



Article 2: Administration

Division 2.1 Zoning Administrator

Section 2.1.1 Appointment, Powers, and Duties ¹

- (A) The Zoning Administrator is appointed by the Board of Supervisors. Said Zoning Administrator has all authority empowered by this Ordinance in the administration and enforcement of all articles of this Ordinance.
- (B) The Zoning Administrator may designate a Deputy Zoning Administrator or other designees to assist in these duties.
- (C) The Zoning Administrator may also hold another office in Albemarle County.
- (D) The Zoning Administrator will have all necessary authority on behalf of the Board of Supervisors, and as granted by the Code of Virginia § 15.2-2286(4), as amended, to administer and enforce this Ordinance. This authority includes, but is not limited to:
 - (1) Interpreting this Ordinance and the official Zoning Map;
 - (2) Administering this Ordinance by making determinations and decisions on buildings, structures, and uses of land to determine compliance with the provisions of this Ordinance.
 - (3) Enforcing this Ordinance, and in specific cases, making findings of fact and, with concurrence of the County Attorney, conclusions of law regarding determinations of rights under Virginia Code §§ 15.2-2307 and 15.2-2311 (C), as amended;
 - (4) Enforcing the provisions of this Ordinance regulating the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance with applicable local, state and federal fair housing laws;
 - (5) Making decisions and determinations as to whether a pending site plan, subdivision plat, building permit application or any other applications subject to review and approval by the County or the program authority complies with this Ordinance;
 - (6) Administering and enforcing proffers accepted in conjunction with zoning map amendments, including:

¹ Editor's Note: Includes edited text from Section 31.1 regarding authority of the Zoning Administrator but expanded to include additional clarifying text and Code of Virginia text.



- (a) Ordering in writing the remedying of any noncompliance with the proffers;
 - (b) Ensuring compliance with the proffers by bringing legal action, including an action for injunction, abatement, or other appropriate action or proceeding;
 - (c) Requiring a guarantee in the form of a surety bond, letter of credit, cash deposit, or another form of guarantee determined to be acceptable by the county attorney, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the proffers, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee will be reduced or released by the Zoning Administrator, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part; and,
 - (d) Keeping and making available for public inspection a record of conditional zoning actions. The record will provide ready access to the proffers accepted in conjunction with a zoning map amendment and the regulations provided for in a particular district or zone. The record also will provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the Board of Supervisors pursuant to Virginia Code § 15.2-2303.2.
- (7) The specific authority expressly granted to the Zoning Administrator in other sections of this Ordinance may not be construed to be a limitation on the authority of the Zoning Administrator to administer and enforce those sections where specific authority is not expressed; and
- (8) In addition to the regulations contained herein, the Zoning Administrator may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Ordinance.

Division 2.2 Planning Commission²

Section 2.2.1 Appointment, Membership, Powers, Duties, and Meetings

² Editor's Note: Chapter 2, Article 4 of County Code supplies for the creation, appointment, terms, and removal of members for the Planning Commission. To prevent text conflicts, the proposed text references the Code of Virginia and the County Code instead of enumerating these items.



- (A) The Planning Commission will be organized, compensated and removed pursuant to the Code of Virginia §§ 15.2-2210 and 15.2-2212, as amended and as outlined in Chapter 2, Article 4, of the Albemarle County Code.
- (B) The Planning Commission will perform the duties pursuant to the Code of Virginia, § 15.2-2221 and § 15.2-2230, et seq, and § 15.2-2285, as amended.
- (C) The Planning Commission must conduct meetings and public hearings pursuant to the Code of Virginia §15.2-2214-2217, as amended.

Division 2.3 Board of Zoning Appeals

Section 2.3.1 Appointment, Terms, Membership, Compensation, and Removal

- (A) Pursuant to the Code of Virginia § 15.2-2308, et seq., as amended, a Board of Zoning Appeals (BZA) is hereby established, subject to the following:
 - (1) A BZA consisting of five members, who are residents of Albemarle County, will be appointed by the Albemarle County Circuit Court.
 - (2) Members will be appointed for terms of five years. Appointments for vacancies occurring otherwise than by expiration of term will, in all cases, be for the unexpired term.
 - (3) The secretary of the BZA must notify the court at least 30 days in advance of the expiration of a term of office, or promptly if a vacancy occurs. A member whose term expires must continue to serve until a successor is appointed and qualifies.
 - (4) A member may not hold any other public office within Albemarle County except that one member may be a member of the Planning Commission, any member may be appointed to serve as an officer of election as defined in Code of Virginia § 24.2-101, as amended, and any elected official of an incorporated town may serve on the BZA of the county in which the member also resides.
 - (5) Within the limits of funds appropriated by the Board of Supervisors, the BZA may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as it may deem necessary for transaction of its business.
 - (6) Members of the BZA will receive such compensation as may be authorized by the Board of Supervisors, from time to time, by ordinance or resolution.
 - (7) Any BZA member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the Albemarle County Circuit Court, after hearing held after at least 15 days' notice.



Section 2.3.2 Powers and Duties

- (A) Pursuant to the Code of Virginia § 15.2-2309, as amended, the BZA will have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:
- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer, in the administration or enforcement of this Ordinance and of Virginia Code §§ 15.2-2280 through 15.2-2316.2, as amended
 - (2) To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201, as amended, from the terms of this Ordinance and following the standards and procedures as outlined in Article 3.
 - (3) To consider and approve special use permits for certain signs under **Section _____** (section number to be added upon its creation) and **Section _____** (section number to be added upon its creation), and to revoke a special use permit previously approved, as provided in **Section _____** (section number to be added upon its creation).
 - (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, only if:³
 - (a) The Zoning Administrator is unable to interpret boundaries, as provided in **Section 2.1.1**, of this Ordinance; or
 - (b) If an applicant appeals the Zoning Administrator's interpretation.
 - (c) After notice to the owners of the property affected by any such question, and after public hearing with notice as required by the Code of Virginia § 15.2-2204, as amended, the BZA may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question.

Section 2.3.3 Meetings and Procedures⁴

- (A) The BZA may adopt such rules and regulations as it may consider necessary.
- (B) The BZA must elect at its annual meeting a Chairperson, who will preside over all meetings and may administer oaths and compel the attendance of witnesses, and a vice-Chairperson, who will act in the absence of the Chairperson. The BZA will elect a secretary and may elect as its secretary either one of its members or

³ Editor's Note: This text has been modified to better reflect the expressed authority of the Zoning Administrators duty to interpret the Zoning Map with the BZA acting on appeals of that decision.

⁴ Editor's Note: Added text to include procedures and regulations for orderly meetings and proceedings of the board to better reflect industry best practices as well as requirements of Code of Virginia.



- an individual who is not a member of the BZA. A secretary who is not a member of the BZA may not vote on any matter. The BZA may adopt rules of procedure to facilitate the conduct of its business at its meetings.
- (C) Meetings of the BZA may be held at the call of its Chairperson or at such time as a quorum of the BZA may determine.
 - (D) A quorum must be at least three members. A favorable vote of three members of the BZA is necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter on which the BZA is required to pass.
 - (E) The BZA also may fix the day or days to which any meeting will be continued if the Chairperson, or vice-Chairperson if the Chairperson is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. The finding must be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for the meeting may be conducted at the continued meeting and no further advertisement is required.
 - (F) The BZA must keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It must keep records of its deliberations and other official actions, all of which will be immediately filed in the office of the BZA and will be public record.
 - (G) A non-legal staff member of the County, applicant, landowner, or landowner's agent/attorney may have ex parte communications with a member of the BZA prior to a hearing but may not discuss the facts or law relative to a particular case. However, all ex parte communications must comply with the requirements of the Code of Virginia § 15.2-2308.1, as amended.

Division 2.4 Architectural Review Board

Section 2.4.1 Appointment, Terms, and Membership

Pursuant to the Code of Virginia, § 15.2-2306, et seq., as amended, an Architectural Review Board (ARB) is hereby established, subject to the following:

- (1) The ARB will have five members. Each member will be appointed by the Board of Supervisors.
- (2) Each member must be a resident of Albemarle County and must have a demonstrated interest, competence or knowledge in architecture, landscape architecture, site design, or all.
- (3) Members will be appointed for terms of four years and serve at the pleasure of the Board of Supervisors. Appointments for vacancies occurring



otherwise than by expiration of term will in all cases be for the unexpired term.

- (4) Within the limits of funds appropriated by the Board of Supervisors, the ARB may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as it may deem necessary to transact its business. The ARB may request the opinion, advice or other aid of any officer, employee, board, bureau or commission of the County.
- (5) Members of the ARB will receive such compensation as may be authorized by the Board of Supervisors, from time to time, by ordinance or resolution.
- (6) The Board of Supervisors will have the discretion to remove members for habitual failure to attend meetings.

Section 2.4.2 Powers and Duties ⁵

The ARB will have the following powers and duties:

- (1) Regularly meet to conduct its business as provided in **Section 2.4.1** and this Section.
- (2) Develop, adopt, and modify design guidelines appropriate for any entrance corridors, subject to the following:
 - (a) The ARB must adopt design guidelines by an affirmative vote to approve the guidelines.
 - (b) Before the ARB acts on any design guidelines, notice that design guidelines are being considered for approval must be advertised as provided in Virginia Code § 15.2-2204.
 - (c) Design guidelines must be ratified by the Board of Supervisors, in part or whole. Any design guidelines not ratified by the Board will be returned to the ARB for reconsideration, modification or other action.
 - (d) Any design guideline will become effective only after it has been ratified by the Board of Supervisors.
- (3) Review and propose areas to be included in or removed from any entrance corridors.
- (4) Review and make recommendations on applications for Site Plans within any entrance corridor provided in **Article 3, Section 7.**

⁵ Editor's Note: Powers and Duties of the ARB have been modified to better reflect best practices and are subject to change based on drafting of Articles III: Permits and Applications.



- (5) Review and act on applications for certificates of appropriateness for any structure and associated improvements or any portion thereof within any entrance corridor that are visible from the entrance corridor street to which the parcel is contiguous and provide requirements and recommendations as provided in **Article 3, Section 8.**

Section 2.4.3 Meetings and Procedures ⁶

- (A) The ARB may adopt such rules and regulations as it may consider necessary.
- (B) The ARB will elect at its annual meeting a Chairperson, who will preside over all meetings, and a vice-Chairperson, who may act in the absence of the Chairperson. The ARB may adopt rules of procedure to facilitate the conduct of its business at its meetings.
- (C) A quorum must be a majority of all the members of the ARB, and may be a minimum of three members.
- (D) Meetings of the ARB may be held at the call of its Chairperson or at such time as a quorum of the ARB may determine.
- (E) The ARB must choose annually its own Chairperson and vice-Chairperson. The vice-Chairperson may act in the absence of the Chairperson and may administer oaths and compel the attendance of witnesses.
- (F) The ARB must keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It must keep records of its deliberations and other official actions, all of which will be immediately filed with the Clerk of the ARB and will be public record.
- (G) All meetings of the ARB must be open to the public.

Division 2.5 Enforcement ⁷

Section 2.5.1 Authority

- (A) As provided in Article 1, conformity with this Ordinance is required. Failure to comply with the requirements of this Ordinance constitutes a violation thereof and is declared to be unlawful.
- (B) As authorized by the Code of Virginia § 15.2-2286(A)(4), as amended, the Zoning Administrator or designee will be responsible for enforcing the provisions of this Ordinance.

⁶ Editor's Note: Added text to include procedures and regulations for orderly meetings and proceedings of the board.

⁷ Editor's Note: This Division includes text from Section 36 with additional text, amended to better conform with the Code of Virginia and industry best practices.



- (C) Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Zoning Administrator under this Ordinance, will be guilty or liable of violating this Ordinance.

Section 2.5.2 Complaints and Inspection

- (A) Any person who alleges that violation of this Ordinance has occurred may file a complaint with the Zoning Administrator or designee. Such complaint must stipulate the cause and basis thereof and the location of the alleged violation. Upon receipt of a complaint or a request to investigate whether this Ordinance is being violated, the Zoning Administrator or the Zoning Administrator's designee must properly record the complaint, conduct an investigation, and take action as provided by this Ordinance.
- (B) The Zoning Administrator or the Zoning Administrator's designee must make a reasonable effort to obtain consent from the owner or tenant to enter the structure or property to conduct an inspection or search. If consent is not given by the owner or tenant, the Zoning Administrator is authorized to request and execute inspection warrants issued by a magistrate or court of competent jurisdiction to allow the inspection of dwellings authorized under Virginia Code § 15.2-2286 (A)(16). The Zoning Administrator also is authorized to request and execute search warrants issued by a court of competent jurisdiction as provided by law.
- (C) Whenever the Zoning Administrator has reasonable cause to believe that any person has engaged or is engaging in any violation of this Ordinance that limits occupancy in a dwelling unit and, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, he may request that the office of the county attorney petition the judge of the general district court for a subpoena duces tecum against any person refusing to produce the data or information, as authorized under Virginia Code § 15.2-2286 (A)(4).

Section 2.5.3 Notice of Violation

- (A) If, upon completion of the investigation, the Zoning Administrator determines that a violation of this Ordinance exists, a notice of violation may be issued to the person committing and/or permitting the violation, the property owner, or any of the above; provided that a notice of violation will not be required to be issued for a violation initiated by a ticket under **Section 2.5.4(B)(1)**.



- (B) The notice of violation will state the violation, remedy, and right to appeal in accordance with the Code of Virginia § 15.2-2311, as amended.⁸
- (C) The notice must be either hand delivered, posted on the door of a building on the site, or mailed by or certified mail to the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records.
- (D) Appeals of notice of violation of proffers will be heard by the Board of Supervisors and all other notice of violation will be heard by the Board of Zoning Appeals in accordance with the procedures set forth in **Article 3, Division 9**.

Section 2.5.4 Remedies and Penalties for Violation

- (A) Upon becoming aware of any violation and making a determination of violation, the Zoning Administrator may institute appropriate action or proceedings, as permitted by law, including injunction, abatement to restrain, correction, or abatement.⁹
- (B) The remedies provided in this Division are cumulative and not exclusive except to the extent expressly provided therein and may be in addition to any other remedies authorized by law.
 - (1) **Civil Penalties.**
 - (a) Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates any provision of this Ordinance or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the Zoning Administrator that the act violates this Ordinance will be subject to civil penalties, as provided in Virginia Code § 15.2-2209, as amended, and subject to the following:¹⁰
 1. **Procedure.** Proceedings seeking civil penalties for violations of this Ordinance may commence either by filing a civil summons in the general district court or by the Zoning Administrator or the designated agent issuing a ticket.
 2. **Civil Summons or Ticket Contents.** A civil summons or ticket must contain, the name and address of person charged, the violation, and methods of resolution.
 3. **Failure to Enter Waiver.** If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation

⁸ Editor's Note: Section 36.2(d)(1) has been incorporated here but simplified per County Attorney request.

⁹ Editor's Note: Includes rewritten text from Section 36.2(e) and Section 36.5.

¹⁰ Editor's Note: The proposed text does not include existing text section 36.3 h.



will be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability may not be deemed a criminal conviction for any purpose.

4. Fines.

- a. A civil violation of this Ordinance will be subject to the fine amounts specified in Virginia Code § 15.2-2209, as amended, for initial summons, additional summons arising from the same set of operative facts, and the civil penalty limit.
- b. After the civil penalties reach the allowed limit, the violation may be prosecuted as a criminal misdemeanor under **Section 2.5.4(B)(2)**.

(2) Criminal Penalties.

- (a) Any violation of the requirements of this Ordinance resulting in injury to a person or persons, or to whom the maximum aggregate civil penalty as provided in Virginia Code § 15.2-2209 has been reached, and who continues to violate any provision of this chapter as provided in **Section 2.5.1**, or permits either by granting permission to another to engage in the violating act or by not prohibiting the violating act after being informed by the Zoning Administrator that the act continues to violate this chapter as provided in **Section 2.5.1**, may be subject to criminal penalties.
 1. If the violation is uncorrected at the time of conviction, the court will order the violator to abate or remedy the violation in compliance with this Ordinance, within a time period established by the court.
 2. Any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwelling units may be punishable by an additional fine. However, no such fine may accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of the dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Chapters 13 or 13.2 of Title 55 of the Code of Virginia, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwelling units may not be punishable by a jail term.



Division 2.6 Fees ¹¹

Section 2.6.1 Fees and Charges

- (A) The Board of Supervisors will establish, by ordinance, a schedule of fees, charges and expenses, and collection procedures for zoning permits, special use permits, variances, appeals, amendments, site plan reviews, and other matters pertaining to this Ordinance.
- (B) The schedule of fees must be available for inspection in the office of the Zoning Administrator and may be altered or amended by the Board of Supervisors by ordinance amendment.
- (C) Applications pertaining to this Ordinance may not be deemed complete until all associated permit and application fees have been paid.

Division 2.7 Taxes and Expenses Paid

Section 2.7.1 Delinquent Taxes and Charges

Pursuant to the Code of Virginia § 15.2-2286 (B), as amended, prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50%, for a special use permit, variance, rezoning, or prior to the issuance of final approval, the applicant must produce satisfactory evidence that any delinquent real estate taxes,, stormwater management utility fees, and any other County charges that constitute a lien on the subject property, that are owned to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.

¹¹ Editor's Note: This section of the ordinance is provided in anticipation of the adoption of a unified fee schedule by Albemarle County. It is best practice to provide fees in a schedule instead of providing them in the Zoning Ordinance. This section will be expanded to include reference to the section or sections of the County Code containing the County fee schedule, once adopted.