

ACTIONS
Board of Supervisors Meeting of September 4, 2013

September 5, 2013

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>PODCAST</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 9:05 a.m., by the Chair, Ms. Mallek. All BOS members were present. Also present were Tom Foley, Larry Davis, Ella Jordan and Travis Morris. 		Listen
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> • Ms. Mallek announced that Agenda Item #21 is moved to 1:30 p.m. (the first public hearing item). • Ms. Mallek added for discussion consideration of a zoning text amendment to allow more flexibility of use for currently existing rural commercial sites. • Mr. Snow added for discussion the requirements for the proposed Trump National Golf Club. • ACCEPTED the final agenda. 		
<p>5. Brief Announcements by Board Members.</p> <ul style="list-style-type: none"> • Duane Snow: <ul style="list-style-type: none"> • Provided update on discussions with staff and others regarding internet and cell coverage throughout the County. • Expressed appreciation to the approximately 3,200 women who ran in the Women's Four Miler. 		
<p>6. Recognitions:</p> <p>a. Resolution in Support of Pride Festival Day.</p> <ul style="list-style-type: none"> • By a vote of 3:3(Thomas/Boyd/Craddock) resolution FAILED. 		
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>Dan Burke</u>, a member of the Claudius Crozet Blue Ridge Tunnel Foundation, provided an update on their work, and invited Board members to their gala dinner on September 20th. • <u>John Chavan</u> asked that the Board deal with the section of the Economic Vitality Plan that relates to the interstate/interchange policy. • <u>Timothy Hulbert</u> expressed support for the next steps of the Economic Vitality Action Plan to build an ongoing sustained Economic Development Program. • <u>Richard Randolph</u> spoke about the pre-application process for special use permits. • <u>John Lowry</u> spoke in support of the final Economic Vitality Action Plan report, and a permanent Economic Development Program. • <u>Jim Neale</u> spoke about the special use permit for the proposed Trump National Golf Club, and the need to follow the pre-application process, and compliance with the easement. • <u>Joe Draego</u> spoke about his data/findings from traffic cameras. 		Listen

<ul style="list-style-type: none"> • <u>Lettie Bien</u> asked that the Board make its decision on SP-2013-00005 - The Field School of Charlottesville based on land use requirements. • <u>Helen Cauthen</u> congratulated Board on its work on the Economic Vitality Action Plan. • <u>David Redding</u>, of 350 Central Virginia, invited Board members to a discussion on September 25th, at PVCC, about how local governments can get solar systems installed under a new pilot program. • <u>Rex Linville</u> spoke about the proposed Trump National Golf Club and compliance with the property's conservation easement. • <u>Neil Williamson</u> asked the Board to not discuss the Trump application without allowing the applicant to be present. 		
<p>NonAgenda.</p> <ul style="list-style-type: none"> • Discussed the application submittal and acceptance process for the proposed Trump National Golf Club. 		Listen
<p>8.2 ZMA-2005-09. Briarwood PRD - Special Exception to allow variation to the Phasing Plan.</p> <ul style="list-style-type: none"> • APPROVED special exception for a variation to the Briarwood PRD (ZMA2005-09) Phasing Plan noted as "Briarwood Phasing Letter of Revision" prepared by Collins Engineering, dated April 22, 2013. 	<p><u>David Benish/Christopher Perez:</u> Proceed as approved.</p>	Listen
<p>8.3 FY 2013 Budget Amendment and Appropriations.</p> <ul style="list-style-type: none"> • APPROVED appropriation #2013105 to distribute funds received from grants to the proper expenditure accounts for various School Division projects and programs. 	<p><u>Clerk:</u> Forward copy of signed appropriations form to OMB, Finance and appropriate individuals.</p>	
<p>8.4 FY 2014 Budget Amendment and Appropriations.</p> <ul style="list-style-type: none"> • APPROVED appropriations #2014024, #2014026, #2014027, #2014028, #2014029 and #2014030 to provide funds for various local government projects and programs 	<p><u>Clerk:</u> Forward copy of signed appropriations form to OMB, Finance and appropriate individuals.</p>	
<p>8.5 FY 14/15 Operating and Capital Budget Calendar.</p> <ul style="list-style-type: none"> • ADOPTED the preliminary budget calendar 	<p><u>Clerk:</u> Forward to appropriate individuals (Attachment 1)</p>	
<p>8.6 "Watch for Children" Signs.</p> <ul style="list-style-type: none"> • PULLED for discussion later in the meeting. 		
<p>8.7 Agreement with VDOT for County Removal of Illegal Signs from the Highway Rights-of-Way.</p> <ul style="list-style-type: none"> • ADOPTED Resolution approving the proposed Agreement and AUTHORIZED County Executive to execute the Agreement in a form approved by the County Attorney • CONSENSUS that staff send letter to candidates running for office about rules for political signs. 	<p><u>Clerk:</u> Forward copy of signed resolution to Amelia McCulley and County Attorney's office. (Attachment 2 and 3) <u>County Attorney's office:</u> Provide Clerk with fully executed copy of agreement.</p>	
<p>9. Amendment of County Procurement Manual to Include Alternative Procurement Methods.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, Resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to OFD, Purchasing and County Attorney's office. (Attachment 4)</p>	Listen
<p>10. Draft 2014 Thomas Jefferson Planning District Legislative Program, David Blount.</p> <ul style="list-style-type: none"> • RECEIVED. 		
<p>11. 2014 Legislative Priorities.</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the proposed 	<p><u>County Attorney:</u> Proceed as approved. (Attachment 5)</p>	

	2014 Legislative Priorities for submission to the TJPDC, VACo and VML.		
12.	2040 Long Range Transportation Plan Process/Status, Sarah Rhodes, MPO Program Manager. • RECEIVED.		Listen
13.	Albemarle County Service Authority (ACSA) Update, Gary O'Connell. • RECEIVED.		Listen
14.	Rivanna Water and Sewer Authority (RWSA) Update, Tom Frederick. • RECEIVED.		Listen
15.	Economic Vitality Action Plan Final Report. • RECEIVED.		Listen
16.	Closed Meeting. • At 12:58 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments.		Listen
17.	Certified Closed Meeting. • At 1:38 p.m., the Board reconvened into open meeting and certified the closed meeting.		
18.	Boards and Commissions: Appointments. • REAPPOINTED Ms. Frances Hooper and Mr. Raymond East to the Jaunt Board with said terms to expire September 30, 2016.	Clerk: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.	
19.	<u>Pb. Hrg: ZTA-2011-00006. Noise.</u> • By a vote of 6:0, ADOPTED Ordinance.	Clerk: Forward signed copy of ordinance to County Attorney's office and Community Development. (Attachment 6)	Listen
20.	<u>Pb. Hrg: Ordinance to amend Secs. 7-102, Applicability, 7-103, Definitions, 7-105, Prohibited acts enumerated, and 7-106, Exemptions, of Chapter 7, Health and Safety, of the Albemarle County Code.</u> • By a vote of 6:0, ADOPTED Ordinance to amend sections 7-102, 7-103, 7-105 and 7-106 of the County Code.	Clerk: Forward signed copy of ordinance to County Attorney's office, Police Department and Community Development. (Attachment 7)	
21.	<u>Pb. Hrg:</u> To consider the approval of a proposed <u>Lease Agreement with Crozet Running, LLC</u> for 1,697 square feet of space on the ground floor of the new Crozet Library, located at 2020 Library Avenue, Crozet, VA 22932 (TMP 056A2-01-00-01800). • By a vote of 6:0, ADOPTED resolution authorizing the County Executive to sign the proposed lease, in a form approved by the County Attorney, on behalf of the County.	Clerk: Forward copy of signed resolution to County Attorney's office, OFD and General Services. (Attachment 8) <u>County Attorney's office:</u> Provide Clerk with fully executed copy of lease.	Listen
22.	<u>Pb. Hrg: Ordinance to establish a tourism zone pursuant to Virginia Code § 58.1-3851.</u> • By a vote 3:3 (Rooker/Boyd/Craddock) motion to adopt Ordinance to establish a tourism zone FAILED. • By a vote of 5:1 (Boyd) APPROVED motion to reconsider previous vote. • DIRECTED staff to bring back additional	<u>Lee Catlin:</u> Notify Clerk when ready to schedule on agenda.	Listen

2013.		
28. Adjourn to September 11, 2013, 3:30 p.m., Lane Auditorium. <ul style="list-style-type: none"> • At 5:58 p.m., the Board adjourned until 3:30 p.m., September 11, 2013. 		

ewj/tom

Attachment 1 – FY 14/15 Operating and Capital Budget Calendar

Attachment 2 – Resolution – Removal of Illegal Signs

Attachment 3 – Agreement – Removal of Illegal Signs

Attachment 4 – Resolution – Procurement Manual; Chapter 27 and Chapter 28

Attachment 5 – 2014 Legislative Priorities

Attachment 6 – Ordinance - ZTA-2011-00006. Noise

Attachment 7 – Ordinance to amend Secs. 7-102, Applicability, 7-103, Definitions, 7-105, Prohibited acts enumerated, and 7-106, Exemptions, of Chapter 7, Health and Safety, of the Albemarle County Code

Attachment 8 – Resolution – Crozet Library First Floor Lease

Attachment 9 – Resolution – Watch for Children

FY 14/15 BUDGET CALENDAR
Recommended Calendar

September 2013

Monday	2	CIP Financial Review Team meetings begin
Monday	9	Operating budget manual and instructions available for County departments
Tuesday	24	CIP Technical Review Committee (TRC) meetings begin

October 2013

Thursday	10	2:30 p.m. - Department Budget Presentations to Board of Supervisors (BOS)
Thursday	10	4:00 p.m. - BOS/School Board Compensation meeting with BOS and School Board
Friday	11	Department/office FY 14/15 budget requests due to OMB
Thursday	17	Final CIP TRC meeting

November 2013

Monday	4	Joint CIP Oversight Committee/TRC meeting
Friday	8	Community agency applications due to OMB
Wednesday	13	2:30 p.m. - BOS Work Session – Five-Year Financial Plan – General Government
Thursday	14	4:00 p.m. - BOS Work Session – Five-Year Financial Plan – School Division
Monday	18	CIP Oversight Committee meeting
Tuesday	19	Employee Town Hall meeting (COB McIntire)
Thursday	21	Employee Town Hall meeting (COB 5 th)
Monday	25	CIP Oversight Committee meeting (if needed)

December 2013

Wednesday	4	BOS Work Session – Five-Year Financial Plan
Wednesday	11	4:00 p.m. - BOS Work Session – Approve the Five-Year Financial Plan
Wednesday	12	4:00 p.m. - Joint CIP meeting with BOS and School Board

January 2014

Friday	24	General fund and special revenue funds balanced
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February 2014

Friday	21	11:00 a.m. - Budget briefing to Board
Friday	21	Budget briefing to employees
Monday	24	6:00 p.m. - Public Hearing on County Executive's Recommended Budget
Wednesday	26	9:00 a.m. - BOS Work Session #1 – CIP
Friday	28	9:00 a.m. - BOS Work Session #2 – General Government

March 2014

Monday	3	9:00 a.m. - BOS Work Session #3 – School Division
Monday	3	BOS determines tax rate for advertisement
Monday	3	Tax Rate Ad submitted to Daily Progress for April 8 hearings
Sunday	9	Tax Rate Ad runs in Sunday's Daily Progress for April 8 hearings
Wednesday	12	4:00 p.m. - BOS Work Session #4 (if needed)
Monday	24	Budget Ad Submitted to Daily Progress
Sunday	30	Budget Ad runs in Daily Progress
Monday	31	Spring Break begins

April 2014

Tues-Fri	1-4	Spring Break
Tuesday	8	6:00 p.m. - Public Hearing on Board's Proposed Budget
Tuesday	8	Public Hearing on the 2014 calendar year tax rate
Tuesday	15	9:00 a.m. - BOS sets the 2014 calendar year tax rate
Tuesday	15	BOS adopts the FY 14/15 budget and FY 14-23 CIP Amendment

RESOLUTION APPROVING PROPOSED AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) FOR ENFORCEMENT OF LAWS REGARDING ILLEGAL SIGNS AND ADVERTISING WITHIN THE LIMITS OF THE HIGHWAY

WHEREAS, pursuant to Title 33.1, Chapter 7, Article 1 of the *Code of Virginia* (1950), as amended (*Code*), the Commissioner of the Virginia Department of Transportation (VDOT), as its chief executive officer, enforces the prohibitions on the placement of signs and advertising within the limits of highways in the Commonwealth; and

WHEREAS, the Board of Supervisors, as the governing body of Albemarle County, has an interest in protecting the public health, safety, and welfare, and in protecting the appearance of the County, in general; and

WHEREAS, the Board has found that the proliferation of signs and advertising in the rights-of-way of highways in Albemarle County threatens the public safety and the welfare of the County, and has a negative effect on the appearance of highways; and

WHEREAS, the Board desires and agrees to enter into an Agreement with the Commissioner to enforce the provisions of § 33.1-373 of the *Code of Virginia* (1950), as amended, and to collect the penalties and costs provided therein; and

WHEREAS, the Commissioner desires the Board's assistance in removing signs and advertising from the VDOT-maintained highways in Albemarle County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the proposed Agreement, and authorizes the County Executive to sign, in a form approved by the County Attorney, the proposed Agreement for enforcement of laws regarding illegal signs and advertising within the limits of the highway.

**AGREEMENT BETWEEN
THE VIRGINIA DEPARTMENT OF TRANSPORTATION
AND THE BOARD OF SUPERVISORS
OF _____ COUNTY, VIRGINIA
FOR ENFORCEMENT OF LAWS REGARDING ILLEGAL SIGNS AND
ADVERTISING WITHIN THE LIMITS OF THE HIGHWAY**

THIS AGREEMENT is made this ___ day of _____, 20___, between the Commissioner of Highways of the Commonwealth of Virginia (Commissioner), and the County of _____, Virginia, acting by and through its Board of Supervisors (Board).

WITNESSETH:

WHEREAS, pursuant to Title 33.1, Chapter 7, Article 1 of the *Code of Virginia* (1950), as amended (*Code*), the Commissioner, as the chief executive officer of the Virginia Department of Transportation (VDOT), enforces the prohibition on the placement of signs and advertising within the limits of highways in the Commonwealth; and

WHEREAS, the Board, as the governing body of _____ County, has an interest in protecting the public health, safety, and welfare, and in protecting the appearance of the County, in general; and

WHEREAS, the Board has found that the proliferation of signs and advertising in the rights-of-way of highways in _____ County threatens the public safety and the welfare of the County, and has a negative effect on the appearance of highways; and

WHEREAS, by an appropriate resolution adopted by the Board at its meeting on _____ [DATE] _____, and attached hereto as Exhibit A, the Board expressed its desire and agreement to enter into an agreement with the Commissioner to enforce the provisions of § 33.1-373 of the *Code of Virginia* (1950), as amended, and to collect the penalties and costs provided therein and has authorized execution of said agreement by a County representative; and

WHEREAS, the Commissioner desires the Board's assistance in removing signs and advertising from the VDOT-maintained highways in _____ County.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

1. The Commissioner hereby authorizes the Board to act as the Commissioner's agent for the purposes of removing any signs or advertising located within the VDOT-maintained rights-of-way, in violation of §33.1-373 of the *Code*; and
2. The Commissioner further authorizes the Board to act as the Commissioner's agent for the purposes of collecting the penalties and costs from the person, firm, or corporation responsible for signs or advertising located within the VDOT-maintained rights-of-way in violation of and as provided for in §33.1-373 of the *Code*; and
3. The Board may authorize local law-enforcement agencies or other local governmental entities ("hereinafter designee(s)") to act as agents of the Commissioner for the purpose of fulfilling the terms of this Agreement; and
4. The Board shall be entitled to retain, in full, all sums lawfully collected by the Board or its designees as penalties and costs for removal of signs and advertising and enforcement of §33.1-373 pursuant to this Agreement; and
5. The Board, or its designee, when collecting the penalties and costs referenced in Paragraph 2, above, shall:
 - a. Issue an invoice to the person, firm, or corporation being advertised for collection of any and all penalties and costs, as provided in §33.1-373 of the *Code*, which shall provide that within 30 days, 33 days if the invoice is sent by mail, the person, firm, or corporation being advertised shall either

(a) remit payment of the invoice to the Board, or its designee, or (b) notify the Board or its designee in writing that the matter and/or the penalties and costs are disputed.

- b. In the event that a person, firm or corporation disputes the matter and/or penalties and costs provided in such invoice, the Board shall be responsible for resolving the dispute in accord with all applicable laws.
- 6. The Board shall require local government employees and others who are authorized to act or perform services pursuant to this agreement to comply with the provisions of this Agreement and all applicable laws; and
- 7. This Agreement shall remain in full force and effect unless sooner terminated upon 30-days' written notice by either party to the other party; and
- 8. This Agreement may be amended at any time by the written agreement of the parties.

In WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives:

VIRGINIA DEPARTMENT OF TRANSPORTATION _____ COUNTY, VIRGINIA

BY: _____
Emmett R. Heltzel, P.E.
State Maintenance Engineer

BY: _____
Printed Name: _____
County Administrator of _____

**RESOLUTION TO AMEND AND RE-ADOPT
THE ALBEMARLE COUNTY PURCHASING MANUAL**

WHEREAS, the County of Albemarle Purchasing Manual (“Manual”) delineates not only the requirements of the Virginia Public Procurement Act, but also the methods and procedures that best enable the County to procure the highest quality goods and services at a reasonable cost and in an efficient, fair, and competitive manner; and

WHEREAS, the Manual was last amended on September 7, 2011; and

WHEREAS, the Board finds it is in the best interests of the County to amend the Manual to incorporate procedures in accordance with the Virginia Code for the procurement of design-build and construction management contracts.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby amends and re-adopts the Albemarle County Purchasing Manual by adding Chapter 27, Design/Build (D/B) Procedures, and Chapter 28, Construction Management (CM) Procedures.

Chapter 27. Design Build (D/B) Procedures

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as an "Agency") for the procurement of Design-Build (“D/B”) contracts.

Essential Information in this Chapter
<ul style="list-style-type: none"> • A County agency may enter Design-Build (D/B) contracts only after it has determined in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. • Prior to using a D/B contract, a County agency must receive approval from the Board of Supervisors. • Procurement of a D/B contract is a two step competitive negotiation process. The agency first selects qualified offerors and then, from among them, the design-build contractor.
Key References to the Code of Virginia Applicable to this Chapter
Section 2.2-4301: Definitions of design-build contract and other key terms Section 2.2-4303(D)(4): Exceptions to competitive sealed bidding Section 2.2-4308: Design-build contracts for public bodies other than the Commonwealth

27-1 General

A design-build contract is a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract. The County may contract to secure D/B projects on a fixed price or not-to-exceed price basis in accordance with *Virginia Code* § 2.2-4308(A), the requirements of that section, and the procedures adopted by the Virginia Secretary of Administration for utilizing design-build or construction management contracts. The County is authorized to use competitive negotiations to procure D/B contracts when it determines in advance, and sets forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

D/B contracts are intended to minimize the project risk for an owner and to reduce the delivery schedule by overlapping the design phase and construction phase of a project.

27-2 Procedure for Approval

Prior to taking any action, the Agency shall request authority, in writing and receive approval from the Board of Supervisors, to use a D/B contract. The request shall justify and substantiate that D/B is more advantageous than a competitive sealed bid construction contract with a general contractor and shall indicate how the County will benefit from using D/B. The request shall also include a written justification that sealed bidding is not practicable and/or fiscally advantageous. These justifications for the use of D/B shall be stated in the Request for Qualifications. Approval of or exceptions to this procedure may be granted by the purchasing agent, who is the approving authority for requests to use D/B procedures.

27-3 Selection Procedures

On projects approved for D/B, procurement of the contract shall be a two step competitive negotiation process. The following procedures shall be used in selecting a Design-Builder and awarding a contract:

1. The Agency shall appoint an Evaluation Committee ("Committee") which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect from the Office of Facilities Development (OFD). The Agency shall contact the County Attorney's Office (CAO) to determine whether a representative from the CAO should be involved.
2. The basis of the award of the contract shall be in accordance with *Virginia Code* § 2.2-4301(3)(b) and the criteria for the award shall be submitted to the purchasing agent, in advance, for approval. It is noted that cost is a critical component of the selection process. Guidance on methods for award can be found in the *Construction and Professional Services Manual* (2012 Edition, as amended) Section 7.30.1.
3. Selection of Qualified Offerors (STEP I): On projects approved for D/B, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor and an Architect or Engineer registered in the Commonwealth of Virginia as part of the Project Team.
 - b) The RFQ shall be posted in accordance with the current standards for the posting of public bids in the *Virginia Code* and in accordance with the latest edition of the *Construction and Professional Services Manual*.
 - c) The Committee shall evaluate each offeror's RFQ responses and any other relevant information and shall determine which offerors are fully qualified and suitable for the project.
 - d) The RFQ evaluation shall result in a short list of two to five offerors to receive the RFP. An offeror may be denied prequalification only as specified under *Virginia Code* § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
 - e) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror

shall state the reasons for such denial of prequalification and the factual basis of such reasons.

4. Selection of Design-Build Contractor (STEP II):

- a) The Agency shall send an RFP to the D/B offerors on the short list for the project and request formal proposals from them. The criteria for award shall be included in the RFP.
- b) Sealed Technical Proposals as described in the RFP shall be submitted to the Committee. Separately-sealed Cost Proposals shall be submitted to the County's Virginia Construction Contracting Officer ("VCCO"), and shall be secured by and kept sealed until evaluation of the Technical Proposals and the design adjustments are completed.
- c) The Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. It will inform each D/B offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the RFP. In addition, the Agency may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the Committee during design development.
- d) Based on the adjustments made to the Technical Proposals, the offeror may amend its Cost Proposal. In addition, an offeror may submit cost modifications to its original sealed Cost Proposal which are not based upon revisions to the Technical Proposals.
- e) The Committee shall evaluate (and rank if technical rankings are to be considered as a criteria for award) the technical proposals. Should the Agency determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror after approval of the purchasing agent. Otherwise, the Agency shall open the cost proposals and apply the criteria for award as specified in the RFP and approved by the purchasing agent.
- f) The Committee shall make its recommendation for the selection of a design builder to the Agency head based on its evaluations of the technical and cost proposals and all amendments thereto. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.
- g) The Agency shall notify OFD of its selection of the Design-Builder and shall request authority to award a contract by processing the notice of award and providing supporting documents, to the purchasing division via e-mail.
- h) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Design-Builder. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- i) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as the "Agency") for the procurement of Construction Management ("CM") contracts.

Essential Information in this Chapter
<ul style="list-style-type: none"> • A County agency may enter Construction Management (CM) contracts only after it has determined in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. • Prior to using a CM contract, a County agency must receive approval from the Board of Supervisors. • Procurement of a CM contract is a two step competitive negotiation process. The agency first selects qualified offerors and then, from among them, the construction manager.
Key References to the Code of Virginia Applicable to this Chapter
<p>Section 2.2-4301: Definitions of construction management contract and other key terms Section 2.2-4303(D)(4): Exceptions to competitive sealed bidding Section 2.2-4308: Construction management contracts for public bodies other than the Commonwealth</p>

28-1 General

A construction management contract is a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner. The County may enter into a contract with a Construction Manager in accordance with *Virginia Code* § 2.2-4308(A), the requirements of that section, and the procedures adopted by the Virginia Secretary of Administration for utilizing design-build or construction management contracts. The County is authorized to use competitive negotiations to procure CM contracts when it determines in advance, and sets forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

CM contracts may be approved for use on projects where 1) fast tracking of construction is needed to meet Agency program requirements, or 2) value engineering and/or constructability analyses concurrent with design are required. The use of CM shall be limited to projects with a construction value that is in excess of \$10,000,000. With proper justification for small complex projects, the purchasing agent may grant a waiver of this requirement.

28-2 Procedure for Approval

Prior to taking any further action, the Agency shall request authority, in writing and receive approval from the Board of Supervisors, to use a CM contract. The request shall justify and substantiate that a CM contract meets the criteria found in section 28-2. The request must also include the stipulation that the CM contract will be initiated no later than the Schematic Phase of design. The request shall also include a written justification that sealed bidding is not practicable and/or fiscally advantageous. These justifications for the use of a CM contract shall also be stated in the Request for Qualifications. Approval of or exceptions to this procedure may be granted by the purchasing agent, who is the approving authority for requests to use CM procedures.

28-3 Selection Procedures

On projects approved for CM, procurement of the contract shall be a two step process unless a one step process is approved pursuant to section 28-5. The following procedures shall be used in selecting a C/M and awarding a contract:

1. The Agency shall appoint an Evaluation Committee (“Committee”) which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect provided by the Office of Facilities Development (OFD). The Agency shall contact the County Attorney’s Office (CAO) to determine whether a representative from the CAO should be involved.
2. The basis of the award of the contract shall be in accordance with *Virginia Code* § 2.2-4301(3)(b) and the criteria for the award shall be submitted to the purchasing agent, in advance, for approval. It is noted that cost is a critical component of the selection process.
3. Selection of Qualified Offerors (STEP I): On projects approved for CM, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications (“RFQ”) containing the Agency’s Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class “A” contractor registered in the Commonwealth of Virginia as part of the Project team.
 - b) The RFQ shall be posted in accordance with the current standards for the posting of public bids in the *Virginia Code* and in accordance with the latest edition of the *Construction and Professional Services Manual*.
 - c) The Committee shall evaluate each responding firm’s RFQ responses and any other relevant information and shall determine those deemed qualified with respect to the criteria established for the project.
 - d) The RFQ evaluation process shall result in a short list of two to five offerors to receive the RFP. An offeror may be denied prequalification only as specified under the *Virginia Code* § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
 - e) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.
4. Selection of a Construction Manager (STEP II):
 - a) The Agency shall send a Request for Proposal (“RFP”) to the offerors on the short list and request submission of formal proposals from them. The criteria for award shall be included in the RFP.
 - b) Proposals as described in the RFP shall be submitted to the Committee.
 - c) The Committee will evaluate and rank the proposals. After evaluation and ranking of the proposals, the Committee shall:
 1. Conduct negotiations with two or more offerors submitting the highest ranked proposals. (or)
 2. Should the Agency determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly

qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

- d) The Committee shall make its recommendation on the selection of a construction manager to the Agency head based on its evaluations and negotiations. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.
- e) The Agency shall notify OFD of the its selection of the Construction Manager and shall request authority to award a contract by processing the notice of award and providing supporting documents to the purchasing division via e-mail to [\[coforms@dgs.virginia.gov\]](mailto:coforms@dgs.virginia.gov).
- f) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Construction Manager. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- g) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

28-4 Required Contract Terms

Any Guaranteed Maximum Price construction management contract entered into by any department, agency or institution of the County will contain provisions requiring that (1) not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and (2) that the remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. Documentation shall be placed in the file detailing the reasons any work is not procured by publicly advertised competitive sealed bidding. The purchasing agent may modify these contractual requirements in whole or in part for projects where it would be fiscally advantageous to the public to increase the amount of construction work performed by the Construction Manager.

28-5 Guaranteed Maximum Price

The Guaranteed Maximum Price shall be established at the completion of working drawings unless a waiver has been granted to this requirement by the purchasing agent.

28-6 One-Step Solicitation

An Agency may request from the purchasing agent approval to perform a one-step solicitation for its project. If adequate justification is provided, the purchasing agent may approve the request.

Albemarle County 2014 Legislative Priorities

Growth Management, Land Use and Transportation

Biosolids—Support legislation enabling localities, as part of their zoning ordinances, to designate and/or reasonably restrict the land application of biosolids to specific areas within the locality based on criteria related to the public safety and welfare of its citizens and the environment. In addition, support legislation regarding land application of biosolids that protect the environment, public health and safety.

Local Authority—Support legislation to 1) strengthen localities' authority by enabling them to utilize adequate public facilities ordinances; and 2) not pass legislation that preempts or circumvents existing local authority to regulate land use.

Impact Fee Authority—Support impact fee legislation that allows for 1) a fair allocation of costs representing a "pro-rata" off-set of new growth on public facilities; 2) impact fees for facility costs related to transportation, schools, fire, police, emergency medical services, libraries, stormwater management, open space and parks/recreation lands; 3) effective implementation through simple locally-based formulae and reasonable administrative requirements; 4) does not cap or limit localities' impact fee updates; and 5) does not diminish the existing proffer system.

Conservation Easements—Support legislation that augments local efforts in natural resource protection through 1) continuing to fund the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (e.g. ACE Program in Albemarle County); 2) continuing to provide matching funds to localities for their Purchase of Development Rights programs through the Office of Farmland Preservation; 3) retaining provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological and scenic value that attract tourism; and 4) increase incentives for citizens to create conservation easements.

Scenic Protection and Tourist Enhancement—Support enabling legislation for Albemarle County to provide for a scenic protection and tourist enhancement overlay district. As the County pursues options to protect the visual quality of land as an aesthetic and economic resource, this legislation would provide a method to ensure full consideration of visual resources and scenic areas when the County or state make land use decisions in designated areas.

Transportation Funding—Support legislation to 1) establish stable and consistent state revenues for Virginia's long-term transportation infrastructure needs; 2) direct funding efforts at all transportation modes; 3) coordinate planning for transportation and land use, being mindful of local Comprehensive and regional Transportation Plans when planning transportation systems within a locality; and 4) strongly oppose any legislation or regulations that would require the transfer of responsibility to counties for construction, maintenance or operation of new and existing secondary roads.

Health and Human Services

Comprehensive Services Act (CSA)—Request that the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA; 2) enhancing state funding for grants to localities to create community-based alternatives for children served in CSA; 3) establishing state contacts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs; and 4) encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.

Child Care for Low Income Working Families—Request the legislature provide additional funds to local governments to assist low-income working families with childcare costs. This funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.

Local Department of Social Services (LDSS)—Request the legislature increase funds for LDSS to match all available federal dollars to assist LDSS staffing needs in order to meet state mandated services and workloads.

Local Government Administration and Finance

Voting Precincts—Eliminate split precincts to the extent possible. The 2011 Virginia Senate and House of Delegates redistricting created split precincts in the Jack Jouett, Rio and Rivanna Magisterial Districts. The Jack Jouett precinct is split between the 17th and 25th Senate Districts in two places. The Woodbrook precinct is split between the 17th and the 25th Senate Districts. The Free Bridge precinct is split between the 57th and 58th House Districts and the Stony Point precinct is split between the 17th and 25th Senate Districts.

Full Funding of State Mandates—Request the state provide full funding for its mandates in all areas of local government including the Standards of Quality (SOQs), positions approved by the Compensation Board, costs related to jails and juvenile detention centers and human services positions.

Local Control of Local Revenues—Oppose legislation that restricts or limits the existing local control of local revenues so that local government leaders can take appropriate measures to generate sufficient revenues to sustain and improve services.

Drug Court Funding—Request the legislature fully fund the Drug Court Program, which provides effective treatment and intensive supervision to drug offenders through the Circuit Courts of several Virginia localities.

Cost to Compete Pay Differential—Due to the documented high cost of living in Albemarle County, request the legislature include Albemarle County Schools in the “Cost to Compete Pay Differential” so that the County may reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.

ORDINANCE NO. 13-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, 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 II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

- Sec. 4.18.01 Applicability
- Sec. 4.18.02 Definitions
- Sec. 4.18.05 Exempt sounds

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.18.01 Applicability

This section 4.18 shall apply to sound produced by any use authorized by this chapter, including any use that is expressly authorized by a proffer, special use permit, special use permit condition, or a standard in a code of development, except as otherwise provided in section 4.18.05, regardless of whether the property in the receiving zone is within or without Albemarle County.

(Ord. 00-18(3), 6-14-00)

State law reference – Va. Code § 15.2-2280.

Sec. 4.18.02 Definitions

The following definitions shall apply to this section 4.18. The definitions of any sound-related term not defined herein shall be obtained from the American Standard Terminology if defined therein.

...

Agricultural activity. The term “agricultural activity” means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers’ markets; or any combination of the foregoing activities.

...

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, dance hall, restaurant or other place of entertainment open to the public, but not including a music festival authorized by a special use permit, regardless of whether the payment of money or other consideration is required for admission.

...

Sec. 4.18.05 Exempt sounds

The following sounds shall not be subject to this section 4.18:

- A. *Agricultural activities.* Sound produced by an agricultural activity.
- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs; provided that this sound is otherwise 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, provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- 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 or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm; provided that this exemption shall not apply to a firearm discharged at a gun club, shooting range, shooting preserve, or target, trap or skeet 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. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system; provided that sound from outdoor amplified music at a farm winery is otherwise subject to the farm winery regulations in section 18-5.1.25(e), sound produced in conjunction with an outdoor music festival authorized by special use permit under this chapter shall be subject to the noise regulations in this chapter, and sound produced by an outdoor amplified music system or outdoor public address system, including any system used in conjunction with an agricultural activity, is subject to the noise regulations in chapter 7 of the Code.
- I. *Parades, fireworks and similar events.* Sound produced by parades, fireworks, and other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to chapter 6 of the Code.
- J. *Person's voice.* Sound produced by a person's voice.
- K. *Place of public entertainment.* Sound 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") at a place of public entertainment; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- L. *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.
- M. *Public facilities and public uses.* Sound produced by the operation of a public facility or public use including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility or non-public use.
- N. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities, but only if conditions are not imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.
- O. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- P. *Solid waste collection.* Sound produced by the collection of solid waste; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- Q. *Telephones.* Normal sound produced by landline and wireless telephones.

- R. *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.
- S. *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.
- T. *Yard maintenance activities*. Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.

(Ord. 00-18(3), 6-14-00)

ORDINANCE NO. 13-07(2)

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, ARTICLE I, NOISE, 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, is hereby amended and reordained as follows:

By Amending:

- Sec. 7-102 Applicability
- Sec. 7-103 Definitions
- Sec. 7-105 Prohibited acts enumerated
- Sec. 7-106 Exempt sounds

Chapter 7. Health and Safety

Article I. Noise

Sec. 7-102 Applicability.

This article shall apply to sound produced within the county, regardless of whether the complainant or the receiving property is within or without the county, that is not subject to the noise regulations in chapter 18 of the Code including, but not limited to, section 18-4.18 *et seq.* of the Code.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

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

Sec. 7-103 Definitions.

The following definitions shall apply to this article:

...

(1.1) *Agricultural activity.* The term "agricultural activity" means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities.

...

(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.

...

(12.1) *Outdoor.* The term "outdoor" means either outside a structure, or inside a structure that has open windows, doors or other openings so as to allow the activity inside the structure to be visible or audible outside the structure.

...

(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, dance hall, restaurant or other place of entertainment open to the public, regardless of whether the payment of money or other consideration is required for admission, but does not include a music festival authorized by a special use permit under chapter 18 of the Code,.

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 either:

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; or

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 either:

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; or

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; or

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; or

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; or

5. *Device producing outdoor amplified music or serving as an outdoor public address system.* The device is located to produce outdoor amplified music, to serve as an outdoor public address system, or both, including any such device used in conjunction with an agricultural activity, and the sound is not otherwise regulated under subsections (B)(1) through (4) or exempt under section 7-106, and the sound is audible from inside a dwelling unit or hotel room.

6. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, a dwelling unit, or is not producing a sound subject to subsection (B)(5), 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 either:

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; or

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; Ord. 09-7(3), 12-2-09)

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 by an agricultural activity.

B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which is 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, or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a gun club, shooting range, shooting preserve, or target, trap or skeet range; provided that this sound is otherwise subject to the noise regulations in chapter 18 of the Code.
- 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. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system if the sound is outdoor amplified music at a farm winery subject to the farm winery regulations in section 18-5.1.25(e) or is sound produced in conjunction with an outdoor music festival authorized by special use permit under chapter 18 of the Code.
- I. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks or other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to chapter 6 of the Code.
- J. *Person's voice.* Sound produced by a person's voice, except as provided in section 7-105(B).
- K. *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.
- L. *Public facilities and public uses.* Sound produced by the operation of a public facility or public use including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility or non-public use.
- M. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities.
- N. *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).
- O. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in section 7-105(G).
- P. *Telephones.* Normal sound produced by landline and wireless telephones.
- Q. *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).
- R. *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.
- S. *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; Ord. 09-7(3), 12-2-09)

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

**RESOLUTION TO APPROVE AN AGREEMENT OF LEASE
BETWEEN ALBEMARLE COUNTY AND CROZET RUNNING, LLC.**

WHEREAS, the Board finds it is in the best interest of the County to lease a portion of the space on the first floor of the new Crozet Library, located at 2020 Library Avenue, Crozet, VA 22932 (TMP 056A2-01-00-01800), to Crozet Running, LLC.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute an Agreement of Lease between the County of Albemarle and Crozet Running, LLC., in a form approved by the County Attorney.

**RESOLUTION TO ASSUME THE
“WATCH FOR CHILDREN” SIGNS PROGRAM**

WHEREAS, Virginia Code § 33.1-210.2 was amended in 2012 to make localities responsible for the installation and maintenance of “Watch for Children” signs, which was previously the responsibility of the Virginia Department of Transportation (VDOT); and

WHEREAS, any locality that wishes to assume the responsibility for the installation and maintenance of new “Watch for Children” signs must enter into an agreement with VDOT identifying the specific location of any new signs, which must be approved by VDOT, and must submit addendums for any future additional signs to VDOT for its approval; and

WHEREAS, the Board finds it is in the best interest of the County for the County to assume the responsibility for the installation and maintenance of new “Watch for Children” signs in the County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County to administer the “Watch for Children” signs program and authorizes the County Executive to execute VDOT’s Agreement for the Installation and Maintenance of “Watch for Children” Signs in a form approved by the County Attorney and to execute future Addendums to that Agreement to be submitted to VDOT after determining that the sign request meets the siting criteria.