, regardless of whether the payment of money or other consideration is required for admission.

(16) *Produce*. The term “produce,” or any derivation of the word, means to produce or reproduce, to allow to produce or reproduce, to create or allow to be created, or to operate or allow to be operated.

(17) *Property line*. The term “property line” means either: (i) an imaginary line along the ground surface, and its vertical extension, that separates one unit or piece of real property from another, where the unit or piece is under different ownership; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-family dwelling unit building; or (iii) on a mixed-use site, the interface between the portions of the parcel on which different categories of activity are being performed.

(18) *Public property*. The term “public property” means real property owned by a governmental entity including, but not limited to, any public street as defined in section 7-103(23)(i).

(19) *School*. The term “school” means a public school subject to title 22.1 of the Virginia Code, a private school serving children in one or more grades between kindergarten and grade twelve (12), a school for students with disabilities as that term is defined in Virginia Code § 22.1-319, a child day center as that term is defined in Virginia Code § 63.2-100, the University of Virginia and Piedmont Virginia Community College.

(20) *Sound*. The term “sound” means the sensation perceived by the sense of hearing.

(21) *Sound source*. The term “sound source” means any act or device that emits sound.

(22) *Sport shooting range*. The term “sport shooting range” means an area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

(23) *Street*. The term “street” means: (i) a public right-of-way which is part of the primary or secondary system of state highways, or is classified as a highway in the interstate system; or (ii) a privately owned and maintained travelway for motor vehicles serving two (2) or more single family detached dwelling units that are located on two (2) or more separate units or pieces of land, one or more multi-family dwelling units, a mixed-use site, or a site used for commercial or industrial purposes.

The meaning of any sound-related term not defined herein shall be obtained from the most recent version of the American Standard Acoustical Terminology, if the term is defined therein.

(§ 12.1-2, 9-10-80, § 2; 6-10-81; Code 1988, § 12.1-2; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-104 General prohibition

It shall be unlawful for any person to produce sound that causes at least a fifteen (15) dBA increase in the sound level above the ambient sound level, as determined pursuant to section 18-4.18 of the Code. Any person who commits a specific prohibited act delineated in section 7-105 may, in lieu of being charged with a violation of section 7-105, be charged with a violation of this section 7-104 if the sound produced is a violation of this section.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-105 Specific acts prohibited.

It shall be unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

A. *Motor vehicle or motorcycle operation*. The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and:

1. *On a street or on public property.* The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle or motorcycle.

2. *On private property.* The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.

B. *Radios, tape players, televisions receivers, musical instruments, electronic sound amplification equipment, and other sound producing or reproducing devices.* The sound is produced by a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device intended primarily for the production or reproduction of sound (hereinafter, collectively and singularly a "device") and:

1. *Device within or on a motor vehicle on a street or on public property.* The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle.

2. *Device within or on a motor vehicle on private property.* The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room.

3. *Device within a place of public entertainment.* The device is located within a place of public entertainment, and the sound is audible for a duration of five (5) continuous minutes or more, without an interruption of the sound for thirty (30) or more consecutive seconds during the five (5) minute period, within any one (1) hour period: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room.

5. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, or a dwelling unit, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.

C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under chapter 18 of the Code, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home or court (hereinafter, collectively referred to as "institutions"), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home or court and:

1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session.

2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.

E. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities between the hours of 10:00 p.m. and 7:00 a.m., and the sound is

audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. and 6:00 a.m. or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. and 6:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 5:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.

H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing between the hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 6:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-106 Exempt sounds.

The following sounds are not prohibited by this article:

- A. *Agricultural activities.* Sound produced during lawfully permitted bona fide agricultural activities.
- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which are subject to the animal noise regulations in chapter 4 of the Code.
- C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.
- D. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities, except as provided in section 7-105(E).
- E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a sport shooting range.
- G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers and dishwashers, provided that the appliances are in good repair.
- H. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks or other similar events which are officially sanctioned, if required. This exemption shall not apply to private fireworks displays.
- I. *Person's voice.* Sound produced by a person's voice, except as provided in section 7-105(B).

J. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression; provided that the sound is not prohibited by section 7-105.

K. *Public facilities.* Sound produced by the operation of a public facility or public use.

L. *School athletic contests or practices, and other school activities.* Sound produced by school athletic contests or practices, and other school activities, but only if conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.

M. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities, except as provided in section 7-105(F).

N. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in section 7-105(G).

O. *Telephones.* Normal sound produced by landline and wireless telephones.

P. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit, and sound produced by motor vehicles and motorcycles, except as provided in section 7-105(A).

Q. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

R. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as provided in section 7-105(H).

(§ 12.1-7, 9-10-80, § 7; Code 1988, § 12.1-7; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-107 Complaints.

No person shall be charged with a violation of the provisions of sections 7-104 or 7-105 unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of a police officer, the police officer shall have the authority to initiate all necessary proceedings.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

Sec. 7-108 Violation and penalty.

Any person who violates any provision of this article shall be deemed to be guilty of a class 1 misdemeanor. The person operating or controlling a sound source shall be guilty of any violation caused by that source. If the sound source cannot be determined but its presence on a parcel can be determined, any owner, tenant or resident physically present on the parcel where the sound is being produced is guilty of the violation.

(§ 12.1-8, 9-10-80, § 8; Code 1988, § 12.1-8; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

RESOLUTION

WHEREAS, the County of Albemarle Personnel Policy Manual has been adopted by the Board of Supervisors; and

WHEREAS, the Board finds that an amendment to Personnel Policy P-63 is necessary to clarify the County's retirement benefits, to revise requirements for retirees to remain on the County's insurance plans and to phase out the VERIP stipend benefit between July 1, 2012 and July 1, 2016.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia, hereby amends the following section of the County of Albemarle Personnel Policy Manual:

**By Amending:
Section P-63 RETIREMENT**

§P-63 RETIREMENT

I. REGULAR RETIREMENT

A. General

Retirement shall be at the discretion of the employee. Full-time regular employees of Albemarle County who qualify are eligible for the benefits of the Virginia Retirement System ("VRS"). Additional information describing VRS benefits is available on-line at varetire.org.

B. Continuing Participation in the County's Medical and Dental Insurance Plans

1. All employees retiring under VRS and/or the County's VERIP policy are eligible for continuous participation in the group medical and dental insurance plans until they are eligible for Medicare coverage if they participated in the County's group medical and dental insurance plans on the day prior to separation from the County. The age and service criteria for VRS are as follows: 50 years of age with 10 or more years of continuous regular employment by a VRS-participating employer; or 55 years of age with 5 or more years of continuous regular employment by a VRS-participating employer.
2. Individuals eligible to participate in the County's group medical and dental insurance plan shall pay the full cost of health insurance coverage, including any applicable administrative expenses.
3. Any retirees or Board members who participated in the County's group medical and/or dental insurance plans as of December 1, 2009 shall continue to be eligible to participate, at their own cost, until they are eligible for Medicare coverage.

II. LONGEVITY INCENTIVE PROGRAM

The County values the service of all of its employees, both full-time and part-time. Since part-time employees are not covered by VRS, the County has elected to establish a Longevity Incentive Program (the "Program") and thereby provide eligible part-time employees with certain benefits as more fully explained in this section.

A. Scope of Program

All regular, part-time employees of the County will be covered by the Program provided that they work the minimum number of hours necessary to establish eligibility for County benefits. Salaried Board Members are not eligible for participation in this program.

B. Benefits

The following benefits will be provided to eligible part-time employees under the Program:

1. Life Insurance: A term life insurance policy will be provided equal to twice the employee's annual salary with double indemnity for accidental death and dismemberment payments for the accidental loss of one or more limbs or of eyesight.
2. Annuity Program: Based on length of service in the County, part-time employees will be provided with an annuity program. The Board will contribute an annual amount according to the following formula:
 - a. 5 - 9 years of County service - five percent of annual salary.
 - b. 10 - 14 years of County service - seven percent of annual salary
 - c. 15 - 19 years of County service - nine percent of annual salary.
 - d. 20+ years of County service - eleven percent of annual salary.

III. Retirement Pay/Payment upon Death

In recognition of employee service to Albemarle County, regular full-time and part-time employees who meet the age and service criteria for retirement under VRS and have been employed a minimum of five (5) years with Albemarle County shall be paid upon their retirement or death in service \$200 per year for each year of service to the County as a regular employee up to a maximum payment for 25 years of service, less any years previously paid for under this policy. Years of service do not have to be continuous.

IV. Voluntary Early Retirement Incentive Plan (VERIP)

A. Eligibility

1. Participants in the Albemarle County VERIP must be regular full-time or regular part-time employees eligible for benefits as defined in P-02, Definition of Employee Status and meet the following additional requirements:
 - a. Full-time employees must be eligible for early or full retirement under the provisions of VRS. Part-time employees must meet the same age and service criteria as if they were full-time employees covered under VRS.
 - b. Have been employed by the County government and/or school division for 10 of the last 13 years prior to retirement.
2. Employees retiring under the disability provisions of VRS and/or Social Security shall not be eligible for the VERIP.
3. VERIP benefits will cease if the retiree returns to work in a regular full-time or regular part-time position with the County government and/or school division.
4. VERIP benefits will continue if the retiree returns to work in a temporary part-time or temporary full-time position with the County government and/or school division.

B. Benefits

1. VERIP benefits shall be paid monthly for a period of five years after retirement or until age 65, whichever comes first. The VERIP benefits consist of a stipend calculated in accordance with Section B.2 ("stipend") and an annual monetary contribution in the amount of the Board's current contribution to Board employees for health insurance ("medical contribution").

2. Stipends under VERIP will be calculated as follows:
 - a. Compute the annual VRS benefit. This computation shall include any reductions for early VRS retirement if appropriate.
 - b. Recompute the annual VRS benefit with the addition of five more years of service or the number of additional years needed to reach age 65, whichever is lesser.
 - c. The difference between these two calculations is the annual VERIP stipend ("Stipend Value") to be paid on a monthly basis.
 - d. Stipends for part-time employees who are eligible to participate in VERIP shall be determined as if the part-time employees are eligible for an annual VRS benefit and the amount shall be calculated in the same manner as benefits for VRS-eligible employees under subsections (a) – (c) above.
3. The County Executive will recommend to the Board an annual adjustment to the VERIP stipend after having been apprised of the VRS adjustment for retirees.
4. The Board will pay to the employee an amount equal to the Board's annual contribution toward an employee's health insurance as long as the employee remains eligible to receive VERIP benefits.
5. Effective December 2, 2009, the VERIP stipend shall continue to be calculated in the manner provided in Section B.2, but the stipend amount shall be modified in accordance with the following schedule:
 - a. Retirements effective on or after July 1, 2012 but before July 1, 2013: 80% of the Stipend Value.
 - b. Retirements effective on or after July 1, 2013 but before July 1, 2014: 60% of the Stipend Value.
 - c. Retirements effective on or after July 1, 2014 but before July 1, 2015: 40% of the Stipend Value.
 - d. Retirements effective on or after July 1, 2015 but before July 1, 2016: 20% of the Stipend Value.
 - e. Retirements effective on or after July 1, 2016: No VERIP Stipend.

C. Application

Applications for VERIP must be made to the Human Resources Department prior to December 1st of the year preceding the fiscal year the employee's participation in VERIP takes effect. Applications after December 1 may be approved based on the needs of the County.

D. Approval

All VERIP applications are subject to approval by the County Executive or designee.

E. Duration

The Board of Supervisors reserves the right to modify this policy in its discretion, and all benefits described in this policy shall be subject to future modifications and annual appropriations by the Board of Supervisors.

F. Additional Benefits

1. Current employees who apply for VERIP by February 27, 2009 and who meet the eligibility standards identified below shall be entitled to receive, at their election, **one** of the following:
 - a. Two additional years of Board contributions toward health insurance beyond the duration established by Section IV.B, paid on a monthly basis. Employees who retire at 65 years of age or older shall receive two years of contributions toward health insurance.
 - b. The cash equivalent of two additional years of Board contributions toward health insurance calculated at the FY 2009-10 annual rate and paid in one or more installments.
2. To be eligible for the additional benefits in this section, employees must:
 - a. Submit VERIP applications by February 27, 2009;
 - b. Submit a letter by April 1, 2009 establishing a retirement date no later than June 30, 2009; **and**
 - c. Retire after the effective adoption date of this subsection (F) but no later than June 30, 2009.

Amended: August 4, 1993; April 19, 1995; June 2, 2004; January 7, 2009