

COUNTY OF ALBEMARLE



MEMORANDUM

TO: Mark Graham, Director of the Department of Community Development
George Shadman, Director of the Department of General Services
Amelia McCulley, Director of the Division of Zoning and Current Development
Pat Mullaney, Director of the Department of Parks and Recreation

FROM: Greg Kamptner, Deputy County Attorney

DATE: November 10, 2006

RE: Guidance on completing standard deeds, licenses and other instruments

The County Attorney's Office has created a number of standard deeds of easement, licenses and other instruments available to the public for matters ranging from greenways, to drainage, to open-space easements, and stormwater management. The completed instruments coming to our office for review are more often than not improperly completed. This guidance is intended to address several of the most common problems.

1. Be certain you are providing the most recent version of the instrument: The standard instruments are periodically revised and occasionally outdated versions of the instrument are being provided to the public. Some staff periodically ask the County Attorney's Office to confirm that they have the most recent version. Our plan is to put all of these instruments online in the next couple of months so that staff and the public will always have access to the most recent versions.

2. Fill in the blanks in the electronic version of the instrument; exceptions: By necessity, most if not all of the instruments have a number of blanks that must be filled in, such as the date of the instrument, names of all grantors, the description of the property, and other information. This information must be inserted into the electronic version of the instrument, rather than be inserted by pen or pencil. Three exceptions to this rule are: (1) the day (but not the month and year) of the date of the instrument may be handwritten in black ink; (2) signatures; (3) the notary form may be completed by the notary in handwritten black ink.

3. Delete references to "draft" before printing the instrument: Some standard instruments in circulation have a "draft" date header in the upper right-hand corner of either the first page or all pages. This header should be deleted before the instrument is printed.

4. Delete statements in brackets ("[]") and replace them with the information requested: Below the grantor's signature line, the word "[Name]" (for individuals) or "[Name]," "[Title]" and "[Name of Entity]" appear. Brackets may also appear in other sections, such as in the legal description or in particular paragraphs where optional language is provided and one of the options is to be selected. These brackets indicate that the information is to be replaced with

information specific to that instrument. For example, “[Name],” “[Title]” and “[Name of Entity]” means that the information should be replaced with “Jane Smith, President, Acme Corporation.” The bracketed text must be replaced with the requested information before the instrument is printed.

5. Be certain that the formatting in the electronic version is maintained when the document is printed: Margin settings, tab settings, line spacing, font sizes and other formatting elements sometimes are significantly altered at some point between the citizen receiving the electronic version of the instrument and its printing. A recent pair of open-space easements came into our office where the grantor obviously had not looked at the document after it was printed. Tab settings and line spacing varied from paragraph to paragraph, and font sizes ranged between a 12-point font and a 36-point font.

6. Handwritten information should be in black ink only: The Clerk’s Office requests that only black ink be used for signatures and other handwritten information on instruments that are to be recorded.

7. Legal descriptions: The standard instruments requiring a legal description of the property have some standard language that obviously must be modified in most situations. If a citizen is not represented by an attorney or an engineer, staff should consider sending information, such as the plat being referenced in the legal description, to the County Attorney’s Office so that we may prepare the legal description before the citizen finalizes the instrument.

8. Signature lines: Be certain that the typewritten name of each person signing the instrument, as well as his or her title and the name of the entity he or she represents, when applicable, appears below the signature line. This information must be inserted before the document is printed. Unnecessary signature lines should be deleted.

9. Notary form: Be certain that all of the blanks on the notary form are completed. If any item is left blank (such as identifying the city or county in which the instrument was notarized), the instrument cannot be approved until the omission is corrected.

10. Submitting and forwarding the instrument: All completed instruments (including having all required signatures by the non-County parties) should be submitted by the citizen to the department handling the project, not the County Attorney’s Office. The staff person handling the project should review the instrument for any obvious defects or omissions and if any are found, return it to the citizen for correction. Examples of obvious defects include: (1) all of the blanks were filled in by hand in blue ink; (2) a required signature is missing or not notarized when required (if the standard instrument has a notary form, notarization is required); and (3) a document referenced in the instrument that is supposed to be an attachment or an exhibit was not submitted. If the instrument has no obvious defects or omissions, the staff person should forward it to the County Attorney’s Office for review. **Please inform all citizens who will be submitting an instrument to submit it to your department, and not to the County Attorney’s Office.**

11. Attachments: When forwarding an instrument to the County Attorney’s Office, be certain that any plat or other document that is to be attached to the instrument being reviewed as an attachment or exhibit is forwarded as well.