

**ACTIONS**  
**Board of Supervisors Meeting of September 11, 2013**

September 16, 2013

| <u>AGENDA ITEM/ACTION</u>   | <u>ASSIGNMENT</u>  | <u>PODCAST</u>         |
|---|--|------------------------|
| 1. Call to Order. <ul style="list-style-type: none"> <li>Meeting was called to order at 3:39 p.m., by the Chair, Ms. Mallek. All BOS members were present (Mr. Craddock arrived at 4:11 p.m.). Also present were Tom Foley, Larry Davis and Travis Morris.</li> </ul>   |  | <a href="#">Listen</a> |
| 2. <b>Work Session:</b> CPA-2013-01. Comprehensive Plan Update/Amendment. <ul style="list-style-type: none"> <li><b>Held.</b></li> </ul>  | <u>Elaine Echols:</u> Proceed as directed. (Attachment 1)  |                        |
| 3. Closed Meeting. <ul style="list-style-type: none"> <li>At 4:58 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (3) to discuss the acquisition of real property for public park land because an open meeting discussion would adversely affect the bargaining position of the County; under Subsection (3) to discuss the acquisition of real property for court facilities because an open meeting discussion would adversely affect the bargaining position of the County; and under Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for implementing a cooperative cost recovery program for emergency service transports.</li> </ul> |  |                        |
| 4. Certify Closed Meeting. <ul style="list-style-type: none"> <li>At 6:12 p.m., the Board reconvened into opened meeting and certified the closed meeting.</li> </ul>   |  | <a href="#">Listen</a> |
| <b>Non Agenda.</b><br>Boards and Commissions: Appointments. <ul style="list-style-type: none"> <li>By a vote of 6:0 <b>APPOINTED</b> Mr. E. N. Garnett to the Acquisition of Conservation Easement (ACE) Committee with said term to expire August 1, 2014.</li> </ul>  | <u>Clerk:</u> Prepare appointment letter, update Boards and Commissions book, webpage, and notify appropriate persons. |                        |
| <b>6:00 P.M. – Regular Night Meeting</b>  |  |                        |
| 5. Call to Order. <ul style="list-style-type: none"> <li>Meeting was called to order at 6:13 p.m., by the Chair, Ms. Mallek.</li> </ul>   |  | <a href="#">Listen</a> |
| 8. Adoption of Final Agenda. <ul style="list-style-type: none"> <li><b>ACCEPTED</b> the final agenda.</li> </ul>  |  |                        |
| 9. Brief Announcements by Board Members.<br><u>Ann Mallek:</u> <ul style="list-style-type: none"> <li>Suggested that the County Executive have a conversation with City Manager Maurice Jones about notice of Route 250 lane changes and closures.</li> <li>Announced that there have been stories in the Washington Post on people losing their homes to tax bills and requested that staff take a close look at the County's process.</li> <li>Announced that a local business recently did a</li> </ul>  |  |                        |

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| <p>promotion by throwing a large number of cups in residents' yards, and reminded people that that is not the proper way to advertise.</p>  |  |                               |
| <p>10. Recognitions:</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> proclamations recognizing National Emergency Preparedness Month, World Alzheimer's Awareness Month, and Women's Equality Day.</li> <li>a. Proclamation recognizing September, 2013 as <i>National Emergency Preparedness Month</i>. <ul style="list-style-type: none"> <li>• Chair read and presented proclamation to Kirby Felts, Emergency Management Coordinator.</li> </ul> </li> <li>b. Proclamation recognizing September, 2013 as <i>World Alzheimer's Awareness Month</i>. <ul style="list-style-type: none"> <li>• Chair read and presented proclamation to Sue Friedman, President, Alzheimer's Association Charlottesville.</li> </ul> </li> <li>c. Proclamation recognizing <i>Women's Equality Day</i>. <ul style="list-style-type: none"> <li>• Chair read and presented proclamation to Kobby Hoffman, President of Charlottesville National Organization for Women.</li> </ul> </li> </ul>   | <p>Attachment 2</p> <p>Attachment 3</p> <p>Attachment 4</p>  | <p><a href="#">Listen</a></p> |
| <p>11. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li>• <u>The following individuals spoke about the Field School's special use permit application and Polo Grounds Road:</u> <ul style="list-style-type: none"> <li>• Donni Long</li> <li>• David Schmitt</li> <li>• Lettie Bien</li> </ul> </li> <li>• <u>Katherine "Kobby" Hoffman</u>, President of Charlottesville National Organization for Women, spoke about the Board's handling of the Women's Equality Day resolution.</li> <li>• <u>Ann Eddins</u> thanked the Board for passing the Women's Equality Day resolution.</li> <li>• <u>Tim Leroux</u>, Director of Local Energy Alliance Program (LEAP), thanked the Board for its' support of LEAP, and spoke about LEAP's upcoming partnership with Dominion Virginia Power.</li> <li>• <u>Nancy Carpenter</u>, resident of the Scottsville District, spoke about the appropriateness of local resolutions.</li> <li>• <u>Claire Johnson</u>, County resident, spoke about traffic issues on Berkmar Drive, Commonwealth Drive and Greenbrier Drive.</li> <li>• <u>Amy Sarah Marshall</u>, President of the Charlottesville Pride Festival, spoke about and invited Board members to the upcoming Charlottesville Pride Festival.</li> <li>• <u>Rit Venerus</u> spoke about Costco coming to Stonefield and urged the Board not to approve the variations modification.</li> </ul> |  | <p><a href="#">Listen</a></p> |
| <p>12.2 Resolution to accept road(s) in The Farms at Turkey Run Subdivision into the Secondary System of Highways.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolution.</li> </ul>   | <p>Clerk: Forward copy of signed resolution to Glenn Brooks and County Attorney's office. (Attachment 5)</p> | <p><a href="#">Listen</a></p> |

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| 12.3 | Resolution to adopt a revised Administrative Plan for the Housing Choice Voucher Program. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolution to approve the revisions to Chapter 20 of the Administrative Plan and <b>AUTHORIZED</b> the Chief of Housing to implement the Program in accordance with the approved Plan.</li> </ul> | <u>Clerk:</u> Forward copy of signed resolution to Housing and County Attorney's office. (Attachment 6)                                |                        |
| 12.4 | ZMA-2013-0006. Este Park - Proffer Amendment <ul style="list-style-type: none"> <li>• <b>DEFERRED</b> indefinitely at the request of the applicant.</li> </ul>  |  |                        |
| 13.  | <b><u>Pb. Hrg.: SP-2013-00006. Commonwealth Offices (Sign #24).</u></b> <ul style="list-style-type: none"> <li>• By a vote of 6:0 <b>APPROVED</b> SP-2013-00006 subject to the conditions recommended by staff.</li> </ul>  | <u>Clerk:</u> Set out conditions of approval. (Attachment 7)   | <a href="#">Listen</a> |
| 14.  | <b><u>Pb. Hrg: ZTA-2013-00004. Family Day Homes.</u></b> <ul style="list-style-type: none"> <li>• By a vote of 6:0 <b>ADOPTED</b> Ordinance No. 13-18(5) to approve ZTA-2013-00004.</li> </ul>  | <u>Clerk:</u> Forward copy of adopted ordinance to Community Development, Social Services and County Attorney's office. (Attachment 8) | <a href="#">Listen</a> |
| 15.  | <b><u>ZMA-2012-00004. Avon Park II (Signs #89&amp;91).</u></b> <ul style="list-style-type: none"> <li>• By a vote of 6:0 <b>DEFERED</b> ZMA-2012-00004 to December 9, 2013 agenda.</li> </ul>   | <u>Clerk:</u> Schedule ZMA-2012-00004 on December 9 agenda.  | <a href="#">Listen</a> |
| 16.  | SDP-2013-41. Stonefield-Special Exception to Authorize Variations from Application Plan and Code of Development (ZMA-2011-7). <ul style="list-style-type: none"> <li>• By a vote of 4:2 (Boyd, Craddock) <b>APPROVED</b> the variations as stated in the application for variations #16, #17 and exhibits A-E, as recommended by staff.</li> </ul>  | <u>Community Development:</u> Proceed as approved.   | <a href="#">Listen</a> |
| 17   | From the Board: Committee Reports and Matters Not Listed on the Agenda. <ul style="list-style-type: none"> <li>• There were none.</li> </ul>  |  | <a href="#">Listen</a> |
| 18.  | From the County Executive: Report on Matters Not Listed on the Agenda. <ul style="list-style-type: none"> <li>• There were none.</li> </ul>   |  |                        |
| 19.  | Adjourn. <ul style="list-style-type: none"> <li>• At 10:40 p.m., the meeting was adjourned.</li> </ul>  |  |                        |

ewj/tom

Attachment 1 – Direction and Decisions on Comprehensive Plan Work Session

Attachment 2 – Proclamation recognizing September, 2013 as *National Emergency Preparedness Month*

Attachment 3 – Proclamation recognizing September, 2013 as *World Alzheimer's Awareness Month*

Attachment 4 – Proclamation recognizing *Women's Equality Day*

Attachment 5 – Resolution to accept road(s) in The Farms at Turkey Run Subdivision into the Secondary System of Highways

Attachment 6 – Resolution to adopt a revised Administrative Plan for the Housing Choice Voucher Program

Attachment 7 – Conditions of Approval

Attachment 8 – Ordinance No. 13-18(5) - ZTA-2013-00004

**Comprehensive Plan Work Session Direction and Decisions**

1. Pp. 1.4 and 1.5 Sustainability Accords: Set aside a decision on whether or not to list the accords or include the statement that the accords continue to be important aspirational principles for the County. As the Comprehensive Plan draft is reviewed, the Board will see if the recommended strategies in the Plan are affected by the Accords. If so, the Board will revisit the topic to see if changes to the Plan are needed.
2. Page 1.7 Livability Project Goals: Change the statement at the top of the page to read, "Through the Livability Project process, the Planning Commissions of the City of Charlottesville and Albemarle County recommended consideration of the following goals:".
3. P. 1.7 Economic Development goals: Consider whether to add a strategy to the Economic Development Chapter for "support jobs" that have been generated by jobs in the target industries.
4. Verify the agency which deals with housing discrimination claims in the County.
5. P. 2.2 Values and Vision: Add the words, "and other governmental agencies," to the third bullet so that it reads, "Economic drivers which are business, industry, the University of Virginia, and other governmental agencies."
6. P. 3.5: Strategy 1a related to service delivery in the Rural Area: Discuss the relationship of this policy to school bus provision and other school activities when the Board discusses the Community Facilities Chapter of the Plan.
7. P. 3.5: Consider a strategy for allowing additional living quarters on a single lot for a family member when the Housing Chapter and/or Rural Area Chapter is discussed.
8. P. 3.6 Cash Proffer Policy: Set aside the Cash Proffer Policy for a separate discussion before considering recommendations from the Planning Commission for changes. Mr. Foley said that staff would recommend a process to study this topic.
9. Continue to review the Comprehensive Plan using the process from today. Provide clear direction to the Board on what should be reviewed in anticipation of the work session. Include the Planning Commission's recommended priorities and relevant appendices for each Chapter before the Board for review.
10. Provide updated information on population change in conjunction with the Board's annual retreat.

**NATIONAL PREPAREDNESS MONTH**

**WHEREAS,** “National Preparedness Month” creates an opportunity for residents of Albemarle County to prepare their homes, businesses, and communities for any type of emergency from natural to man-made disasters; and

**WHEREAS,** investing in the preparedness of ourselves, our families, businesses, and communities can improve our resilience as we protect against, respond to, recover from, and mitigate hazards; and

**WHEREAS,** Ensuring the health and safety of the community is a strategic goal for Albemarle County and a community priority to fulfill the vision of a thriving County; and

**WHEREAS,** Promoting individual responsibility and citizen ownership of community challenges is a strategic goal for Albemarle County; and

**WHEREAS,** emergency preparedness is the personal responsibility of every citizen of Albemarle County; and

**WHEREAS,** all citizens are urged to make preparedness a priority and participate in local activities to educate themselves on how to take action and work together to ensure that individuals and families in Albemarle County are prepared for disasters and emergencies of any type; and

**WHEREAS,** all citizens of Albemarle County are encouraged to review the Federal Emergency Management Agency *Ready* campaign Web sites at [ready.gov](http://ready.gov) or [listo.gov](http://listo.gov) (in Spanish) and become more prepared;

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby proclaims

**September 2013  
as  
National Preparedness Month**

and encourages all citizens and businesses to develop their own emergency plan, build an emergency kit, and work together toward creating a more prepared community.

**2013 World Alzheimer's Month**

- Whereas,** the nation and the County of Albemarle observe ***World Alzheimer's Awareness Month*** during the month of September; and
- Whereas,** Alzheimer's disease, a progressive neurodegenerative brain disorder, tragically robs individuals of their memories and leads to progressive mental and physical impairments; and
- Whereas,** more than 5 million Americans have Alzheimer's disease with as many as 200,000 of those are individuals under age 65 who have younger-onset Alzheimer's; and
- Whereas,** Alzheimer's disease is the sixth leading cause of death in the U.S., more than prostate cancer and breast cancer combined; and
- Whereas,** the human cost of Alzheimer's disease is staggering. In 2012, 15.4 million caregivers provided an estimated 17.5 billion hours of unpaid care, a contribution to the nation valued at more than \$216 billion; and
- Whereas,** every 68 seconds, someone in America develops Alzheimer's disease and by mid-century someone will develop Alzheimer's every 33 seconds; and
- Whereas,** in recognition of the individuals, families, friends and caregivers dealing with Alzheimer's disease, the researchers who are seeking a cause or cure; and
- Whereas,** the County of Albemarle recognizes the efforts of the Alzheimer's Association to raise funds to support research and promote awareness of Alzheimer's disease and asks its citizens to find ways to *Do A Little Big Thing* in the fight to end the disease;
- Now, Therefore, Be It Resolved,** that the Albemarle County Board of Supervisors does hereby proclaim the month of September 2013, as ***World Alzheimer's Awareness Month***.

**WOMEN'S EQUALITY DAY**

**WHEREAS**, Women's Equality Day is intended to draw attention to the fact that women were given the right to vote in 1920; and

**WHEREAS**, it is incumbent upon all of us to work within our communities to be advocates for the rights of all women, men and children; and

**WHEREAS**, it is important that we encourage everyone to take advantage of the resources and services that are available in this community, such as schools, law enforcement, local government, and human services agencies to help guarantee those rights; and

**WHEREAS**, knowledge empowers women, men and children, which then strengthens families, the fundamental unit of society; and

**WHEREAS**, the Albemarle County Board of Supervisors strongly supports equal pay for equal work for all citizens, regardless of gender;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Albemarle County, Virginia, does hereby recognize

**WOMEN'S EQUALITY DAY**

in the County of Albemarle in remembrance of all women and men who have worked to develop a more equitable community, and one which advocates for all its citizens.

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the September 11, 2013, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **The Farms at Turkey Run Subdivision**, as described on the attached Additions Form AM-4.3 dated **September 11, 2013**, 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 **The Farms at Turkey Run Subdivision**, as described on the attached Additions Form AM-4.3 dated **September 11, 2013**, 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) **Courtenay Glen Way (State Route 1348)** from (Route 1347) Jordan Run Lane to 0.28 miles north, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4368, page 651, with a 50-foot right-of-way width, for a length of 0.28 miles.
- 2) **Jordan Run Lane (1347)** from (Route 795) Blenheim Road to 0.57 miles east to Route 1348 (Courtenay Glen Way), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4368, page 651, with a 50-foot right-of-way width, for a length of 0.57 miles.

Total Mileage – 0.85



**RESOLUTION**

**WHEREAS**, the County of Albemarle is a Public Housing Agency (“PHA”) as defined by the U.S. Department of Housing and Urban Development (“HUD”) for the administration of the Housing Choice Voucher Program (HCV); and

**WHEREAS**, federal requirements for the HCV Program include that each PHA maintain an Administrative Plan which sets forth policies for the administration of the program; and

**WHEREAS**, the Albemarle County Board of Supervisors (“Board”) approved an updated Administrative Plan on June 6, 2012, which was submitted to HUD for review and comment; and

**WHEREAS**, HUD’s comments required revision of the Administrative Plan; and

**WHEREAS**, the Administrative Plan was revised based on HUD comments and guidance provided in HUD’s Notice PIH 2011-54(HA), was approved by the Board on September 5, 2012, and was resubmitted to HUD; and

**WHEREAS**, HUD requested additional revisions on July 19, 2013, specifically to Chapter 20, pertaining to Project-based Vouchers; and

**WHEREAS**, the Office of Housing is required to have the requested revisions to Chapter 20 approved by the Board and inserted into the Plan that was previously approved on September 5, 2012.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County hereby approves the revisions to Chapter 20 of the Administrative Plan and authorizes the Chief of Housing to implement the policies set forth in the plan.

## CONDITIONS OF APPROVAL

**SP-2013-00006. Commonwealth Offices (Sign #24).**

1. Development of the use shall be in general accord with sheet C4 of 4 (Concept Plan) of the plan entitled "Application Plan for Commonwealth Office," prepared by Shimp Engineering, P.C., revision 1, dated 5/6/13, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, the development and use shall reflect the following major elements as shown on the Conceptual Plan:
  - Total building square footage of thirteen thousand, five hundred (13,500) square feet.
  - Entrance location.

Minor modifications to the plan which are in general accord with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. Stormwater management facilities shall be located, designed and built completely on the subject property (Tax Map/Parcel 061W0-03-00-01400) as approved by the County Engineer.
3. The use shall commence on or before September 11, 2015 or the permit shall expire and be of no effect.
4. In addition to the landscaping required per Section 32 of Chapter 18 of the County Code, for every twenty-five (25) feet of street frontage one ornamental tree selected from the County Recommended Plant List shall be planted along the street frontage of Commonwealth Drive. The minimum height of the ornamental trees at planting shall be six (6) feet.

**ORDINANCE NO. 13-18(5)**

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

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

**By Amending:**

- Sec. 3.1 Definitions
- Sec. 10.2.1 By right
- Sec. 12.2.1 By right
- Sec. 13.2.1 By right
- Sec. 14.2.1 By right
- Sec. 15.2.1 By right
- Sec. 16.2.1 By right
- Sec. 17.2.1 By right
- Sec. 18.2.1 By right
- Sec. 19.3.1 By right
- Sec. 20.3.1 By right
- Sec. 20A.6 By right
- Sec. 20B.2 By right

**By Amending and Renaming:**

- Sec. 5.1.06 Day care centers

**By Adding:**

- Sec. 5.1.56 Family day homes

**Chapter 18. Zoning**

**Article I. General Provisions**

**Sec. 3.1 Definitions**

...

*Family day home:* A child day program offered in the dwelling unit of the provider or the dwelling unit that is the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. For the purposes of this definition, a child day program is a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of thirteen (13) for less than a twenty-four (24) hour period. (Added 10-3-01)

...

(§ 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13)

## Article II. Basic Regulations

### Sec. 5.1.06 Day care centers

Each day care center shall be subject to the following:

- a. *State licensure.* Each day care center shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the day care center shall provide a copy of the license to the zoning administrator. The owner or operator's failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter. (Amended 10-3-01)
- b. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the day care center. The owner or operator's failure to promptly admit the fire official onto the premises to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter. (Amended 10-3-01)
- c. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency. (Amended 10-3-01)

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01)

### Sec. 5.1.56 Family day homes

Each family day home shall be subject to the following:

- a. *Care for five or fewer children.* Each family day home providing care for five (5) or fewer children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be regulated as a single-family residential use.
- b. *Care for more than five but not more than twelve children.* Each family day home providing care for more than five (5) but not more than twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, shall be subject to the following:
  1. *Traffic.* The additional traffic generated by a family day home, excluding trips associated with the dwelling unit, shall not exceed twenty-four (24) vehicle round trips per day. For the purposes of this section, a "vehicle round trip" means one vehicle entering and exiting the site. The limitation on the number of vehicle round trips per day may be waived or modified by special exception. In acting on a special exception, the board shall consider whether the waiver or modification of the number of vehicle round trips per day will change the character of the neighboring agricultural area or the residential neighborhood, as applicable, and whether the additional vehicle trips per day will be a substantial detriment to abutting lots. Notice of the application for a special exception shall be posted as provided in section 33.4(m)(2).
  2. *Parking.* Each family day home shall provide one (1) parking space plus one (1) parking space for each additional employee. The parking spaces may be located on-site, on the street where authorized by law, or in a parking lot safe and convenient to the family day home.
  3. *Entrance and access.* In conjunction with each application for a zoning clearance, the zoning administrator shall identify, if necessary, the applicable design and improvements required that are at least the minimum necessary to protect public health and safety by providing safe ingress and egress to and from the family day home site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator may consult with the county engineer or the Virginia Department of Transportation regarding the minimum design and improvements for the entrance and access.

4. *State licensure.* Each family day home shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the family day home shall provide a copy of the license to the zoning administrator. The owner or operator's failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter.
5. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the family day home. The owner or operator's failure to promptly admit the fire official onto the premises and into the dwelling unit to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter.
6. *Waivers or modifications by special exception.* Except as provided in subsection (b)(1), no requirement of this section may be waived or modified.
7. *Zoning clearance and notice of request.* No family day home shall commence without a zoning clearance issued under section 31.5, subject to the following:
  - (a). *Notice to abutting lot owners.* At least thirty (30) days prior to acting on the zoning clearance, the zoning administrator shall provide written notice of the application for a zoning clearance to the owner of each abutting lot under different ownership than the lot on which the proposed family day home would be located. The notice shall identify the proposed family day home, its size and capacity, its location, and whether a special exception under subsection (b)(1) is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed or hand delivered at least thirty (30) days prior to the action on the zoning clearance. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement.
  - (b). *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.
8. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01)

### **Article III. District Regulations**

#### **Sec. 10.2.1 By right**

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

...

28. Family day homes (reference 5.1.56).

...

(§ 20-10.2.1, 12-10-80; 12-16-81; 7-6-83; 11-1-89; 11-8-89; 11-11-92; 5-12-93; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.1, 8-5-98; Ord. 02-18(6), 10-9-02; Ord 04-18(2), 10-13-04; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(3), 6-6-12)

**Sec. 12.2.1 By right**

The following uses shall be permitted by right in the VR district, subject to the applicable requirements of this chapter:

...

19. Family day homes (reference 5.1.56).

(§ 20-12.2.1, 12-10-80; 9-2-81; 11-1-89; 11-11-92; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10)

**Sec. 13.2.1 By right**

The following uses shall be permitted by right in the R-1 district, subject to the applicable requirements of this chapter:

...

14. Family day homes (reference 5.1.56).

(§ 20-13.2.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 14.2.1 By right**

The following uses shall be permitted by right in the R-2 district, subject to the applicable requirements of this chapter:

...

14. Family day homes (reference 5.1.56).

(§ 20-14.2.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 15.2.1 By right**

The following uses shall be permitted by right in the R-4 district, subject to the applicable requirements of this chapter:

...

16. Family day homes (reference 5.1.56).

(§ 20-15.2.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 16.2.1 By right**

The following uses shall be permitted by right in the R-6 district, subject to the applicable requirements of this chapter:

...

17. Family day homes (reference 5.1.56).

(§ 20-16.2.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 17.2.1 By right**

The following uses shall be permitted by right in the R-10 district, subject to the applicable requirements of this chapter:

...

17. Family day homes (reference 5.1.56).

(§ 20-17.2.1, 12-10-80; 9-2-81; 3-5-86; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04)

**Sec. 18.2.1 By right**

The following uses shall be permitted by right in the R-15 district, subject to the applicable requirements of this chapter:

...

- 17. Family day homes (reference 5.1.56).

(§ 18.2.1, 12-10-80; 9-2-81; 11-1-89; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 19.3.1 By right**

The following uses shall be permitted by right in the PRD district, subject to the applicable requirements of this chapter:

...

- 13. Family day homes (reference 5.1.56).

(§ 20-19.3.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

**Sec. 20.3.1 By right**

The following uses shall be permitted by right in the PUD district, subject to the applicable requirements of this chapter:

...

- 13. Family day homes (reference 5.1.56).

(§ 20-20.3.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 13-18(2), 4-3-13)

**Sec. 20A.6 Permitted uses**

The following uses shall be permitted in an NMD, subject to the regulations in this section and section 8, the approved application plan and code of development, and the accepted proffers:

- a. *By right uses.* The following uses are permitted by right if the use is expressly identified as a by right use in the code of development or if the use is permitted in a determination by the zoning administrator pursuant to subsection 8.5.5.2(c)(1):

...

- 11. Family day homes (reference 5.1.56).

...

(Ord. 03-18(2), 3-19-03; Ord 04-18(2), 10-13-04; Ord. 09-18(9), 10-14-09; Ord. 10-18(4), 5-5-10; Ord. 13-18(2), 4-3-13)

**Sec. 20B.2 Permitted uses**

The following uses shall be permitted in the DCD, subject to the regulations in this section:

...

- D. *By right uses; residential.* The following residential uses are permitted by right, provided that the first floor of the building in which the residential use exists is designed for and occupied only by a use permitted by subsections 20B.2(A), (B), (C) or (E):

...

- 8. Family day homes (reference 5.1.56).

...

(Ord. 08-18(3), 6-11-08; Ord. 10-18(4), 5-5-10; Ord. 13-18(2), 4-3-13)