

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on October 3, 2018, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Norman G. Dill, Mr. Ned Gallaway (arrived at 1:31 p.m.), Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Rick Randolph.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:09 p.m., by the Chair, Ms. Mallek.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. McKeel **moved** that the Board adopt the final agenda. The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill and Ms. Mallek.

NAYS: None.

ABSENT: Mr. Gallaway.

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Agenda Item No. 5. Brief Announcements by Board Members.

Ms. Mallek introduced the presiding security officer, Officer Turner Lowery, and County staff around the dais.

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Ms. Palmer announced that the Ivy Materials Utilization Center would hold Bulky Waste Amnesty Days on October 6, when items such as furniture and mattresses would be accepted; on October 13, when appliances would be accepted; and October 20, when tires would be accepted. She noted that the previous weekend was for household hazardous waste.

Ms. Palmer announced that the North Garden Ruritans would hold a town hall this Thursday, October 4, at 7:15 p.m., to discuss community issues associated with safety along Route 29 South. She said that Mr. Joel DeNunzio of VDOT and County Transportation Planner, Mr. Kevin McDermott, as well as a representative of the County Police Department would attend.

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Mr. Randolph announced that Twilight Tours, held by Scottsville Museum, would begin October 20 at 6:00 p.m., at which actors would portray historical figures from the community.

Mr. Randolph announced that the Scottsville Wizarding Festival would be held Saturday, October 22, from 10:00 a.m. – 8:00 p.m. He noted that the event was formerly named after Harry Potter and thousands had attended in prior years.

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Ms. Mallek reported that the Chamber of Commerce report had just been issued and showed very strong numbers for Albemarle County, as well as an increase in the number of families that lived below the sustainable income level, so there was still more work to be done.

Ms. Mallek announced that the 35<sup>th</sup> annual Crozet Arts and Crafts Festival would be held the weekend of October 6-7, with over 100 artists expected, and she would host a table representing the Monticello Artisan Trail. She said that good weather was expected and invited all to attend.

Ms. Mallek announced the 10th annual Quick Start Tennis Program, founded by Linda Harrell, to introduce elementary school-aged children to tennis on a small court. She said the program had expanded to include 243 schools across Virginia, and the money raised was used to build courts and purchase equipment. She thanked Ms. Harrell and the many volunteers for their work.

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Mr. Dill announced that he attended the Rivanna River Conference the previous Friday, which he said had many great speakers from other counties and the local area, who presented ideas to make the river more accessible, productive, and clean. He noted that a local family had donated 20 acres for Brook Hill Park near the South Fork Dam. He said the park would include a boat launch, walking trails, other activities, and would be a major park in the development area.

Ms. Mallek noted that the paddle by kayak and canoe rides sponsored by Rivanna River Company scheduled for Saturday had to be postponed due to dangerous conditions and would be rescheduled at a yet to be determined date.

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Agenda Item No. 6. Proclamations and Recognitions:

Item No. 6a. 2017 Virginia Association of Chiefs of Police Life-Saving Award.

Police Chief, Ron Lantz addressed the Board. He recognized Officer Paul Quillon and read the following recognition:

“On March 27, 2017, Officer Carillion was the first officer on the scene of an early morning vehicle crash on Garth Road in Albemarle County. The vehicle had left the roadway, struck a tree, and Officer Quillon observed that the vehicle was on fire with one person trapped inside. Officer Quillon first attempted to put the flames out with a fire extinguisher but was unsuccessful due to the size of the fire. Several citizens attempted to free the driver as well but were also unsuccessful. Without regard for his own safety Officer Quillon attempted to free the driver twice on his own, with the driver’s legs trapped beneath the dashboard and the intense heat from the flames, both of these initial attempts were unsuccessful. Undaunted, Officer Quillon returned to the vehicle, which was now fully engulfed in flames, a third time and was able to extract the driver and pull her to safety. As he was returning her to safety her clothing was observed to be smoking from the immense heat she was surrounded by in the vehicle. Within seconds of freeing her from the vehicle it became fully engulfed in flames and was a total loss. There was no doubt that on that day Officer Quillon saved a life. The Virginia Association of Chiefs of Police and Foundation is proud to recognize Albemarle County Police Officer Paul Quillon for the 2017 Lifesaving Award.”

Mr. Lantz invited all to congratulate Officer Quillon and noted that his family members were in the audience.

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Item No. 6b. ICMA Voice of the People - Transformation in Safety.

Mr. Richardson recognized Mr. Doug Walker, Deputy County Executive, for his work overseeing the County’s public safety functions, and described the County’s public safety function as “outstanding.”

Mr. Walker announced that the County was the winner of the Voice of the People award for its transformation in safety. He said the award was presented jointly by the National Research Center Incorporated, in cooperation with International City-County Management Association (ICMA), and that Mr. Richardson and Mr. Henry received the award at the previous week’s ICMA conference. He said the award was only given to top-performing jurisdictions that best listened to citizens and acted on what they heard for the benefit of their communities. He noted that the winners were selected from the 2017 citizen survey responses and that residents of Albemarle reported the highest levels of improvement in the safety category among all jurisdictions across the country.

He added that the County was recognized for the following key achievements: 1) Implementation of Geographic Based Policing Model by Albemarle County Police Department; 2) Office of Emergency Management increased its reach from an estimated 687 attendees at public outreach events to an estimate of 9,885 from 2014–2016, through direct outreach and through the use of social media; and 3) Albemarle County Fire-Rescue increased fire prevention and community engagement, through the use of advertisements on local buses, in local media, door-to-door replacements of smoke alarms in the Southwood community, increased community engagement and communication with the local community and schools, and collaboration with Department of Social Services and Jefferson Area Board of Aging for a paramedicine project. He recognized the work of Mr. Ron Lantz and Mr. Dan Eggleston, Director of Office of Emergency Management, Ms. Allison Farole, and their teams. He invited staff members from these agencies to stand and be recognized.

Mr. Walker introduced Mr. Barry Neulen, the new Director of Emergency Communications as of October 1, 2018.

Ms. Mallek recognized the important services provided by the Office of Emergency Management.

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Item No. 6c. Proclamation Recognizing October as Wine Month.

Ms. Mallek read and **moved** to adopt the following proclamation recognizing October as Wine Month:

**Proclamation  
Virginia Wine Month**

**WHEREAS,** from modest beginnings in colonial times, Virginia has become a nationwide leader in the wine industry, now 5<sup>th</sup> in the nation in grape production and 8<sup>th</sup> in the nation in wine production, with wine sales growing to 588,700 cases (7 million bottles) of Virginia wine sold worldwide in 2017; an all time record; and

**WHEREAS,** wines from the Commonwealth, including those from Albemarle County, are winning national and international awards and recognition for their elegant qualities, imparted by skilled vintners and Virginia's terroir; the winner of the 2018 Governor's Cup is King Family Winery; and

**WHEREAS,** many of Albemarle's 36 vineyards, most with wineries on site, are run by families as strong agricultural enterprises that can be passed on to future generations, providing economic benefit for winery owners and employees and for other Albemarle ventures supported by the patronage and purchasing power of winery visitors, including farming of heritage and heirloom crops, restaurant cuisine committed to selling local where possible, and tourism focused on sustaining the land and the local culture; and

**WHEREAS,** in 2017 Albemarle County had the 2nd most bearing acres of grapes in the state-- over 16% of the state's total bearing acres -- and is part of the central region of Virginia which produced the most tons of grapes: 2,744 tons, or 42% of the total in the state in 2017; and

**WHEREAS,** Albemarle County values our wineries' stewardship, keeping their land producing and protected in agricultural uses, preserving scenic vistas, historic sites and other amenities which make Albemarle wineries ideal places of entertainment, culture, enjoyment and social engagement that enrich Albemarle County's quality of life and culture of hospitality.

**NOW, THEREFORE, BE IT PROCLAIMED,** that we, the Albemarle County Board of Supervisors, do hereby recognize Albemarle County wineries and their contribution to the Virginia wine industry's success and encourage County residents and visitors to visit a winery or purchase local wines through local restaurants and shops during October 2018, Virginia Wine Month.

Signed this 3<sup>rd</sup> day of October, 2018.

The motion was **seconded** by Mr. Dill. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill and Ms. Mallek.

NAYS: None.

ABSENT: Mr. Gallaway.

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Item No. 6d. Proclamation Recognizing October 5-14, 2018 as Virginia Artisan Week and October 2018 as Virginia Artisan Month.

Ms. Mallek read and **moved** to adopt the following proclamation recognizing October 5-14, 2018 as Virginia Artisan Week and October 2018:

**Proclamation Recognizing  
October 5-14, 2018 as Virginia Artisan Week  
and  
October 2018 as Virginia Artisan Month**

**WHEREAS,** the culture of the Virginia artisan inspires appreciative audiences for its unique work and distinctive way of life; and

**WHEREAS,** the production and use of handmade arts and artisan agricultural products invoke an intimate lifelong relationship of value and appreciation for the work of highly skilled individuals; and

**WHEREAS,** the state of Virginia currently hosts 27 community-connected and developing artisan trails representing 34 counties and 7 cities across the Commonwealth that are strengthening our economy through a connective community Artisan Trail Network; and,

**WHEREAS,** artisans and agricultural artisans contribute to strong local and creative economies and are integrated into every aspect of life in Virginia -- strengthening the economy, enriching civic life, driving tourism, and exerting a profound positive influence on the education of our children;

**WHEREAS,** the Monticello Artisan Trail, the partnership of Albemarle and Nelson Counties and Charlottesville was the first in the state and has increased the success of its members;

**NOW, THEREFORE, BE IT PROCLAIMED** that we the Albemarle County Board of Supervisors, do hereby recognize the week of **October 5 - 14, 2018 as American Craft Week** and all of October, 2018, as **Virginia Artisan Month** and encourage all citizens to join in local festivals and events and to visit your neighborhood artisan studio.

Signed and sealed this 3<sup>rd</sup> day of October, 2018.

The motion was **seconded** by Mr. Dill. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill and Ms. Mallek.

NAYS: None.

ABSENT: Mr. Gallaway.

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(Note: Mr. Gallaway arrived at 1:31 p.m.)

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Peter Krebs of the Piedmont Environmental Council addressed the Board and reminded Board members that they would meet with Charlottesville City Council the following day to discuss issues on which they had agreed to work together, including affordable housing, education, environment, and transportation. He stated that Charlottesville and Albemarle are one community, with lives that cross the boundary multiple times per day. He noted that both the City and County recreational needs assessments ranked trails and greenways most highly, with sidewalks and open space as top priorities.

Mr. Krebs said they have been working with the Thomas Jefferson Planning District Commission on a regional bicycle/pedestrian plan that encompasses the urban core of both localities, and an open house would be held to review the plan this Wednesday, October 17 at 5:30 p.m., at TJPDC offices. There are barriers where the City and County meet which frustrates efforts to link opportunities. He said they would like to hear more from local elected officials about the status of the regional transportation partnership. He said they hope the spirit of the memorandum of understanding was extended to one day yield a truly regional transportation network. He noted that the language of the MOU called for both groups to identify and consider potential impacts on each other's jurisdictions, though his organization would like the officials to go further and actively collaborate and share resources to bridge gaps between the two localities in an effort towards being one community. Residents of both localities want to be able to get around easily and safely, and he encouraged officials to work together to make it happen.

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Mr. Randy Rogers, resident of Timberwood Boulevard and Manager of JABA Community Services, addressed the Board. He said he would talk about the insurance counseling services offered by JABA, which he explained were funded by a federal SHIP program that enabled them to assist residents with Medicare enrollment and questions, particularly during the busy open enrollment period that ran from October 15–December 7. He stated that insurance companies made changes to premiums, deductibles, and drug formularies, and that 87% of those on the prescription drug plan are in the wrong plan. He noted that the previous year, JABA assisted 854 County residents in saving over \$500,000, with a total of 1,871 area residents saving \$1.28 million. He said that approximately 52% of those they counseled had been in the correct plan, while 48% had been counseled to change plans, saving an average of \$1,500 per person on prescription costs. He thanked the Board for its support.

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Mr. Matthew Christensen, resident of Rio District, addressed the Board. He noted that Mr. Mike Reed, a school teacher, was being charged with felony assault on a police officer at a meeting of the School Board when he was speaking out against racism. He said the police had to process Mr. Reed at the hospital as a result of that violence and brutality. In his opinion, the Albemarle County Police Department and Mr. Robert Tracci are covering for their own actions. He said that when you, Supervisors, are in charge. Everything was your fault, which was unacceptable. Supervisors need to speak out on what was happening in their communities. He said the County has often gotten a pass on these issues in the past as the focus has been on the City, but he and other County residents would hold them accountable. He said he was a social worker and that social justice was a core ideal and value for the National Association of Social Workers. He said he thought they have made progress, but this disgusting behavior continues and in 2018, speaking out against racism in the community should not result in police brutality and intimidation. He said he has always believed that the best way to make changes was from within the system, but this was difficult when they are met with violence and intimidation from police. He said that as the Supervisors continue their silence on the racism found in their districts, citizens would continue to speak up and would not be silenced or intimidated. He assured the Board that they would be voting and would remember their actions and silence.

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Agenda Item No. 8. Consent Agenda.

Ms. Palmer offered **motion** to approve the consent agenda. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

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Item No. 8.1. FY 2018 Appropriations.

The Executive Summary forwarded to the Board states that Virginia Code §15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which

exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total change to the FY 18 budget due to the appropriations itemized in Attachment A is (\$43,685.07). A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached Resolution (Attachment B) for local government and school projects and programs as described in Attachment A.

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<b>Appropriation #2018099</b>		<b>\$0.00</b>
Source:	General Government CIP Fund*	\$ 69,550.97

\*This appropriation does not increase or decrease the total County budget.

This request is to reconcile the Facilities and Environmental Services' Project Management Division (PMD) Internal Service Fund's FY 18 appropriated sources of revenues with the expenses incurred in FY 18.

PMD provides project management support for School, Stormwater, and General Government capital projects and for General Government projects that fall outside of the Capital budget, such as the Belvedere and Lewis and Clark projects or other administrative, non-designated CIP activities. PMD charges an hourly-based project management fee for its services to individual projects. An internal service fund was established for PMD in FY 13 to account for these expenditures and fees.

The FY 18 Adopted budget represented an initial estimate based on a projection of project management support and activities. In order to properly account for the FY 18 charges per activity and fund, this appropriation request is to reduce the currently appropriated project management services funds from projects within the General Government CIP Fund and equally increase project management services in the General Fund by \$69,550.97.

<b>Appropriation #2018100</b>		<b>(\$43,685.07)</b>
Source:	Local Rent Revenue	\$ 73.12
	Federal and State Revenue	\$ 509.38
	General Government CIP Fund fund balance	\$ 340,287.47
	Water Resources CIP Fund fund balance	\$ (384,555.04)
	General Fund Transfer to School Debt Service Fund	\$ (14,165.13)
	General Fund Transfer to General Government Debt Service Fund	\$ (30,102.44)
	General Fund Transfer to General Government CIP Fund	\$ (340,287.47)
	General Fund Transfer to Water Resources CIP Fund	\$ 384,555.04

This request is to reconcile the FY 18 Debt Service funds and to also reconcile the General Fund transfers to Debt Service funds and Capital Improvement Program (CIP) funds for a net decrease of \$43,685.07 by:

- Increasing the appropriation of local rent revenue by \$73.12 and Federal and State revenue by \$509.38 to reflect the actual revenue received; and decreasing the General Fund transfer revenue to School CIP Debt Service Fund by \$14,165.13 to reflect actual expenditures;
- Decreasing the appropriated expenditure budget and associated General Fund transfer revenue by \$30,102.44 for the General Government CIP Debt Service Fund to reflect actual expenditures; and
- Decreasing the General Fund transfer to General Government CIP Fund by \$340,287.47.

The above reductions in the General Fund Transfers to Capital and Debt Funds, which total \$384,555.04, are requested to be reallocated to the Water Resources CIP Fund.

By the above recorded vote, the Board adopted the following Resolution to approve appropriations #2018099 and #2018100 for Local Government and School Division projects:

**RESOLUTION TO APPROVE  
ADDITIONAL FY 18 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2018099 and #2018100 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2018.

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**COUNTY OF ALBEMARLE  
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2018099	4-1000-43100-443100-312366-1004	71,974.97	SA2018099 FY18 PMD Services Reconciliation
2018099	4-1000-43100-443300-312366-1004	-2,424.00	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-32018-432010-312366-3140	-3,044.16	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-32028-432020-312366-3140	10,892.08	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-441200-312366-9999	-10,009.40	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443310-312366-6114	-1,740.29	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443310-312366-9999	-2,446.98	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443320-312366-9999	-5,072.19	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443340-312366-9999	-5,481.35	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443350-312366-9999	-6,604.11	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443360-312366-9999	-4,589.26	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41350-441200-312366-9999	18,569.66	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-42042-442040-312666-1210	-2,970.85	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-43100-443200-312366-9999	-9,379.40	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71018-443330-312366-9999	-1,643.38	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71018-443370-312366-9999	-990.42	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71020-471020-312366-7100	-28,744.92	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-91046-443100-312366-9999	-16,296.00	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-93010-493010-930009-9999	69,550.97	SA2018099 FY18 PMD Services Reconciliation
2018099	3-1000-51000-351000-512031-9999	69,550.97	SA2018099 FY18 PMD Services Reconciliation
2018100	4-1000-93010-493010-930003-9999	-14,165.13	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930011-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930010-9999	-340,287.47	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930202-9999	384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9100-51000-351000-510100-9999	-384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9100-51000-351000-512004-9999	384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-9910-95000-495000-920083-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9910-51000-351000-512004-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-9900-95000-495000-310000-9999	-13,582.63	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-15000-315000-150253-9999	73.12	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-33900-333900-330063-1006	510.00	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-24000-324000-240404-9999	-0.62	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-51000-351000-512004-9999	-14,165.13	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9010-51000-351000-512004-9999	-340,287.47	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9010-51000-351000-510100-9999	340,287.47	SA2018100 FY 18 Debt Service Reconciliation
<b>TOTAL</b>		<b>51,731.80</b>	

Item No. 8.2. FY 19 Appropriations and Official Intent to Reimburse Expenditures with Proceeds of a Borrowing.

The Executive Summary forwarded to the Board states that Virginia Code § 15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total change to the FY 19 budget due to the appropriations itemized in Attachment A is \$2,261,509.13. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request is also for the Board’s approval of a Resolution of Intent to Reimburse Expenditures Related to Capital Projects with Proceeds of a Borrowing for these projects and is contingent on the Board’s approval of Appropriation #2019039. The Resolution would allow the County to use up to \$367,200.00 in borrowed proceeds to reimburse the capital budget for expenditures incurred prior to the programmed borrowing of funds for these projects.

Staff recommends that the Board:

1. adopt the attached Resolution (Attachment B) for local government and school projects and programs as described in Attachment A, and
2. adopt the attached Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing (Attachment C).
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<b>Appropriation #2019031</b>	<b>\$1,194,976.12</b>
Source:	
Federal Revenue	\$ 11,197.00
General Fund fund balance	\$ 1,017,134.50
Fire Rescue Services Fund fund balance	\$ 166,644.62

The following requests are to re-appropriate FY 18 General Fund fund balance and Fire Rescue Services Fund fund balance to FY 19 to complete projects that were started but not completed in FY 18, to provide funding for purchase orders initiated in FY 18 but delivered in FY 19, and to move FY 18 funding forward

to meet ongoing or anticipated expenditures in FY 19. These requests are planned to be one-time expenditures.

This proposed use of the General Fund fund balance will not reduce the County's 10% unassigned fund balance or 1% Budget Stabilization Reserve; however, it does reduce the amount of FY 18 undesignated funds that would be available for other uses in the future.

County Executive's Office

- Requests the re-appropriation of \$53,411.11 in purchase orders initiated in FY 18 for Technology Needs Assessment implementation and organizational development facilitation and support;
- Requests the re-appropriation of \$22,500.00 to complete the ICMA-TV video Innovation Fund project; and
- Requests the re-appropriation of \$15,000.00 for costs associated with the Community Civil Rights Pilgrimage to Montgomery, Alabama.

Finance

- Requests the re-appropriation of \$52,455.00 to complete the renovation of the Payroll Division space; and
- Requests the re-appropriation of \$45,920.00 to continue the Real Estate Division's five-year plan to update property descriptions and provide electronic building sketches.

Information Technology

- Requests the re-appropriation of \$60,847.50 for the SharePoint migration project;
- Requests the re-appropriation of \$31,360.00 for the LaserFiche Forms Workflow project; and
- Requests the re-appropriation of \$5,445.00 for a telecommunications purchase order.

Voter Registration and Elections

- Requests the re-appropriation of \$15,000.00 for part-time temporary help with elections and throughout the year;
- Requests the re-appropriation of \$8,000.00 to mail new voter cards due to change in voting location; and
- Requests the re-appropriation of \$7,105.00 for electronic pollbook programs and "Vote Here" signs/signboards.

Clerk of the Circuit Court

- Requests the re-appropriation of \$22,209.90 to continue the process of digitizing deeds.

Sheriff's Office

- Requests the re-appropriation of \$8,526.48, which is the balance remaining in collected fingerprinting fees at the end of FY 18, to purchase volunteer reserves' uniforms, equipment, and other miscellaneous expenses.

Commonwealth's Attorney

- Requests the re-appropriation of \$50,814.00 of unused Compensation Board funds received in FY 18 for a vacant Commonwealth Assistant Attorney position, which has since been filled.

Police

- Requests the re-appropriation of \$115,889.64 in purchase orders initiated in FY 18 for equipment, three vehicles, software, and a policy review contract;
- Requests the re-appropriation of \$36,327.06 for the electronic summons system from the net program revenues. These revenues are intended to only fund the electronic summons system operations and are not for general local government operations;
- Requests the re-appropriation of \$25,763.60 for traffic safety programs from the net revenues received in prior years related to the PhotoSafe Program. These revenues are intended to only fund traffic safety programs/operations and are not for general local government operations;
- Requests the re-appropriation of \$16,145.87 to complete the replacement of a vehicle totaled at the end of FY 18;
- Requests the re-appropriation of \$5,500.00 to complete the outfitting of a new vehicle purchased in FY 18 with equipment and markings; and
- Requests the re-appropriation of \$5,000.00 to complete a recruitment video started in FY 18.

Fire Rescue, please note the following items will be funded by re-appropriating Fire Rescue Services Fund fund balance. In FY 19 and the future, Fire Rescue Services are funded in the General Fund.

- Requests the re-appropriation of \$111,444.69 in undelivered purchase orders for turnout gear; an update of the system's strategic plan, completion of a training center study, an Emergency Medical Services protocol app; and radio equipment;
- Requests the re-appropriation of \$29,343.00 to complete the Telestaff system upgrade;
- Requests the re-appropriation of \$22,399.37 for vehicle repairs funded by insurance received in FY 18;
- Requests the re-appropriation of \$2,279.84 in donations; and

- Requests the re-appropriation of \$1,177.72 for supplies for the Hazardous Materials (Hazmat) Response Team. This funding is originally from Hazmat recovered cost revenue.

Facilities and Environmental Services

- Requests the re-appropriation of \$46,000.00 to complete the Innovation Fund project to install a solar array at the Crozet Library;
- Requests the re-appropriation of \$15,000.00 to complete the Wildflower Meadow project to be installed in the vicinity of CATEC;
- Requests the re-appropriation of \$5,840.00 to complete the pilot program offering recycling services at County office buildings;
- Requests the re-appropriation of \$4,925.51 to complete the Colonial Detention Basin project; and
- Requests the re-appropriation of \$1,918.00 to complete two detention basin maintenance special projects.

Social Services, these items will be reimbursed by \$11,197.00 in Federal revenue.

- Requests the re-appropriation of \$100,000.00 to complete the construction of additional offices in the Housing Division section;
- Requests the re-appropriation of \$10,765.00 to continue the part-time Supplemental Nutrition Assistance Program (SNAP) worker to develop innovative strategies that make healthy fruits and vegetables more accessible to families around the County; and
- Requests the re-appropriation of \$6,756.20 to continue the efforts of the Outreach team and the Analytics team.

Parks & Recreation

- Requests the re-appropriation of \$80,000.00 for the Biscuit Run Master Plan.

Community Development

- Requests the re-appropriation of \$99,614.28 to continue contractual professional services for Community Development review coinciding with the department's work on Strategic Plan objectives such as the Rio/29 Small Area Plan and zoning recodification;
- Requests the re-appropriation of \$34,459.10 to complete the pilot Neighborhood Inventory;
- Requests the re-appropriation of \$9,068.25 to complete the Pantops Master Plan update;
- Requests the re-appropriation of \$7,500.00 to complete Phase I of Rivanna River Corridor Study;
- Requests the re-appropriation of \$2,956.00 to complete the Owensville Road/Miller School Road Through Truck Restriction Study; and
- Requests the re-appropriation of \$309.00 to complete the Innovation Fund paperless pilot project.

<b>Appropriation #2019032</b>		<b>\$247,801.07</b>
Source:	Local Revenue - City of Charlottesville	\$ 12,520.00
	Special Revenue Funds' fund balances	\$ 207,801.07
	General Fund fund balance	\$ 27,480.00

This request is to appropriate and re-appropriate funding associated with Special Revenue Funds not expended in FY 18 and anticipated to occur in FY 19.

- This request is to re-appropriate \$204,831.07 in Seized Asset Monies received from State and Federal Agencies for the Commonwealth's Attorney and the Police Department. These funds will be used for eligible expenses.
- This request is to re-appropriate \$40,000.00 to repave the Darden Towe boat launch which was damaged by flooding and to grade the softball field which was to occur in FY 18 but was delayed to FY 19 due to inclement 19 Appropriations Attachment A Descriptions weather. These projects are funded by \$12,520.00 from the City of Charlottesville and \$27,480.00 from the County's General Fund fund balance.
- This request is to re-appropriate \$2,970.00 from Regional Firearms Training Center Operations Fund fund balance to purchase police supplies.

<b>Appropriation #2019033</b>		<b>\$15,000.00</b>
Source:	Local Revenue - Charlottesville Area Community Foundation \$ 15,000.00	

This request is to appropriate \$15,000.00 in local revenue from the Charlottesville Area Community Foundation (CACF) to fund the BF Yancey Heritage and History Project which is connected to the County's Community Remembrance Project. The project will be guided by BF Yancey Heritage and History Committee which is staffed by former Yancey students, Esmont community members, and County staff. Of the \$15,000 awarded by the CACF, \$10,000 is a grant from the Heal Charlottesville Fund and the Concert for Charlottesville Fund and \$5,000 is an anonymous donation.

<b>Appropriation #2019034</b>		<b>\$ 12,910.94</b>
Source:	Albemarle Conservation Easement Authority Fund Balance \$ 12,910.94	



This request is to appropriate \$12,910.94 from Albemarle Conservation Easement Authority (ACEA) fund balance to the Community Development Department (CDD) pursuant to the ACEA's action at its August 28, 2018 meeting. This funding will reimburse CDD for its conservation easement monitoring services.

<b>Appropriation #2019035</b>		<b>(\$50,000.00)</b>
Source:	Bond Referendum Contingency	(\$ 50,000.00)

This request is to decrease the currently appropriated budget for the Bond Referendum Contingency. During the FY 19 budget process, \$50,000.00 was set aside to assist with support costs associated with a potential bond referendum in November 2018. Subsequently, the Board of Supervisors decided not to hold a referendum in November 2018. These funds will be reallocated to the Capital Improvements Program (CIP) Fund to offset the budgeted use of CIP Fund fund balance.

<b>Appropriation #2019036</b>		<b>\$0.00</b>
Source:	Contribution to Agency Budget Review Team*	\$ 18,900.00

\*This appropriation does not increase or decrease the total County budget.

This request is to reallocate \$18,900.00 that was budgeted for the County's contribution to the City of Charlottesville for the joint Agency Budget Review Team (ABRT) process to the Office of Management and Budget. This funding will be used to hire a facilitator to manage the County's individual FY 20 ABRT process pursuant to the Board of Supervisors' direction at its September 5, 2018 meeting.

<b>Appropriation #2019037</b>		<b>\$220,000.00</b>
Source:	General Fund – School Reserve Fund	\$ 220,000.00

This request is to appropriate the following School Division appropriation request approved by the School Board on September 18, 2018:

- This request is to appropriate \$220,000.00 in available fund balance to support the K-2 Technology plan beginning with the kindergarten devices during the 2018/19 school year.

<b>Appropriation #2019038</b>		<b>\$253,621.00</b>
Source:	State Revenue	\$ 128,621.00
	Local Revenue	\$ 125,000.00

This request is appropriate \$128,621.00 in State grant revenues and \$125,000.00 in local funds contributed by the City of Charlottesville for the River Run Stream Restoration, which is part of the Large-Scale Best Management Practice (BMP) Retrofits on Private Lands Project. The River Run Stream Restoration will restore approximately 560 linear feet of a degraded urban stream that lies within the boundaries of both the City and the County. The County will manage the design and construction of the project and then maintain the entire project for ten years following the completion of construction, after which the City will take over maintenance for the portion of the project within the City's boundaries.

<b>Appropriation #2019039</b>		<b>\$367,200.00</b>
Source:	Borrowed Proceeds	\$ 367,200.00

This request is to appropriate \$367,200.00 in borrowed proceeds to fund a pending a contract for construction and cost of issuance for the Hollymead Dam Spillway Improvements Project. This project received bids on September 11, 2018 and the lowest bidder, at \$2,327,800.00, was over budget by approximately \$130,000.00. An increase in market prices for concrete and steel materials is the primary cause for the bids coming in higher than anticipated. This appropriation is to request the amount over budget plus an adequate contingency of 10% of the construction contract for any unforeseeable events. A borrowing resolution is included as Attachment C for this appropriation.

<b>Appropriation #2019040</b>		<b>\$0.00</b>
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This request is to increase the hours for an administrative position in the Office of the Board of Supervisors from 0.5 FTE to 0.75 FTE (a 0.25 FTE increase). Due to salary lapse in the Board of Supervisors' budget, there is no budget impact in FY 19. The full-year impact of this increase beginning in FY 20 is \$8,500.00. The additional .25 FTE will allow for the continuation of camera operation for the live streaming and recording of Board of Supervisors meetings as well as increased office support and archival records keeping.

**By the above recorded vote, the Board adopted the following Resolution to approve #2019031, #2019032, #2019033, #2019034, #2019035, #2019036, #2019037, #2019038, #2019039 and #2019040 appropriations for local government and school division projects:**

**RESOLUTION TO APPROVE  
ADDITIONAL FY 19 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2019031, #2019032, #2019033, #2019034, #2019035, #2019036, #2019037, #2019038, #2019039 and #2019040 are approved; and

- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2019.

**COUNTY OF ALBEMARLE  
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2018099	4-1000-43100-443100-312366-1004	71,974.97	SA2018099 FY18 PMD Services Reconciliation
2018099	4-1000-43100-443300-312366-1004	-2,424.00	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-32018-432010-312366-3140	-3,044.16	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-32028-432020-312366-3140	10,892.08	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-441200-312366-9999	-10,009.40	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443310-312366-6114	-1,740.29	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443310-312366-9999	-2,446.98	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443320-312366-9999	-5,072.19	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443340-312366-9999	-5,481.35	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443350-312366-9999	-6,604.11	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41020-443360-312366-9999	-4,589.26	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-41350-441200-312366-9999	18,569.66	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-42042-442040-312666-1210	-2,970.85	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-43100-443200-312366-9999	-9,379.40	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71018-443330-312366-9999	-1,643.38	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71018-443370-312366-9999	-990.42	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-71020-471020-312366-7100	-28,744.92	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-91046-443100-312366-9999	-16,296.00	SA2018099 FY18 PMD Services Reconciliation
2018099	4-9010-93010-493010-930009-9999	69,550.97	SA2018099 FY18 PMD Services Reconciliation
2018099	3-1000-51000-351000-512031-9999	69,550.97	SA2018099 FY18 PMD Services Reconciliation
2018100	4-1000-93010-493010-930003-9999	-14,165.13	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930011-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930010-9999	-340,287.47	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-1000-93010-493010-930202-9999	384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9100-51000-351000-510100-9999	-384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9100-51000-351000-512004-9999	384,555.04	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-9910-95000-495000-920083-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9910-51000-351000-512004-9999	-30,102.44	SA2018100 FY 18 Debt Service Reconciliation
2018100	4-9900-95000-495000-310000-9999	-13,582.63	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-15000-315000-150253-9999	73.12	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-33900-333900-330063-1006	510.00	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-24000-324000-240404-9999	-0.62	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9900-51000-351000-512004-9999	-14,165.13	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9010-51000-351000-512004-9999	-340,287.47	SA2018100 FY 18 Debt Service Reconciliation
2018100	3-9010-51000-351000-510100-9999	340,287.47	SA2018100 FY 18 Debt Service Reconciliation
<b>TOTAL</b>		<b>51,731.80</b>	

**By the above recorded vote, the Board adopted the following Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing:**

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE  
EXPENDITURES WITH PROCEEDS OF A BORROWING**

**WHEREAS**, the Albemarle County Board of Supervisors, Virginia (the “Borrower”) intends to acquire, construct and equip the items and projects set forth in Exhibit A hereto (collectively, the “Project”); and

**WHEREAS**, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the “Expenditures”) prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both.

**NOW, THEREFORE, BE IT RESOLVED** by the Albemarle County Board of Supervisors that:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the “Bonds”) or to incur other debt to pay the costs of the Hollymead Dam Spillway Improvements in an amount not currently expected to exceed \$367,200.00.
2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure); (b) a cost of issuance with respect to the Bonds; (c) a nonrecurring item that is not customarily payable from current revenues; or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.

4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower’s use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain “preliminary expenditures,” costs of issuance, certain de minimis amounts, expenditures by “small issuers” (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.
5. The Borrower intends that the adoption of this Resolution confirms the “official intent” within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
6. This Resolution shall take effect immediately upon its passage.

\* \* \* \*

Exhibit A

**CAPITAL IMPROVEMENT PROGRAM  
BOND FUNDED PROJECTS  
FY 19**

<b>General Government</b>	<b>Amount (\$)</b>
Cost of Issuance	\$7,200
Hollymead Dam Spillway Improvements	\$360,000
<b>General Government Subtotal</b>	<b>\$367,200</b>
 <b>Total Debt Issue - FY 19 Projects</b>	 <b>\$367,200</b>

Item No. 8.3. Continuing, Cooperative and Comprehensive (3-C) Agreement Update for Metropolitan Transportation Planning.

The Executive Summary forwarded to the Board states that the Thomas Jefferson Planning District Commission (TJPDC) serves as the administrative body of and provides staffing for the Charlottesville Albemarle Metropolitan Planning Organization (CA-MPO). The CA-MPO is partnered with Albemarle County, the City of Charlottesville, Charlottesville Area Transit, JAUNT, TJPDC, and the Commonwealth of Virginia (Virginia Department of Transportation and Department of Rail and Public Transportation). Federal regulations require a determination of responsibilities necessary to carry out the metropolitan transportation planning process, and to periodically review and update these agreements.

Federal Regulations (23CFR Part 450 Subpart C) require a Continuing, Cooperative, and Comprehensive (3-C) planning and programming process be determined, identified and implemented by the MPO and its partners and for that agreement to be periodically reviewed and updated. The 3-C Agreement was last updated on January 28, 2009. The changes to this 3-C Agreement include partner names and new cooperative efforts. The draft, updated 3-C Agreement is included as Attachment A. The CA-MPO and TJPDC have approved the updated 3-C Agreement.

There is no budget impact from the 3-C agreement. However, the TJPDC annually submits a budget request to Albemarle County to fund the operations of the CA-MPO.

**By the above recorded vote, the Board adopted the following Resolution to approve the following 3-C Agreement:**

**RESOLUTION TO APPROVE  
THE CHARLOTTESVILLE ALBEMARLE METROPOLITAN  
PLANNING ORGANIZATION “3-C” AGREEMENT**

**WHEREAS**, the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) on June 30, 1983 jointly issued, and on May 27, 2016 updated, rules and regulations which require that each urbanized area, as a condition to the receipt of Federal capital or operating assistance, have a continuing, cooperative and comprehensive transportation (3-C) planning process carried out by a metropolitan planning organization (MPO) in cooperation with the States and their local jurisdictions that results in plans and programs consistent with the planned development of the “urbanized area” pursuant to 23 U.S.C. 134, 23 U.S.C. 150, and 49 U.S.C. 5303, as amended; and

**WHEREAS**, 23 CFR 450.314 – Metropolitan Planning Agreements – requires MPOs, States and Providers of Public Transportation to cooperatively determine the mutual responsibilities necessary to carry out the metropolitan transportation planning process, and directs MPOs, States and Providers of Public Transportation to periodically review and update these agreements; and

**WHEREAS**, 23 CFR 450.306 - Scope of the metropolitan transportation planning process – establishes a performance-driven approach to transportation decision-making to be carried out in the metropolitan transportation planning and programming process; and

**WHEREAS**, the Charlottesville Albemarle Metropolitan Planning Organization serves as the MPO

for the Charlottesville-Albemarle Urbanized Area; and

**WHEREAS**, the Commonwealth of Virginia and the Virginia Department of Rail and Public Transportation, the City of Charlottesville, the County of Albemarle, and JAUNT, through agreement with the Charlottesville Albemarle MPO and Thomas Jefferson Planning District Commission as the administrative agent of the MPO, provide for the financial assistance and mutually agreed upon terms and conditions for which such assistance will be provided;

**NOW, THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors hereby approves the CA-MPO 3-C Agreement and authorizes the County Executive to sign the Agreement once it has been approved as to substance and form by the County Attorney.

\*\*\*\*\*

**MEMORANDUM OF UNDERSTANDING  
ON METROPOLITAN TRANSPORTATION PLANNING  
RESPONSIBILITIES FOR THE CHARLOTTESVILLE-ALBEMARLE  
METROPOLITAN PLANNING AREA**

This agreement is made and entered into as of \_\_\_\_\_, 2018 by and between the Commonwealth of Virginia hereinafter referred to as the State, the Charlottesville-Albemarle Metropolitan Planning Organization hereinafter referred to as the MPO; and the City of Charlottesville, the Charlottesville Area Transit Service, Albemarle County and JAUNT, Inc. hereinafter referred to as the Public Transportation Providers; and the Thomas Jefferson Planning District Commission serving as planning and administrative staff to the MPO, hereinafter referred to as the Staff.

WHEREAS, joint responsibilities must be met for establishing and maintaining a continuing, cooperative, and comprehensive (3-C) metropolitan transportation planning and programming process as defined and required by the United States Department of Transportation in regulations at [23 CFR 450 Subpart C](#), and

WHEREAS, the regulations at [23 CFR 450.314](#) direct that the MPO, State, and Public Transportation Provider responsibilities for carrying out the 3-C process shall be cooperatively determined and clearly identified in a written agreement.

NOW, THEREFORE, it is recognized and agreed that, as the regional transportation planning and programming authority in cooperation with the Staff, State and Public Transportation Provider, the MPO shall serve as the forum for cooperative development of the transportation planning and programming activities and products for the Charlottesville-Albemarle metropolitan area. It is also agreed that the following articles will guide the 3-C process. Amendments to this agreement may be made by written agreement among the parties of this agreement.

**Article 1  
Planning and Modeling Boundaries**

The MPO is responsible as the lead for coordinating transportation planning and programming in the Charlottesville-Albemarle metropolitan transportation planning area (MPA) that includes the City of Charlottesville and a portion of Albemarle County. A map providing a visual and itemized description of the current MPA will be included on the MPO website. It is recognized that the scope of the regional study area used with the travel demand model may extend beyond the MPA. The boundaries of the MPA shall be subject to approval of the MPO and the Governor. The MPA shall, at a minimum, cover the U.S. Bureau of the Census' designated urbanized area and the contiguous geographic area expected to become urbanized within the 20 year long range plan forecast period. The boundaries will be reviewed by the MPO and the State at least after

each Census decennial update, to adjust the MPA boundaries as necessary. Planning funds shall be provided to financially support the MPO's planning activities under 23 CFR 450 and 49 CFR 613, and the latest applicable metropolitan planning funding agreement with the State for the metropolitan planning area. All parties to this agreement shall comply with applicable state and federal requirements necessary to carry out the provisions of this agreement.



## **Article 2**

### **MPO Structure & Committees**

The MPO shall consist of, at a minimum, a Policy Board and a standing advisory group, the MPO Technical Committee. The MPO shall establish and follow rules of order and record. The Policy Board and MPO Technical Committee each shall be responsible for electing a chairman with other officers elected as deemed appropriate. These committees and their roles are described below. Redesignation of an MPO is required when an existing MPO proposes to make substantial changes on membership voting, decisionmaking authority, responsibility, or the procedure of the MPO.

(A) The Policy Board serves as the MPO's policy board, and is the chief regional authority responsible for cooperative development and approval of the core transportation planning activities and products for the urbanized region including:

- the MPO budget and Unified Planning Work Program (UPWP); and
- the performance based Constrained Long Range Transportation Plan (CLRP); and
- the performance-based Transportation Improvement Program (TIP) including all regionally significant projects regardless of their funding source; and
- the adoption of performance measure targets in accord with federal law and regulations that are applicable to the MPO metropolitan planning area; and
- the reporting of targets and performance to be used in tracking progress toward attainment of critical outcomes for the MPO region [450.314]; and
- the Public Participation Plan

The Policy Board will consider, analyze as appropriate, and reflect in the planning and programming process the improvement needs and performance of the transportation system, as well as the federal metropolitan planning factors consistent with 23 CFR 450.306. The Policy Board and the MPO will comply and certify compliance with applicable federal requirements as required by [23 CFR 450.336](#). The Policy Board and the MPO also shall comply with applicable state requirements such as, but not limited to, the Freedom of Information Act requirements which affect public bodies under the Code of Virginia at [2.2-3700 et sequel](#).

Voting membership of the Policy Board shall consist of the following representatives, designated by and representing their respective governments and agencies:

- One representative participating on behalf of the State appointed by the Commonwealth of Virginia Secretary of Transportation, and
- Locally elected officials representing each County, independent City, Town or other appropriate representation within the metropolitan transportation planning area.

The individual voting representatives may be revised from time to time as designated by the respective government or agency. State elected officials may also serve on the MPO. Nonvoting members may be added or deleted by the Policy Board through a majority of all voting members. Voting and nonvoting designated membership of the Policy Board will be identified and updated on the MPO's website with contact information.

(B) The MPO Technical Committee provides technical review, supervision and assistance in transportation planning. Members are responsible for providing, obtaining, and validating the required latest official travel and socio-economic planning data and assumptions for the regional study area. Members are to ensure proper use of the data and assumptions by the MPO with appropriate travel forecast related models. Additional and specific responsibilities may be defined from time to time by the Policy Board. This committee consists of the designated technical staff of the Policy Board members, plus other interests deemed necessary and approved by the Policy Board. The designated voting and nonvoting membership of the MPO Technical Committee will be updated by the Policy Board, and will be identified online with contact information.

(C) Regular Meetings – The Policy Board and MPO Technical Committee shall each be responsible for establishing and maintaining a regular meeting schedule for carrying out respective responsibilities and to conduct official business. Meeting policies and procedures shall follow regulations set forth in 23 CFR §450.316. The regular meeting schedule of each committee shall be posted on the MPO's website and all meetings shall be open to the public. Any meetings and records concerning the business of the MPO shall comply with State Freedom of Information Act requirements.

### **Article 3**

#### **Unified Planning Work Program (UPWP)**

Transportation planning activities anticipated within the Charlottesville-Albemarle Metropolitan Planning Area during the next one or two year period shall be documented and prepared annually by the Staff and the MPO Technical Committee in accord with 23 CFR 450.308 and reviewed and endorsed by the Policy Board. Prior to the expenditure of any funds, such UPWP shall be subject to the approval of the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and the State for funding the activities. Any changes in

transportation planning and related activities, regardless of funding source, shall be accomplished by amendments to the UPWP and adoption by the Policy Board according to the same, full procedure as the initial UPWP.

### **Article 4**

#### **Participation Plan**

The Policy Board shall adopt and maintain a formal, written Public Participation Plan. The Participation Plan shall provide reasonable opportunity for involvement with all interested parties in carrying out the metropolitan area's transportation planning and programming process, providing reasonable opportunities for preliminary review and comment especially at key decision points. Initial or revised participation plan procedures shall undergo a minimum 45 day draft public review and comment period. The Participation Plan will be published and available on the MPO's website. The State may assist, upon request of the MPO and on a case by case basis, in the provision of documents in alternative formats to facilitate the participation of persons with limited English proficiency or visual impairment.

The MPO also shall, to the extent practicable, develop and follow documented process(es) that at least outline the roles, responsibilities and key points for consulting with adjoining MPOs, other governments and agencies and Indian Tribal or federal public lands regarding other planning activities, thereby ensuring compliance with all sections of [23 CFR 450.316](#). The process(es) shall identify procedures for circulating or providing ready access to draft documents with supporting materials that reference, summarize or detail key assumptions and facilitate agency consultations, and public review and comment as well as provide an opportunity for MPO consideration of such comments before formal adoption of a transportation plan or program.

### **Article 5**

#### **Inclusion and Selection of Project Recommendations**

##### **Selection of projects for inclusion into the financially Constrained Long-Range Plan (CLRP)**

Recommended transportation investments and strategies to be included in the CLRP shall be determined cooperatively by the MPO, the State, and Public Transportation Provider(s). The CLRP shall be updated at least every five years, and address no less than a 20 year planning horizon. Prior to the formal adoption of a final CLRP, the MPO shall provide the public and other interested stakeholders (including any intercity bus operators) with reasonable opportunities for involvement and comment as specified in 23 CFR 450.316 and in accordance with the procedures outlined in the Participation Plan. The MPO shall demonstrate explicit consideration and response to public input received during the development of the CLRP.

##### **Development of the Transportation Improvement Program (TIP)**

The financially constrained TIP shall be developed by the MPO with assistance from the State and Public Transportation Provider(s). The TIP shall cover a minimum four year period and shall be updated at least every four years, or more frequently as determined by the State to coincide and be compatible with the Statewide Transportation Improvement development and approval process.

The State shall assist the MPO and Public Transportation Provider(s) in the development of the TIP by: 1) providing the project listing, planned funding and obligations, and 2) working collaboratively to ensure consistency for incorporation into the STIP. The TIP shall include any federally funded projects as well as any projects that are regionally significant regardless of type of funding. Projects shall be included and programmed in the TIP only if they are consistent with the recommendations in the CLRP. The State and the Public Transportation Provider(s), assisted by the state, shall provide the MPO a list of project, program, or grouped obligations by year and phase for all the State and the public transportation projects to facilitate the development of the TIP document. The TIP shall include demonstration of fiscal constraint and may include additional detail or supporting information provided the minimum requirements are met. The MPO shall demonstrate explicit consideration and response to public input received during the development of the TIP.



Once the TIP is compiled and adopted by the Policy Board the MPO shall forward the approved TIP, MPO certification, and MPO TIP resolution to the State. After approval by the MPO and the Governor, the State shall incorporate the TIP, without change, into the STIP. The incorporation of the TIP into the STIP demonstrates the Governor's approval of the MPO TIP. Once complete, the STIP shall be forwarded by the State to FHWA and FTA for review and approval.

#### **Article 6**

##### **Financial Planning and Programming, and Obligations**

The State, the MPO and the Public Transportation Provider(s) are responsible for financial planning that demonstrates how metropolitan long-range transportation plans and improvement programs can be implemented consistent with principles for financial constraint. Federal requirements direct that specific provisions be agreed on for cooperatively developing and sharing information for development of financial plans to support the metropolitan transportation plan (23 CFR 450.324) and program (23 CFR 450.326), as well as the development of the annual listing of obligated projects (23 CFR 450.334).

##### **Fiscal Constraint and Financial Forecasts**

The CLRP and TIP shall be fiscally constrained pursuant to 23 CFR 450.324 and 450.326 respectively with highway, public transportation and other transportation project costs inflated to reflect the expected year of expenditure. To support the development of the financial plan for the CLRP, the State shall provide the MPO with a long-range forecast of expected state and federal transportation revenues

for the metropolitan planning area. The Public Transportation Provider(s), similarly, shall provide information on the revenues expected for public transportation for the metropolitan planning area. The financial plan shall contain system-level estimates of the costs and the revenue sources reasonably expected to be available to adequately operate and maintain the federal aid highways and public transportation. The MPO shall review the forecast and add any local or private funding sources reasonably expected to be available during the planning horizon. Recommendations on any alternative financing strategies to fund the projects and programs in the transportation plan shall be identified and included in the plan. In the case of new funding sources, strategies for ensuring their availability shall be identified and documented. If a revenue source is subsequently found removed or substantially reduced (i.e., by legislative or administrative actions) the MPO will not act on a full update or amended CLRP and/or TIP that does not reflect the changed revenue situation.

##### **Annual Obligation Report**

Within 90 days after the close of the federal fiscal year the State and the Public Transportation Provider(s) shall provide the MPO with information for an Annual Obligation Report (AOR). This report shall contain a listing of projects for which federal highway and/or transit funds were obligated in the preceding program year. It shall include all federally funded projects authorized or revised to increase obligations in the preceding program year, and at a minimum include TIP project description and implementing agency information and identify, for each project, the amount of Federal funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years. The MPO shall publish the AOR in accordance with the MPO's public participation plan criteria for the TIP.

#### **Article 7**

##### **Performance-Based Metropolitan Planning Process Responsibilities**

##### **The MPO**

The MPO, in cooperation with the State and Public Transportation Provider(s), shall establish and use a performance-based approach in carrying out the region's metropolitan transportation planning process consistent with 23 CFR 450.306, and 23 CFR 490. The MPO shall integrate into the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in applicable transportation plans and transportation processes, as well as any plans developed under 49 U.S.C. Chapter 53 by providers of public transportation required as part of a performance-based program. The MPO shall properly plan, administratively account for and document the MPO's performance based planning activities in the MPO UPWP.

The MPO shall develop, establish and update the federally required transportation performance targets that apply for the MPO metropolitan planning area in coordination with the State(s) and the Public Transportation Provider(s) to the maximum extent practicable. The Policy Board shall adopt federal targets of the MPO after reasonable opportunity for and consideration of public review and comment, and not later than 180 days after the date on which the relevant State(s) and Public Transportation Provider(s) establish or update the Statewide and Public Transportation Provider(s) performance targets, respectively. No later than 21 days of the MPO deadline for the selection of new or updated targets, for each federally required performance measure, the MPO shall formally notify the state(s) and Public Transit Provider(s) of whether the MPO: 1) has selected "to contribute toward the accomplishment" of the statewide target selected by the state, or 2) has identified and committed to meet a specific quantitative target selected by the Public Transportation Provider(s) or the MPO for use in the MPO's planning area of Virginia.

In the event that a Virginia MPO chooses to establish a MPO-specific federal highway or transit performance measure quantitative target, then the Virginia MPO shall be responsible for its own performance baseline and outcome analyses, and for the development and submittal of special report(s) to the State for the MPO-specific highway and/or transit performance measure(s). Reports from the Virginia MPOs that choose their own MPO-specific highway or transit target(s) will be due to the State no later than 21 days from the date that the MPO is federally required to establish its performance target for an upcoming performance period. The special report(s) for each new or updated MPO-specific highway target shall be sent from the Virginia MPO to the VDOT Construction District Engineer. The special report(s) for each new or updated MPO-specific transit target shall be sent from the Virginia MPO to the Department of Rail and Public Transportation. The special report(s) shall include summary documentation on the performance analyses calculation methods, baseline conditions, quantitative target(s), and applicable outcome(s) regarding the latest performance period for the MPO-specific performance measure(s). For the Virginia MPOs which agree to plan and program projects "to contribute toward the accomplishment" of each of the statewide performance measure targets, the State will conduct the performance analyses for the MPO's metropolitan planning area in Virginia and provide online summaries for each measure such that no special report to the State will be due from these MPOs.

If a Virginia MPO chooses to contribute to achieving the statewide performance target, the MPO shall, at minimum, refer to the latest performance measure analyses and summary information provided by the State, including information that was compiled and provided by the State on the metropolitan planning area's performance to inform the development of appropriate performance targets. The MPO may use State performance measures information and targets to update the required performance status reports and discussions associated with each MPO CLRP and/or TIP update or non-administrative modification. The MPO's

transportation performance targets, recent performance history and status will be identified and considered by the MPO's Policy Board in the development of the MPO CLRP with its accompanying systems performance report required per 23 CFR 450.324, as well as in the development of the TIP with its accompanying description of the anticipated effect of the TIP toward achieving the performance targets, linking their TIP investment priorities to the performance targets as required per 23 CFR 450.326. The MPO CLRP and its accompanying systems performance report, and/or the MPO TIP and its accompanying description of the anticipated effect of the TIP, shall directly discuss or reference the latest State performance measure status information available and posted online by the State regarding the metropolitan planning area at the time of the MPO's Technical Committee recommendation of the draft MPO long range plan or draft TIP.

#### **The State**

Distinct from the roles of the metropolitan Public Transportation Provider(s) with federal performance measures on transit (transit is the subject of the next section), the State is the lead party responsible for continuous highway travel data measurement and collection. The State shall measure, collect highway data and provide highway field data for use in federal highway related performance measure analyses to inform the development of appropriate federal performance targets and performance status reports. MPO information from MPO-specific data analyses and reports might not be incorporated, referenced or featured in computations in the Virginia statewide performance data analyses or reports. The State shall provide highway analyses for recommending targets and reporting on the latest performance history and status not only on a statewide basis but also on the Virginia portions of each of Virginia's MPO metropolitan planning areas, as applicable. The findings of the State's highway performance analyses will inform the development or update of statewide targets.



Information regarding proposed statewide targets for highway safety and non-safety federal performance measures will be presented to the Commonwealth Transportation Board (CTB) at the CTB's public meetings and related documents, including, but not limited to, presentations and resolutions, will be made publicly available on the CTB website. The MPO and Public Transportation Provider(s) shall ensure that they inform the State of any special data or factors that should be considered by the State in the recommendation and setting of the statewide performance targets.

All statewide highway safety targets and performance reports are annually due from the State to FHWA beginning August 31, 2017 and each year thereafter. The MPO shall report their adopted annual safety performance targets to the State for the next calendar year within 180 days from August 31st each year. The statewide highway non-safety performance two and/or four year targets are due for establishment from the State initially no later than May 20, 2018 for use with the state biennial baseline report that is due by October 1, 2018. The subsequent state biennial report, a mid-period report for reviews and possible target

adjustments, is due by October 1, 2020. Thereafter, State biennial updates are cyclically due by October 1st of even numbered years with a baseline report to be followed in two years by a mid-period report. Using information cooperatively compiled from the MPOs, the State and the Public Transportation Providers, the State shall make publicly available the latest statewide and (each) MPO metropolitan planning area's federally required performance measure targets, and corresponding performance history and status.

**The Public Transportation Provider(s)**

For the metropolitan areas, Public Transportation Providers are the lead parties responsible for continuous public transit data measurement and collection, establishing and annually updating federal performance measure targets for the metropolitan transit asset management and public transportation agency safety measures under 49 U.S.C. 5326(c) and 49 U.S.C. 5329(d), respectively, as well as for updates that report on the public transit performance history and status. The selection of the performance targets that address performance measures described in 49 U.S.C. 5326(c) and 49 U.S.C. 5329(d) shall be coordinated, to the maximum extent practicable, between the MPO, the State and Public Transportation Provider(s) to ensure consistency with the performance targets that Public Transportation Providers establish under 49 U.S.C. 5326(c) and 49 U.S.C. 5329(d). Information from the Public Transportation Provider(s) on new or updated public transit asset management and safety performance targets, and data-reports on the public transit performance history and status relative to the targets is necessary for use and reference by the affected State(s) and the MPO(s). The Public Transportation Provider(s) that receive federal funds shall annually update and submit their transit asset management targets and data-reports to the FTA's National Transit Database consistent with FTA's deadlines based upon the applicable Public Transportation Provider's fiscal year. The Public Transportation Provider(s) shall notify, and share their information on their targets and data-reports electronically with the affected State(s) and MPO(s) at the time that they share the annual information with FTA, and coordinate, as appropriate, to adequately inform and enable the MPO(s) to establish and/or update metropolitan planning area transit target(s) no later than 180 days thereafter, as required by performance-based planning process.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

\_\_\_\_\_  
Chair  
Charlottesville-Albemarle  
Metropolitan Planning Organization

WITNESS BY \_\_\_\_\_  
DATE \_\_\_\_\_

\_\_\_\_\_  
Secretary of Transportation  
Commonwealth of Virginia

WITNESS BY \_\_\_\_\_  
DATE \_\_\_\_\_

\_\_\_\_\_  
City Manager  
City of Charlottesville for  
Charlottesville Area Transit

WITNESS BY \_\_\_\_\_  
DATE \_\_\_\_\_

_____	WITNESS BY _____
County Executive	DATE _____
Albemarle County	
_____	WITNESS BY _____
Executive Director	DATE _____
Jaunt, Inc.	
_____	WITNESS BY _____
Executive Director	DATE _____
Thomas Jefferson	
Planning District Commission	
_____	

Item No. 8.4. Special Exception to reduce side setback from 10' to 5' Building Permit #B201801813AR (J. Towler).

The Executive Summary forwarded to the Board states that the applicant is requesting a side setback reduction to allow construction of an 11 foot x 19 foot carport. The applicant's proposal and plans are provided as Attachment A. A location map is provided as Attachment B.

County Code § 18-4.19 requires a side setback of 10 feet for Infill lots in the R4 zoning district. County Code § 18-4.19 allows any side setback to be reduced by special exception, and the following is requested:

- 1) Modify County Code §18-4.19 to allow a reduced setback from 10 feet to 5 feet to allow a proposed carport.

Staff analysis of the request is provided as Attachment C.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the special exception, subject to the condition attached thereto.

**By the above recorded vote, the Board adopted the following Resolution approving the special exception, subject to the condition:**

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR B201801813AR J. TOWLER**

**WHEREAS**, the Owner of Tax Map Parcel Number 061Z0-02-0C-01300 filed a request for a special exception in conjunction with B201801813AR J. Towler, to modify the required setback, as depicted on the pending application under review by the County's Department of Community Development.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.19(4), 18-15.1, and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the required setback, subject to the condition attached hereto.

\* \* \*

**B201801813AR J. Towler Special Exception Condition**

- 1. The minimum side setback of the front SW corner of the carport from the property line on the west side of the property, abutting Tax Map Parcel Number 61Z0-02-0C-01200, shall be five feet (5').

Item No. 8.5. Resolution to Authorize the County's Acceptance of an Unmanned Aircraft System in Search and Rescue Operations.

The Executive Summary forwarded to the Board states that in 2016 and 2017, the County accepted the donation of three unmanned aircraft systems ("UAS") from three different individuals to be used by the Sheriff's Office for its search and rescue functions, including related training, as well as to perform incident situation awareness and incident scene documentation functions that are not for law enforcement purposes, as permitted by Virginia Code § 19.2-60.1. Virginia Code § 15.2-951 authorizes counties to receive gifts of personal property.

The County owns the three donated UASs, and obtained the public use Certificates of

Authorization. In order to use a UAS for search and rescue operations, a public use Certificate of Authorization must be obtained from the Federal Aviation Administration (the "FAA"). Pursuant to 49 U.S.C. § 40102(a)(41), only a political subdivision, such as the County, may receive a public use Certificate of Authorization to own and operate a UAS. The Sheriff's Office is not a political subdivision of Virginia.

The County and the Sheriff entered into a Memorandum of Understanding ("MOU") for each of the three UASs, which sets forth provisions regarding ownership, use, and insurance requirements.

The Sheriff's Office has purchased a fourth UAS to be used for search and rescue purposes. The UAS must be owned by the County, and the County and the Sheriff must enter into an MOU in order to allow the Sheriff's Office to perform search and rescue functions with the UAS.

The County Attorney and the Sheriff have reviewed and approved the attached MOU (Attachment A), and the County Attorney has prepared the attached Resolution (Attachment B) authorizing the County's acceptance of the UAS and authorizing the County Executive to execute the MOU.

There is no budget impact related to the County's acceptance of the UAS.

Staff recommends that the Board adopt the attached Resolution (Attachment B) authorizing the County's acceptance of the UAS and authorizing the County Executive to sign the MOU.

**By the above recorded vote, the Board adopted the following Resolution to authorize the County's acceptance of the UAS and authorized the County Executive to sign the MOU:**

**RESOLUTION TO AUTHORIZE  
ACCEPTANCE OF PROPERTY**

**WHEREAS**, The Albemarle County Sheriff's Office purchased a DJI Matrice 210 unmanned aircraft system ("UAS") for its use; and

**WHEREAS**, a Memorandum of Understanding between the County and the Sheriff's Office is necessary in order to allow the Sheriff's Office to perform search and rescue and training functions with the UAS pursuant to Virginia Code § 19.2-60.1(C) and non-law enforcement situation assessments under Virginia Code § 19.2-60.1(D).

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the Sheriff's Office use of the DJI Matrice 210 unmanned aircraft system and authorizes the County Executive to execute the Memorandum of Understanding once it has been approved by the County Attorney.

\*\*\*\*\*

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE COUNTY OF ALBEMARLE, VIRGINIA  
AND THE SHERIFF FOR ALBEMARLE COUNTY**

This Memorandum of Understanding (the "Agreement") is made and entered into on the \_\_\_\_ day of September 2018, by and between the County of Albemarle, Virginia (the "County") and the Sheriff for Albemarle County (the "Sheriff");

WHEREAS, the Sheriff has purchased a DJI Matrice 210 unmanned aircraft system along with essential cameras, power accessories, and other accessories for the operation of the DJI Matrice 210 unmanned aircraft system;

and

WHEREAS, the intent of the Sheriff's purchase is for the Sheriff's Office to use the DJI Matrice 210 unmanned aircraft system for search and rescue operations; and

WHEREAS, the County and the Sheriff desire to enter into an agreement setting forth their understanding with respect to the use and operation of the DJI Matrice 210 unmanned aircraft system.

NOW THEREFORE, the parties hereto covenant and agree as follows:

A. Ownership. The DJI Matrice 210 unmanned aircraft system (hereinafter "UAS") shall remain the property of the County.

B. Certificate of Authorization. The Sheriff shall prepare and submit to the County for approval any authorizations or amendments to the County's Certificate of Authorization for public use for the Federal Aviation Administration. The Sheriff shall be responsible for registration responsibilities for the UAS, including fees.

C. Use. Upon receipt of a public use Certificate of Authorization from the Federal Aviation Administration, the County will transfer possession of the UAS to the Sheriff.

D. Specific UAS Operations. The Sheriff shall use the UAS for search and rescue operations, pursuant to Virginia Code §19.2-60.1(C). The Sheriff may use the UAS for incident situation assessment functions that are non-law enforcement purposes pursuant to Virginia Code §19.2-60.1(D). Additionally, the Sheriff may use the UAS for training purposes for the aforementioned search and rescue operations pursuant to Virginia Code § 19.2-60.1(C).

E. Insurance. The County shall maintain property insurance on the UAS for the duration of this agreement. The Sheriff's Office shall maintain liability insurance for operations related to the UAS for the duration of this agreement, and said liability insurance shall be the primary policy. The Sheriff shall add the County to its policy as an additional insured on a primary and noncontributory basis. The County will also require a waiver of subrogation to be executed and included in the Sheriff's general liability and umbrella insurance policies to which the County is named as additional insured.

F. Term of Agreement. This Agreement shall take effect upon the full execution of this Agreement by the Sheriff and the County and shall remain in force for the duration of the Sheriff's term in office (including terms for which he is re-elected), unless terminated by either party upon

thirty (30) days prior written notice. This Agreement may be amended only upon the written agreement of both the Sheriff and the County.

SHERIFF OF ALBEMARLE COUNTY, VIRGINIA

By:  Date: 9/18/18  
J.E. "Chip" Harding, Sheriff

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Jeff Richardson, County Executive

Approved as to Form:

\_\_\_\_\_  
County Attorney

Item No. 8.6. ZTA 2018-04 – Beekeeping.

The Executive Summary forwarded to the Board states that the Board of Supervisors held a public hearing for ZTA 2018-04 on September 5, 2018. The Board requested that the draft ordinance be revised to include provisions for notice to abutting property owners and the removal of unused equipment.

Staff has revised the draft ordinance to include the following language:

- The beekeeper shall provide written or verbal notice that they intend to keep bees to the owner of each abutting lot under different ownership than the lot on which beehives will be located. The notice shall identify the lot on which the beehives will be located. The notice shall be mailed or delivered at least 10 days prior to the establishment of beehives on the lot.
- Unused equipment shall be stored in sealed containers, or placed within a building or other insect-proof container.

The attached revised ordinance (Attachment A) includes the option of verbal notice in an effort to encourage communication between the beekeeper and neighbors.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

**By the above recorded vote, the Board adopted the following Ordinance:**

**ORDINANCE NO. 18-18(4)**

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. 12.2 Permitted uses.  
Sec. 13.2 Permitted uses.  
Sec. 14.2 Permitted uses.  
Sec. 15.2 Permitted uses.  
Sec. 16.2 Permitted uses.

**By Adding:**

Sec. 5.1.63 Residential beekeeping

**Chapter 18. Zoning**

**Article I. General Provisions**

**Section 3. Definitions**

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**3.1 DEFINITIONS**

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*Urban beekeeping.* Beekeeping on any residentially-zoned lot. Beekeeping in the Rural Areas District, RA, and the Monticello Historic District, MHD, shall not be considered urban beekeeping.

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**Article II. Basic Regulations**

**Section 5. Supplementary Regulations**

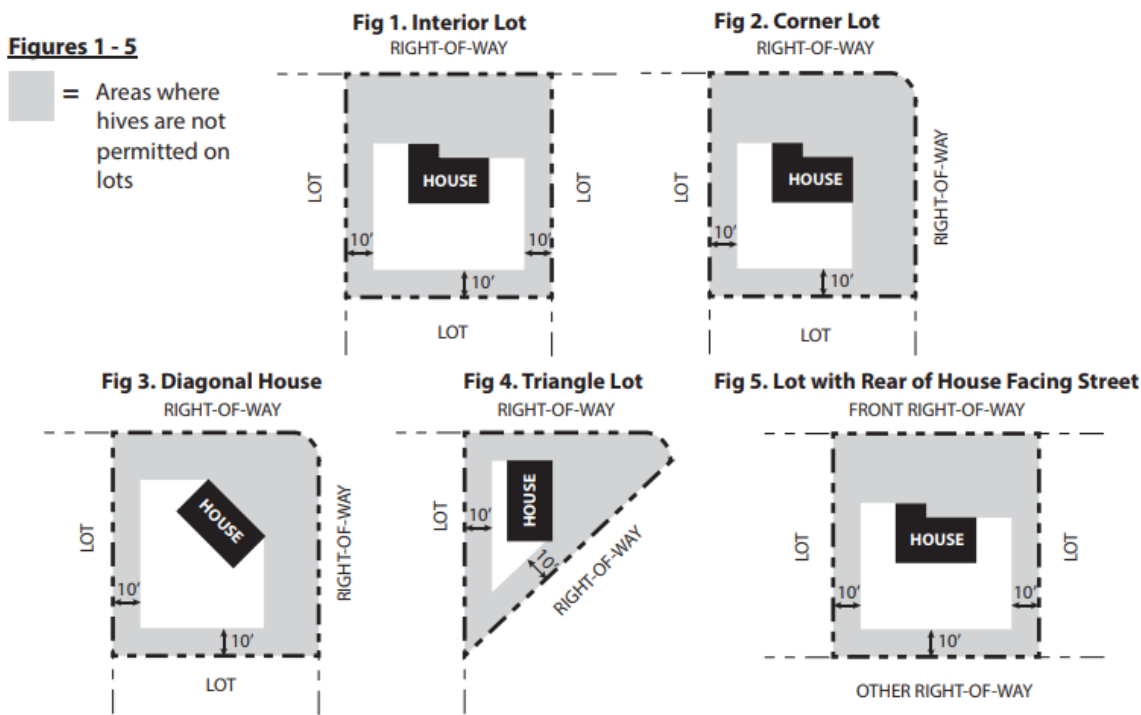
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**5.1.63 URBAN BEEKEEPING**

Urban beekeeping shall be subject to the following:

- a. It shall be unlawful for any person to keep, place, or allow a beehive to remain:
  - 1. Closer than 10 feet to a public right-of-way or to the lot line of an adjoining lot not owned by the person maintaining the beehive; or
  - 2. Closer than 30 feet to any structure other than the structure of the person maintaining the beehive.
- b. All beehives shall be oriented with the entrance facing away from the adjacent lot or public right-of-way.
- c. The beehive and all related materials may only be located within the rear yard of the lot as shown in figure 1.

Figure 1



- d. If a beehive is located less than 10 feet above ground level and within 30 feet of any lot line adjoining a residential lot or public right-of-way, a barrier of sufficient density to establish bee flyways above head height must separate the beehive from the lot line or public right-of-way. The barrier may be constructed of fencing or evergreen vegetation or a combination of the two. The barrier must be no less than six feet in height and extend no less than ten feet in length on either side of the beehive.
- e. If a beehive is located at least 10 feet above ground level, the beehive shall be located a minimum of five feet from the side of the structure and 30 feet from any structure other than a structure of the person maintaining the beehive.
- f. The beekeeper shall conspicuously post a sign warning individuals of the presence of bees. This sign shall include the lot owner's name and a telephone number at which the beekeeper can be reached in case of emergency.
- g. The beekeeper shall provide written or verbal notice that they intend to keep bees to the owner of each abutting lot under different ownership than the lot on which beehives will be located. The notice shall identify the lot on which the beehives will be located. The notice shall be mailed or delivered at least 10 days prior to the establishment of beehives on the lot.
- h. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left on the grounds of the lot on which the beehive is located (the "apiary lot"). Once removed from the site, the wax comb or other materials shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.
- i. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the beehives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism, and occupancy by swarms. It shall not be a defense to this section that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees. Unused equipment shall be stored in sealed containers, or placed within a building or other insect-proof container.
- j. No person may keep more than the following numbers of bee colonies on any lot, based upon the size or configuration of the apiary lot:
  - 1. One-half acre or smaller lot: two colonies;
  - 2. Larger than 1/2 acre and up to 3/4 acre lot: four colonies;
  - 3. Larger than 3/4 acre and up to 1 acre lot: six colonies;
  - 4. Larger than 1 acre and up to 5 acre lot: eight colonies;
  - 5. Larger than 5 acre lot: no restriction.
- k. If a beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation of the portion of this section limiting the number of colonies if he temporarily houses the swarm on the apiary lot in compliance with the standards of practice set out in this section for no more than 30 days from the date acquired.

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**Article III. District Regulations**

**Section 12. Village Residential**

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**Sec. 12.2 Permitted uses.**

**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:

- 1. Detached single-family dwellings.
- 2. Side-by-side duplexes provided that density is maintained and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
- 3. Cluster development of permitted residential uses.

4. Rental of permitted residential uses and guest cottages, provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
5. (Repealed 9-2-81)
6. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
7. Accessory uses and buildings including home occupation, Class A (reference 5.2) and storage buildings.
8. Temporary construction uses (reference 5.1.18).
9. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
10. Tourist lodgings (reference 5.1.17).
11. Wayside stands for the display and sale of seasonal agricultural products (reference 5.1.19).
12. Group home (reference 5.1.07).
13. Agriculture.
14. Manufactured homes on individual lots (reference 5.6)
15. Stormwater management facilities shown on an approved final site plan or subdivision plat.
16. Tier I and Tier II personal wireless service facilities (reference 5.1.40).
17. Farm sales (reference 5.1.47).
18. Farm stands (reference 5.1.47).
19. Family day homes (reference 5.1.56).
20. Urban beekeeping (reference 5.1.63).

(§ 20-12.2.1, 12-10-80; 9-2-81; 11-1-89; 11-11-92; § 18-12.2.1, Ord. 98-A(1), 8-5-98; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10; Ord. 13-18(5), 9-11-13; Ord. 17-18(4), 8-9-17; Ord. 18-18(1), 1-10-18)

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**Section 13. Residential – R-1**

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**13.2 PERMITTED USES**

**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:

1. Detached single-family dwellings.
2. Cluster development of permitted residential uses.
3. Rental of permitted residential uses and guest cottages, provided that yard, area, and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
4. (Repealed 9-2-81)
5. (Repealed 9-2-81)
6. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and

operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)

7. Accessory uses and buildings including home occupation, Class A (reference 5.2) and storage buildings.
8. Temporary construction uses (reference 5.1.18).
9. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
10. Tourist lodgings (reference 5.1.17).
11. Group home (reference 5.1.07). (Amended 8-9-17)
12. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
13. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
14. Family day homes (reference 5.1.56). (Added 9-11-13)
15. Urban beekeeping (reference 5.1.63).

(§ 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; Ord. 13-18(5), 9-11-13; Ord. 17-18(4), 8-9-17)

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## **Section 14. Residential – R-2**

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### **14.2 PERMITTED USES**

#### **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:

1. Detached single-family dwellings.
2. Cluster development of permitted residential uses.
3. Rental of permitted residential uses and guest cottages, provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
4. (Repealed 9-2-81)
5. (Repealed 9-2-81)
6. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
7. Accessory uses and buildings including home occupations (reference 5.2) and storage buildings.
8. Temporary construction uses (reference 5.1.18).
9. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5, 5.1.12). (Amended 11-1-89).
10. Tourist lodgings (reference 5.1.17).



11. Group home (reference 5.1.07). (Amended 8-9-17)
  12. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
  13. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
  14. Family day homes (reference 5.1.56). (Added 9-11-13)
  15. Urban beekeeping (reference 5.1.63).
- (§ 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; Ord. 13-18(5), 9-11-13; Ord. 17-18(4), 8-9-17)

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## **Section 15. Residential – R-4**

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### **15.2 PERMITTED USES**

#### **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:

1. Detached single-family dwellings.
2. Side-by-side duplexes provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
3. Semi-detached and attached single-family dwellings such as triplexes, quadruplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
4. Cluster development of permitted residential uses.
5. Rental of permitted residential uses and guest cottages, provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
6. (Repealed 9-2-81)
7. (Repealed 9-2-81)
8. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
9. Accessory uses and buildings including home occupation, Class A (reference 5.2) and storage buildings.
10. Temporary construction uses (reference 5.1.18).
11. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
12. Tourist lodgings (reference 5.1.17).
13. Group home (reference 5.1.07). (Amended 8-9-17)
14. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
15. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
16. Family day homes (reference 5.1.56). (Added 9-11-13)

17. Urban beekeeping (reference 5.1.63).

(§ 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; Ord. 13-18(5), 9-11-13; Ord. 17-18(4), 8-9-17)

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

#### **Section 16. Residential – R-6**

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#### **16.2 PERMITTED USES**

##### **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:

1. Detached single-family dwellings.
2. Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadruplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
3. Multiple-family dwellings such as garden apartments.
4. Cluster development of permitted residential uses.
5. Rental of permitted residential uses and guest cottages; provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lot.
6. Group home (reference 5.1.07). (Amended 8-9-17)
7. Boarding houses.
8. Tourist lodgings (reference 5.1.17).
9. (Repealed 9-2-81)
10. (Repealed 9-2-81)
11. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
12. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
13. Temporary construction uses (reference 5.1.18).
14. Accessory uses and buildings including home occupation, Class A (reference 5.2) and storage buildings.
15. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
16. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
17. Family day homes (reference 5.1.56). (Added 9-11-13)
18. Urban beekeeping (reference 5.1.63).

(§ 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; Ord. 13-18(5), 9-11-13; Ord. 17-18(4), 8-9-17)

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Item No. 8.7. VACo 2018 Annual Meeting Voting Credentials.

By the above recorded vote, the Board appointed Supervisor Ann Mallek as delegate and Supervisor Norman Dill as alternate, as representatives to cast its votes at the Annual Business Meeting of the Virginia Association of Counties.

Item No. 8.8. County Grant Application/Award Report, *was received for information.*

The Executive Summary forwarded to the Board states that pursuant to the County's Grant Policy and associated procedures, staff provides periodic reports to the Board on the County's application for and use of grants.

The attached Grants Report provides brief descriptions of one grant application submitted, one grant award, and one designated anonymous donation received during this time period. The budget impact is noted in the summary of each grant and the anonymous donation.

This report is to provide information only. No action is required.

GRANT REPORT ACTIVITY – August 11, 2018 through September 14, 2018							
Applications made during this time.							
Granting Entity	Grant Project	Type	Amount Requested	Match Required	Match Source	Department	Purpose
Virginia Department of Criminal Justice Services	Edward Byrne JAG Program FY 2018 – Supporting Community Policing Efforts 2018	Federal	\$12,388	\$0	N/A	Police	This grant will provide support for Community Policing overtime activities provided by the Albemarle County Police Department such as crime prevention, community relationship building and safety enhancement.
Awards received during this time.							
Granting Entity	Grant Project	Type	Amount Awarded	Match Required	Match Source	Department	Purpose
Heal Charlottesville Fund and the Concert for Charlottesville Fund (through Charlottesville Area Community Foundation)	BF Yancey Heritage and History Project	Local	\$10,000	\$0	N/A	County Executive	These funds will be used to create a living history exhibit based on the story of the Howardsville-born and Hampton Institute-educated Benjamin Franklin Yancey. The exhibit will highlight the unique story of education in Southern Albemarle as it relates to the Esmont community and will be housed in the Yancey School Community Center. The project will be connected to the County's Community Remembrance Project and guided by BF Yancey Heritage and History Committee.

Anonymous Donation (through Charlottesville Area Community Foundation)	BF Yancey Heritage and History Project	Local	\$5,000	\$0	N/A	County Executive	These funds will be used to create a living history exhibit based on the story of the Howardsville-born and Hampton Institute-educated Benjamin Franklin Yancey. The exhibit will highlight the unique story of education in Southern Albemarle as it relates to the Esmont community and will be housed in the Yancey School Community Center. The project will be connected to the County's Community Remembrance Project and guided by BF Yancey Heritage and History Committee.
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Comprehensive Look at Potential Five Year Financial Plan Grant Impacts:									
The following chart includes grants that are expected to end within the next five years and an estimate of the County's cost over the next five years if the grant-supported position, project or program is continued after the grant ends. The continuation of those positions, projects and programs will be considered as part of the County's annual budget process.									
Byrne Justice Grants have a match of 25% in the 2nd year, 50% in the 3rd, 75% in the 4th and 100% in 5th year.									
Grant Entity	Grant Name	Designation of Current Budget Match	Expected End Date	FY19	Potential Financial Impact - Includes Five Year Plan salary assumptions				
					FY20	FY21	FY22	FY23	FY24
Virginia Department of Criminal Justice Service	FY16 Byrne Justice Assistance Grant (JAG) Law Enforcement	General Fund	6/30/2020	\$34,975 grant funds/ \$104,925 County match	\$ 144,226.95	\$ 148,657.00	\$ 153,227.39	\$ 157,942.74	\$ 162,807.84
					\$ 144,226.95	\$ 148,657.00	\$ 153,227.39	\$ 157,942.74	\$ 162,807.84

The following chart includes an estimate of the County's cost over the next five years for the replacement of equipment that was purchased with grant funding. The replacement of such equipment will be considered as part of the County's annual budget process.

Grant Entity	Grant Name	Designation of Current Budget Match	Actual End Date	Potential Financial Impact				
				FY20	FY21	FY22	FY23	FY24
Virginia Department of Emergency Management	Equipment Grant	General Fund	6/30/2009	\$ 53,345.00	\$ 54,934.00	\$ 54,934.00	TBD	TBD
				\$ 53,345.00	\$ 54,934.00	\$ 54,934.00	\$ -	\$ -

Item No. 8.9. Board-to-Board, September 2018, a Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Item No. 8.10. Albemarle County Service Authority (ACSA) Quarterly Report, **was received for information.**

Agenda Item No. 9. Regional Natural Hazard Mitigation Plan.

The Executive Summary forwarded to the Board states that the Disaster Mitigation Act of 2000 set out requirements for State and local plans to coordinate mitigation planning and implementation efforts. The purpose of the Natural Hazard Mitigation Plan (NHMP) is to prepare for natural disasters before they occur, thus reducing loss of life, property damage, and disruption of commerce. The Federal Emergency Management Agency (FEMA) requires such a plan as a condition for eligibility in certain mitigation grant programs.

The Regional NHMP includes all jurisdictions in the Thomas Jefferson Planning District - Albemarle County, the City of Charlottesville, Greene County, Louisa County, Fluvanna County, Nelson County, and the Towns of Scottsville, Stanardsville, Louisa, and Mineral. The original Plan was adopted by all jurisdictions in 2006; the Plan was updated in 2012, with FEMA approval on July 30, 2012 and formal adoption by all localities completed in December 2012. This is the five-year update.

TJPDC has been working with localities in the region to develop the five-year update of the Regional NHMP, and an NHMP working group was established to assist the TJPDC in the Plan update. Albemarle County has been represented on the working group by David Benish and staff from the Charlottesville-Albemarle-UVA Emergency Communications Center, Allison Farole and Kirby Felts (up to her departure on June 30, 2017).

This is the second five-year update of the Regional NHMP. The full Regional NHMP as submitted to VDEM for review is posted on the TJPDC web site at <<http://tjpd.org/environment/draft-hazard-mitigation-plan-2017/>>. A summary of the Plan, including a listing of all actions included for Albemarle County and the Town of Scottsville, is attached to this staff report (Attachment A), along with a resolution to be adopted by the Board (Attachment B). VDEM and FEMA have deemed the Plan to be satisfactory with no changes recommended.

The plan review and update process included:

- hazard identification and analysis
- vulnerability assessment
- capabilities assessment
- mitigation strategy development, and
- public and agency comment and input.

The results of these processes are documented and summarized in the Plan and an overview will be presented by staff at the meeting.

Many of the mitigation goals/strategies are reflective of efforts, initiatives, or recommendations documented in other County or agency plans or programs. Some of the mitigation strategies in this regional Plan are provided at a relatively high or broad level recognizing there are other supporting documents/plans providing supporting direction (for example, implementing the water supply plan recommendations and the stormwater management plan/programs).

The Regional NHMP identifies estimated costs and funding methods for the proposed mitigation actions. Funding through the Hazard Mitigation Grant Program and the Pre-disaster Mitigation Grant Program require an adopted NHMP.

Staff recommends that the Board adopt the attached Resolution (Attachment B) adopting the Regional Natural Hazard Mitigation Plan (Attachment A).

Mr. David Benish, Chief of Planning, explained that the purpose of the plan was to prepare for natural disasters before they occur to reduce loss of life, property damage, and disruption of commerce. He explained that the plan data was driven by documented facts, past historical events, and the potential

for future events. He said the plan assessed risks and vulnerabilities and was derived from the Hazard Identification and Risk Assessment (HIRA). He emphasized that FEMA required that plans be developed in order for a community to be eligible for grants and programs, and the Virginia Department of Emergency Management (VDEM) encouraged regional planning for natural hazards and had established a statewide mitigation plan. He described the plan as being more strategic than technical and said that recommendations were at somewhat of a higher level and did not go into a great deal of specificity.

Mr. Wood Hudson of the Thomas Jefferson Planning District Commission continued the presentation and stated that the plans were crafted using FEMA and VDEM guidelines. He presented the following list of required sections of the Natural Hazard Mitigation Plan Document:

1. Planning Process – process through which the plan was developed including public input
2. Community Profile – general information about communities in the planning district
3. Hazard Identification and Analysis – general information about potential hazards in the planning district, the historic record of hazard events, and the probability of future events
4. Vulnerability Assessment – analysis of the human impact hazards could cause, with estimated potential losses for various hazard scenarios
5. Capabilities Assessment – survey of current local capacity to mitigate natural hazards
6. Mitigation Strategy – goals, objectives, and action items selected to mitigate hazards identified in the region

Mr. Hudson next presented the following HIRA factors:

- Describes all-natural hazards that affect the Planning District and provides an analysis on location, extent, severity, and probability of occurrence
- General description of events
- Data on events such as frequency, duration, severity, and financial impact
- Hazards were presented in order of the relative risk they pose to the region
- Hazards were rated based on a risk matrix developed by Kaiser Permanente

He noted that much of the data was obtained from NOAA and fed into a system that helped them understand the probability and impacts to humans, property, and businesses. He described this exercise as data driven and vetted by the Hazard Mitigation Working Group, which scored hazards and then created a matrix. He noted that the plan was updated every five years and the top hazards tended to be flooding and hurricanes/high wind. He briefly reviewed each of the listed hazards, including high wind and thunder, hurricanes, flooding, winter storms, wildfires, tornadoes, and earthquakes.

He then presented the following slide entitled “Hazard Vulnerability Assessment” and contained the following:

- Provides an overview and analysis of vulnerability in the Thomas Jefferson Planning District using factors including the HIRA, projected population growth and settlement patterns, and the location of existing people and infrastructure.
- Utilize planning tools including FEMA's HAZUS models for hurricanes, earthquakes and flood and the Wildfire Risk Assessment for wildfires.
- Presents information on expected losses \$\$
- Understand risk based on location

Mr. Hudson also explained how the HAZUZ modeling tool developed by FEMA to estimate risk based on population distribution works.

Mr. Benish continued the presentation. He presented a slide titled, Mitigation Strategy and Action Items, which contained:

- Plan Mitigation Action Goals, Objectives and Strategies were drafted at a broad/high level.
- Flexibility/applicability for various grant programs, sources
- Maintain relevancy as programs evolve; reduce need to update Plan
- Many were reflective of efforts, initiatives, or recommendations documented in other County or agency plans or programs.
- Plan was more a broader strategic plan than a technical implementation plan

The next slide listed the five goals with associated objectives specific to the region:

- Education and Outreach
- Infrastructure and Buildings
- Whole Community
- Mitigation Capacity
- Information and Data Development

Mr. Benish noted that the list of recommendations included a four-key code with the first letter identifying the locality; the second was the priority; and the third represented the objective. He said the plan includes 29 mitigation action items, all of which are important, though priorities have been set according to the mitigation value, urgency, cost, and feasibility. He said that potable water was generally a high priority, as well as fire risk with stormwater protection, infrastructure, and building improvements at the moderate level, which reflected that there was ongoing work needed in these areas.

Mr. Benish noted that the working group was composed of representatives of Fire/Rescue, Facilities and Environmental Services, ECC, and Planning and met annually, as well as after major events and disasters, to evaluate the progress of the program and impacts that may necessitate changes to plans. He said there are 29 mitigation actions for the County. He noted that after the recent storms and flood events, they updated several actions to better reflect the need to assess culverts and crossings on private roads. He concluded, invited questions for representatives of the work group present, and recommended that the Board adopt the resolution to adopt the plan provided in the executive summary.

Ms. Palmer asked for additional explanation of the tornado map. She asked why Albemarle was ranked as having a high risk for tornados. Mr. Hudson pointed out that colored dots represented the F Scale of tornado strength measurement. He pointed to documented tracks of previous tornados on a County map. He confirmed that, under the state Natural Hazard Mitigation Plan, the County was ranked as high risk relative to the rest of Virginia, which he said he thought was based on the topography and the number of tornado touchdowns per locality.

Mr. Randolph added that they are seeing storm behavior consistent with what was typical for the southern and western regions of the country, and with changing climatic conditions, tornadoes are more of a threat now than in the past.

Ms. Palmer asked if they had seen an increase in the number of tornado touchdowns. Mr. Hudson replied that he did not have the data with him. He speculated that that they have better technology now to detect tornadoes, such as Doppler radar, which may be a factor.

Mr. Gallaway asked if excessive rain, although it may not have produced substantial flooding, had had an impact, beyond the two major flood events, and if this was something they tracked. Mr. Benish paraphrased Mr. Gallaway's question as wanting to understand the impacts on ground saturation, downed trees, and changes in stream heights. He said this was something that had a slower impact and probably needed to monitor it annually. He asked Ms. Farole and Mr. Lagomarsino if they were aware of any rain tracking that was being conducted.

Ms. McKeel reminded the Board that on several occasions the previous year, she had suggested that the region, working through TJPDC, begin tracking this type of weather data.

Ms. Palmer recalled that she had mentioned that the Rivanna Water and Sewer Authority tracked daily rainfall at the different intakes and plants, though the data was not compiled together.

Ms. McKeel said that they did not have weather data on rain, storms, and temperatures in one place. She indicated that if they are to have easy-to-obtain data in one place, it would aid in planning.

Ms. Alison Farole, Emergency Management Coordinator for Charlottesville and Albemarle, addressed the Board. She said her office works closely with the National Weather Service office in Sterling, VA, which maintains weather data. She added that there are many subject matter experts in the region they could pull together. She said the National Weather Service conducts training for local residents to track weather data around their homes and report this data. She said training had been held the previous year and would be conducted again next year.

Ms. McKeel remarked that the National Weather Service was terribly underfunded.

Mr. Randolph remarked that Mr. Gallaway had raised a good point. He said that in the past they had had rain and wind events, but they have not been consequential whereas now, every day storms are much more consequential and intense than they used to be, and local farmers have noticed this as well. He related how the recent remnants of Hurricane Florence resulted in a maintenance issue with one of the pumps in Scottsville and flooding occurred, and as a result some local residents were evacuated to the volunteer fire station, even though this was not a major storm. He agreed that they should begin tracking storms and their consequences to aid in future strategic and operational decision making, which could be added to the data from the RWSA to fill an informational gap.

Mr. Greg Harper, Chief of Environmental Services, added that University of Virginia climatologist Mr. Jerry Stenger has been conducting an analysis on recent storms. He offered to reach out to him and share information with the Board.

Ms. McKeel reiterated her opinion that climate data should be looked at on a regional basis and that the TJPDC may be the organization that could do this.

Mr. Randolph agreed that this may be something that, once neighboring localities could agree to aid in this effort and Albemarle could demonstrate collection of this information, the TJPDC could be brought in, though at this time he does not want to add to TJPDC's responsibilities until this could be demonstrated.

Ms. Mallek remarked that in all the years she has lived in the area, they have never had 56 inches of rain by the end of September and they need to determine how to deal with this. She recalled that during the derecho that occurred several summers ago, which caused some to be without power for 11 days, the County did not have enough shelter room in the rural areas. She suggested that they look to make improvements to showers at the fire stations so that displaced residents could use these during disasters. Ms. Mallek said that Mr. Kory Kirkland of the Louisa Farm Services Agency had informed her that there are national watershed grants to address debris cleanup in the watershed, and she would like



to find out who would champion this so debris could be removed before the next major rain storm. She also added that landowners need to take some responsibility for culverts at the ends of their driveways, as these could overflow into the road when not working properly and result in damage to other properties. She encouraged residents to purchase blue address signs that are being sold by the firehouses, which could help first responders identify a property.

Mr. Randolph urged them to look at the 100-year floodplain standard and consider expanding the standard to a 250-year or 500-year floodplain standard since rain events have become more intense.

Ms. Mallek asked if there was a flag layer in the GIS that indicates high-risk areas and if they require larger setbacks. If not, she suggested they require setbacks to be established before homes are constructed. She remarked that Rivanna would have to spend \$20 million on improvements to the Beaver Creek Dam because of the houses that are built downstream, and more people are at risk. Mr. Benish responded that there are overlays with flood hazard, dam break inundations, stream buffers, and steep slopes that could be used by staff in their work. He said the Floodplain Overlay District addresses limitations on what could happen in the floodplain and do not allow habitable structures. He said there are dam break inundation zones and DCR conducts an analysis of potential dam break impacts, though generally they have not received much direction from DCR.

Ms. Mallek asked if the County used this information when evaluating development plans. Mr. Benish responded that they use this information in considering the proposal and in legislative acts, for by-right development, this may become more complicated and they may need to discuss how to eliminate activities within the dam break inundation zone, which the County ordinance does not require.

Ms. Mallek asked the County Attorney to provide advice in the future as to whether the County has the authority to do this.

Ms. Palmer asked if the 100-year floodplain would be looked at by the state and federal governments, as it has become antiquated. Mr. Benish responded that there are periodic updates to the maps, though he does not know when the next one was planned.

Ms. Palmer **moved** that the Board adopt the proposed Resolution to adopt the Regional Natural Hazard Mitigation Plan. The motion was **seconded** by Ms. McKeel.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

**RESOLUTION  
ALBEMARLE COUNTY ADOPTION  
OF THE  
REGIONAL NATURAL HAZARD MITIGATION PLAN**

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local governments develop, adopt and update natural hazard mitigation plans in order to receive certain federal assistance; and,

WHEREAS, the Thomas Jefferson Planning District's Regional Natural Hazard Mitigation Plan has been prepared in accordance with the Federal Emergency Management Agency (FEMA) requirements at 44C.F.R. 201.6; and,

WHEREAS, the County of Albemarle has been involved in the preparation of the Regional Natural Hazard Mitigation Plan through representation on the Working Group by staff from Albemarle County and the Charlottesville-Albemarle-UVA Emergency Communications Center; and,

WHEREAS, the Virginia Department of Emergency Management (VDEM) and FEMA have deemed the submitted plan satisfactory with no changes recommended; and,

WHEREAS, hazard mitigation is essential to protect life and property by reducing the potential for future damages and economic losses resulting from natural disasters.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors does hereby adopt the Regional Natural Hazard Mitigation Plan.

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Mr. Benish commented that he would inform the work group of the Board's discussion about rainfall.

Mr. Richardson addressed Ms. Mallek's earlier remark that there should be more operable shelters during events when power or water are not available for a sustained time period. He asked if the Board would like staff to formally research this and report back with a plan of action.

Ms. Palmer recalled that Mr. Dan Eggleston, Fire Chief, addressed the Board several years earlier about emergency shelters, and she suggested this report be provided to the Board.

Ms. Mallek commented that that report did not address next steps and there are no facilities for public use.

Mr. Richardson offered to resume this discussion with public safety officials from where it left off and to provide a written report or schedule a work session discussion with the Board.

Agenda Item No. 10. FY20 – FY22 Strategic Plan Update Discussion.

Ms. Kristy Shifflett, Director, Project Management Office, presented. She said she would address next steps in strategic planning. She stated that during her last presentation at the September 7 work session, they discussed the Board’s priorities and reviewed progress to date on the FY 17–19 plan. She said she would review the Board’s priorities and invited feedback and direction from Supervisors. At the September work session, Board members were asked to select from a number of priorities that fall under the following three categories: 1) updated current initiatives not yet implemented, 2) items under further development that have risen as current strategic priorities, and 3) emerging issues based on the community and Board’s interest. She reminded Supervisors that they were asked to score the priorities using a weighted dot scoring system and although Mr. Dill was absent at the work session, she has since met with him and he submitted his prioritization scores.

Ms. Shifflett presented a chart with the results of the Board’s priority ranking:

Strategic Initiatives	Weighted	Priority Level
Develop/Implement Phase 1 of Climate Action Plan	85	High
Expand and promote County’s outdoor parks and amenities	80	High
Develop an Economic Development Program	65	Medium
Establish and implement strategic direction for school space	60	Medium
Infrastructure Planning	55	Medium
Revitalize aging urban neighborhoods	55	Medium
Expand and upgrade General District and Circuit Courts	50	Low
Redevelop Rio/Route 29 intersection area	50	Low
Expand broadband	50	Low
Identify strategies for solid waste/protection of nat. resources	40	Not a priority
Affordable housing	35	Not a priority
Regional convention center	0	Not a priority

Ms. Mallek remarked that some of these items would be done by others, and in her scoring, she focused on the items that are not being addressed.

Ms. Palmer remarked that included in the Climate Action Plan are solid waste issues like composting, so there was overlap.

Ms. McKeel remarked that some of these items are connected to economic development.

Mr. Gallaway stated that an item that was given a high priority and focused on may not continue to be a high priority in the future, once work has begun on it.

Ms. Palmer remarked that as the Rio/Route 29 intersection project got underway, there would be a lot of demolition and debris, particularly concrete and asphalt, and they should look at ways to reuse the material locally.

Mr. Gallaway expressed surprise at the relatively low ranking assigned to affordable housing.

Ms. Palmer said that there was a lot of work on affordable housing underway and she had asked Mr. Richardson to provide an update.

Mr. Gallaway remarked that the prioritization ranking was what drives staff’s work, and he was concerned that work on affordable housing would not be prioritized. He believes that they should attempt to think outside of the box and find additional ways, beyond what was already being done, to address affordable housing.

Ms. Palmer pointed out that the Board just appointed Mr. Gallaway to the Regional Housing Partnership with TJPDC, which she hopes would be a significant venture to determine what was needed and how to work with the community.

Ms. Mallek noted that the approach taken in the past has been to enhance the ability of the private sector to build affordable housing.

Mr. Randolph stated that the priorities of affordable housing and revitalizing aging urban neighborhoods, when considered together, are a high priority, though they each do not rank highly on their own.

Mr. Gallaway added that budget time was also a time when priorities could be emphasized as determined by the funding allocation.



Mr. Dill noted that the Climate Action Plan was given the highest priority, yet the County does not have many specific programs initiated to address carbon emissions and only has one electric car in the fleet, though they have recently hired a person to work on issues such as renewable energy. He urged the Board to set a County goal to reduce carbon emissions by a certain amount, as many other localities have done.

Ms. Shifflett reminded the Board that the local Climate Action Plan was one of the Board's priorities for further development that has arisen over the previous several years.

Mr. Andy Lowe, Environmental Compliance Manager, Department of Facilities and Environmental Services, stated that the Climate Action Plan has a goal of a community greenhouse gas reduction. He said they were allotted \$100,000 to implement some programs and have allocated \$50,000 to the Local Energy Alliance Program (LEAP) to assist with home energy audits. He said the individual recently hired would work on issues such as the commercial PACE program and the Climate Action Plan, and they would also engage with the community. He said another quick start program they would implement was a solar project at the Crozet Library.

Ms. Mallek remarked that the County abandoned its membership in the Cool Counties organization several years ago and she would like to investigate the potential benefits of rejoining. Mr. Lowe responded that the steering team would meet soon and discuss the types of programs that could offer assistance.

Ms. McKeel related how she recently reached out to representatives of an older apartment complex in her district and asked to talk to property owners about the benefits of switching to low-flow toilets, and they were very receptive to this idea. Mr. Lowe responded that they would soon reach out to homeowner associations and community groups to encourage them to host LEAP educational events. He noted that LEAP partners with AHIP and does retrofits in partnership with Dominion.

Mr. Gallaway asked if they could add "implement" to the priority of "develop an economic development program." Ms. Shifflett agreed to do so. She asked if there was Board consensus that the ranking of priority items was appropriate for the FY 20–22 Strategic Plan.

Mr. Richardson stated that as staff develops plans of actions to implement priorities, the Board would have a final say during the budget process. He stressed the importance of having the Board confirm its priorities before he allocates staff resources.

Ms. Mallek reminded the Board that it had discussed the potential of holding a bond referendum to fund parks to create a \$15 million fund from which the annual income could be used to address non-priority items. She urged Board members to consider ways to create an investment bucket to fund future parks and facilities projects.

Mr. Gallaway stressed the importance of maximizing the resources available, beyond what was available locally, as the identification of additional resources could enable them to free up funds for additional projects.

Ms. Palmer remarked that although affordable housing was ranked as a low priority, it was clear that the Board considered this to be an important item. She said she wants to be sure that, should the Board approve the Strategic Priorities, priorities with lower rankings would not be abandoned.

Ms. Mallek remarked that it would be fair to say that every one of these was incredibly important, and they could determine which items to address right now and which ones to work on and focus on in the next round.

Mr. Richardson remarked that if everything was important then nothing was important, that priority setting should be painful, and that no local government has enough money to do everything it wants to do. He suggested that if the Board saw opportunities that had been missed, they continue to caucus and discuss these items. He said they would not be as effective as they could be if they have to work on 22 priorities.

Ms. Palmer remarked that components of the Climate Action Plan may include some of the lower-ranked priorities. Mr. Richardson agreed that there was overlap among some priorities.

Ms. Shifflett remarked that there are several projects they could do to implement the overarching goal, and the Board's prioritization allows staff to determine what was most important to drive implementation. She agreed to create a document that has a full explanation of every initiative, in priority order, for the Board to review in November.

Mr. Randolph pointed out that the County's ability to affect climate change was very low. He asked that the document to be presented to the Board include information as to what local government could and could not do.

Ms. Palmer added that they could not solve climate issues in Albemarle County, though her understanding was that they would try to identify how they could work better to enter into a more circular economy and lessen the County's carbon footprint.

Mr. Richardson said they could look at national best practices that are followed by localities and present the Board with measurements and suggestions.

Ms. Mallek expressed support for a philosophy that looked at what could be of benefit to local citizens but that may also benefit the greater area. She recognized how the County has realized cost savings from weatherization of County buildings and expressed excitement that they would offer buydowns and offer citizens, particularly those with low income, the opportunity to participate more.

Mr. Gallaway stated that these priorities would help inform the budget process and should also align with the legislative packet. He remarked that it was Mr. Richardson's job to make sure they have the capacity to address opportunities that arose on the fly.

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Agenda Item No. 11. Park's Edge Apartments.

The Executive Summary forwarded to the Board states that Park's Edge Apartments is a ninety-six (96) unit affordable multifamily property located on Whitewood Road. The development includes a community center which was funded in part with Community Development Block Grant funds. The property is owned by Albemarle Housing Associates L.P., a for-profit entity associated with the Albemarle Housing Improvement Program (AHIP). Formerly known as Whitewood Village Apartments, Park's Edge was a U.S. Department of Housing and Urban Development (HUD) financed development under the Moderate Rehabilitation Program which included subsidies to ensure affordability.

With the subsidies set to expire in 2002, Albemarle County approached AHIP in 1998 to assist in preserving the property as affordable. The initial plan was to convert the property to a resident-managed development. The County secured a planning grant to conduct resident outreach to determine the capacity for the residents to take over the property. It was determined early in the process that there was limited capacity among the residents to assume this responsibility. AHIP, with County support, shifted the focus to purchasing, renovating, and preserving the property as affordable rental units.

These efforts led to the eventual purchase and renovation of the apartments and the construction of a community center with all units placed in service by 2004 using low-income housing tax credits (LIHTC) which require a fifteen-year (15) compliance period. That period ends in 2019 which will allow AHIP to retain the property as is, restructure the current financing, or sell the property to another entity. Regardless of the option chosen, the property has a commitment to remain affordable for an additional 15 years or until 2033.

AHIP's Board and staff determined that property ownership and management is not a core function for AHIP and decided that working with a local mission-driven organization would be the first priority for transferring ownership to ensure that Park's Edge would be in good hands and would remain affordable permanently. This would also provide a new owner the opportunity to restructure the financing including the possible infusion of additional LIHTC which would extend the affordability term until at least 2048.

In January 2018, the Executive Directors of AHIP and the Piedmont Housing Alliance (PHA) began discussing the potential for transferring ownership to PHA. PHA, also a nonprofit entity, currently owns and manages a number of multifamily properties in both the City of Charlottesville and County of Albemarle. County properties include Crozet Meadows, The Meadowlands, Scottsville School Apartments, and Woods Edge Senior Apartments. On July 10, 2018, Board of Supervisor Diantha McKeel and County staff met with staff from AHIP and PHA to discuss their proposal and request for County support including financial support. During follow-up discussions and e-mail exchanges, the requested financial support was \$325,000.

On September 5, 2018, PHA's Board addressed a letter to the Board of Supervisors indicating unanimous support for the acquisition by PHA of Park's Edge (Attachment A). Generally, staff would analyze a proposal in much more detail than is currently available. This analysis would include a review of financial details to determine project feasibility and project readiness and will not be possible until a determination is made on sources and terms of financing and costs associated with the necessary renovation of the property.

PHA has indicated that having a commitment of support from the County is necessary to leverage favorable financing. However, staff is not prepared to make a recommendation for a financial commitment without a discussion with and advice from the Board. To facilitate the discussion, staff has identified funds available which were appropriated to the Housing Fund for fiscal year 2019. It is also important to note that while no new affordable housing will be produced, the affordability term will be extended an additional fifteen (15) years.

There is no budget impact unless or until staff makes a recommendation for financial support and identifies the source of that support.

Staff recommends that the Board consider this request and provide advice to staff for next steps.

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Mr. Ron White, Chief of Housing, presented. He stressed the importance of preserving housing they already have. He informed the Board that they have a proposal for the Piedmont Housing Alliance to purchase the Park's Edge Apartments from Albemarle Housing Improvement Program (AHIP). He

described the property as consisting of 96 units, affordable, multi-family, with four buildings consisting of 24 units each, and a community center constructed with funding from the County's Community Development Block Grant Fund. He said the property was owned by Albemarle Housing Associates, a for-profit limited partnership that was aided by AHIP, which manages the property. He said the property was formerly a Department of Housing and Urban Development-financed project, known as Whitewood Village Apartments, created under the Moderate Rehabilitation Program with use agreements that expired in the early 2000s. He recalled that around 1998, his predecessor was working with AHIP and the Department of Housing and Community Development on a planning grant to convert the project to a resident-owned and managed project.

Mr. White stated that shortly after he assumed his position with the County in 2000, they realized that the capacity for tenant-owned and managed property was not the best approach and converted the planning grant to a predevelopment grant to determine the feasibility of the acquisition and rehabilitation. He said they provided funding to AHIP to secure options on the property, and in 2002, AHIP purchased the property and rehabilitated it from 2003–2004 and agreed to a 30-year affordability compliance period and that, after a 15-year tax credit, the investors are out of the picture. AHIP has the option to restructure financing, to maintain the property, or to sell it. He said that PHA had the intention of doing some rehabilitation work after it acquires the property and the executive directors of both organizations began discussions in January of a potential sale and then approached Supervisor McKeel, Mr. Mark Graham, and himself, after which they all met and decided to bring the matter before the Board of Supervisors. He said they are seeking financial support from the County, though he indicated more diligence was needed before his office could recommend that the County provide financial support.

Ms. Jennifer Jacobs, Executive Director of AHIP, addressed the Board. She said they have been working with the County since 1976 and got their start after Hurricane Camille in 1969. AHIP makes critical home repairs for County residents and had extended its scope to build new homes, scattered-site affordable rentals, and multi-family real estate. She provided a brief history of the property and AHIP's involvement, including the construction of a community center with CDBG funds, an after-school program that they ran for years in conjunction with Piedmont Family YMCA, and a computer lab. The complex has 210 residents, including 117 adults and 83 children under the age of 18, and the average annual income of residents was \$22,000. AHIP's plan to become a nonprofit housing provider did not come to fruition, as they realized that there are plenty of other organizations involved in the creation of new housing, so they made a decision in 2009 to focus on rehabilitation work.

Ms. Jacobs said that as the Park's Edge property neared the end of its compliance period, they would become eligible to apply for tax credits to recapitalize the project and could continue to operate. However, she said they believe that Park's Edge would be best-served by an organization with an area of focus in nonprofit housing development and management that has the expertise and resources to take on asset management and redevelopment and all the details that went into making a well-served, vibrant community. She said that the first priority was to find a mission-driven local organization, though they regularly receive outreach from out-of-town organizations that are looking to add to their portfolios. She said they are pleased with the thoughtfulness, intention, and care that the PHA staff and board has taken with exploring how this transformation might work. She thanked the County and Mr. White for their intention and investment, then turned the presentation over to Mr. Sunshine Mathon.

Ms. McKeel thanked AHIP for the management and care of the apartment complex and said she has never received a complaint from a resident.

Mr. Sunshine Mathon, Executive Director of the Piedmont Housing Alliance (PHA), presented. He said that PHA has been in the region for over 35 years and though its role has evolved, it has stayed true to its mission of creating housing opportunities and fostering community through financial education, lending, and equitable development. He said the opportunity to partner with AHIP on the Park's Edge property aligned perfectly with their strategic, financial, business, and mission-related goals to grow the organization. He said that not only did they want to create more affordable housing, they also want to facilitate and maintain affordable housing that was at risk of disappearing or falling into disrepair.

Mr. Mathon stated that AHIP has done an admirable job of maintaining Park's Edge with available resources, though many core systems and infrastructure are in deep need of repair and replacement. He remarked that affordable housing constructed 30–40 years ago across the country was facing similar challenges. He said that AHIP conducted a physical needs assessment that revealed \$3 million–\$4 million of needed critical work including roof, HVAC, exterior siding, window, appliance, and kitchen cabinet replacements. He said that without these repairs, Park's Edge would become more difficult to maintain while also providing a safe, comfortable place to live for families. He said the property also does not have sufficient resources to maintain curb appeal and a sense of pride that the community deserves, as the reduced rents paid by tenants are sufficient to maintain the property but not enough to create a reserve for deep rehabilitation.

Mr. Mathon emphasized that AHIP was not looking to profit from the transition and PHA would not make a significant amount of money in the operation. He said that existing debt needs to be covered and repairs made. He said they have explored various financial mechanisms that would enable both acquisition and deep rehabilitation and came to the conclusion that there was only one real approach: to use 4% low income tax credit bonds coupled with a long-term, low interest debt. He said the 4% bonds allow for the inclusion of the acquisition as part of the determined basis of the financing, which was the only way they could raise enough money, and they could not separate out the timeline between acquisition and rehab.

Mr. Mathon said the only viable partner to provide long-term debt financing was VHDA, which has dedicated REACH money for special projects which they could use to buy down the interest rate on the debt to give PHA the terms it needs. He said that an important criterion that VHDA uses to determine if it would provide support was specific local jurisdictional support that indicated the jurisdiction considers it to be a priority. He said that VHDA leadership acknowledged Albemarle's recent work in support of affordable housing, particularly with Southwood, and acknowledged that Park's Edge has many attributes, including its location within a high-opportunity area with a poverty rate under 10%. He said that VHDA strongly supports the collaborative partnership between AHIP and PHA to make this transition which would strengthen both organizations in the process. Mr. Mathon stated that VHDA informed him they would not consider an investment in Park's Edge unless there was substantial additional local investment. He asked the Board to allocate \$325,000, which he said would precipitate a cascade of additional funding sources with a 20:1 leverage ratio and, after speaking with County staff, recommended this be taken from the remainder of the previous year's surplus from affordable housing. He listed three County priorities that Park's Edge would address: 1) revitalization of aging neighborhoods, 2) climate change (high efficiency energy and water system equipment), and 3) affordable housing.

Ms. Palmer asked which Albemarle-based for-profit housing association currently owns the buildings. Mr. Mathon responded that, once tax credits are awarded, they are sold to an equity investor which uses the benefits of the credits to offset its tax burden and provides cash in return to cover construction costs. He said that under IRS rules, the for-profit entity must own the property through a partnership with the nonprofit through which the for-profit entity owns 99.9% of the property. He said that once the equity investor exits, AHIP would be in full control and a new equity investor would be sought for the next 15 years under a new tax credit program. He emphasized that all control resides with the nonprofit.

Ms. Palmer asked if they would work with a company they have worked with before or a new company. Mr. Mathon responded that a request for proposal was typically issued and listed the names of several investors that he expects to submit proposals.

Mr. Dill asked if Mr. Mathon has experience with this kind of deal from his prior employment. Mr. Mathon responded that prior to moving to Albemarle, he worked in Austin, TX as real estate development director for a large, nonprofit, affordable housing provider, during which time he oversaw the construction of over 1,000 units, for which every deal involved low-income tax credits. He remarked that 95% of affordable housing construction and rehabilitation nationwide was financed through tax credits.

Ms. Palmer asked for the name of the current AHIP partner. Mr. Mathon responded that the Virginia Community Development Corporation was the syndicator and works with multiple investors. He said that while the limited partnership owns the property, it was under the control of the nonprofit.

Ms. Palmer asked for confirmation that the investors' profit was from tax credits and not the rents. Mr. Mathon confirmed this. He said that banks benefit from these investments because they obtain a tax write off and, more importantly, could demonstrate that they have complied with the Community Reinvestment Act, which mandates that all financial institutions invest in the communities in which they have a presence.

Ms. McKeel asked for reassurance that they are not going out on a limb and that this was a typical financing method. Mr. Mathon responded that over 100,000 units per year are financed through low-income tax credits across the country.

Ms. McKeel noted that Mr. Frank Stoner, President of PHA's Board of Directors, had sent the Board a letter indicating his support for this project.

Mr. Dill asked how interest rate changes would affect the financing over time and the expected timeframe for arranging the deal. Mr. Mathon responded that the 4% and 9% tax credits do not refer to interest rates but to the amount of basis for-profit investors could write off relative to their tax burdens, and the formula was very complicated. He noted that the agreed-upon terms are fixed. He remarked that the tax bill passed earlier this year has caused a significant change and some deals were lost and had to be renegotiated. He said the current equity investor would exit at the end of this year, and the ideal time sequence would be to have the new arrangement by this time, although it would take months to line up a deal with VHDA and the actual rehabilitation may not start for a year after that.

Mr. Randolph asked Mr. Mathon if he would provide the Board with a simple budget statement within the next five days, after which he may suggest the item be placed on the October 10 consent agenda. He added that a one-page document would suffice.

Ms. Mallek stated that she did not think the Board would be prepared to act next week, as staff would need time to prepare information for the Board and additional discussion was needed.

Mr. White added that they typically look at more than a one-page budget document and that a 15-year pro forma was typical.

Ms. McKeel said that the Board supports the plan but just wants some more information. She noted that Mr. Mathon had asked for a letter of support from the Board in addition to its agreement to fund the plan. Mr. Mathon confirmed that a letter of support would be helpful when they apply for VHDA funding.

Ms. Mallek remarked that the ability of frontline staff to genuinely care for tenants was very important to her and asked Mr. Mathon if his organization has the capacity to take on 100 more units while also carrying out supervision of the rehabilitation work. Mr. Mathon responded that over the past six months, they have been working to bolster the back-end staffing to ensure that onsite staff have what they need. In addition, they have hired a Lead Maintenance staff person, Compliance Specialist, and an Assistant Community Regional Manager to prepare for oversight and future growth. Ms. Mallek reiterated that the person-to-person contact was extremely important.

Ms. McKeel added that PHA has a timeline and wants to make sure that, if the Board is supportive, it gets this done within that timeline.

Ms. Mallek added that maintaining the units was extremely critical, and she thanked PHA for wanting to do it.

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**Recess:** The Board recessed their meeting at 3:40 p.m. and reconvened at 3:51 p.m.

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Agenda Item No. 12. **Presentation:** Rivanna Water and Sewer Authority (RWSA) Quarterly Report.

Mr. Bill Mawyer, Executive Director, reported that the Ivy Transfer Station opened the previous Tuesday and things were going well. He announced that they would hold a pumpkin recycling day at McIntire Recycling Center on November 10 and provide a bin for post-Halloween pumpkins, which would be taken to Crimora and made into compost. They are in the process of renovating and upgrading water treatment plans and the previous month had awarded a contract to upgrade the Crozet treatment plant, with work to start next month. He said that a similar renovation and upgrade would begin in about one year at the South Rivanna and Observatory treatment plants, at a total cost of \$34.5 million, with work to take place from 2018–2023. He informed the Board that they have held discussions with the Albemarle County Service Authority about transferring the operation of water treatment facilities for the Red Hill system, which serves Red Hill Elementary School and additional customers. Those being served would remain customers of ACSA, but RWSA employees would operate the plant. They are planning a community meeting for residents and the School Board later this month. He said they plan to add fluoride to this system as they did at the other water treatment systems.

Mr. Mawyer presented a slide entitled, “Beaver Creek Dam and Pump Station Modifications,” which included the following information:

- Labyrinth Spillway thru the dam with bridge
- Budget: \$26.7 million
- Construction Schedule: 2021 – 2023

He remarked that the RWSA Board has agreed to move forward with the Birdwood Raw Water Line, a one-mile section he pointed out on an aerial photo of the site, located along the edge of the Bellair Subdivision. He said construction bids are expected to be in by next week, and they plan to award a contract on October 23.

Mr. Randolph asked how the ends of the waterline would terminate. Mr. Mawyer responded that both ends would be blanked and capped, and they would use GPS to locate them in the future. He said construction was expected to take approximately one year.

Mr. Mawyer said they plan to construct a new pump station at Hollymead Town Center near Meeting Street and Airport Road.

Mr. Mawyer said they are conducting studies and measuring South Rivanna and Ragged Mountain reservoirs to reassess the volume of water in the reservoirs, which would help the RWSA calculate safe yield and water capacity for the urban water system. He said they would also conduct a new water demand study, looking decades into the future, with the results expected by summer of 2019.

Ms. Mallek asked if the study of South Fork was to determine how much silt had come in since the last study. Mr. Mawyer confirmed this. He said that a 2006 study had predicted they would lose 150 million gallons of capacity each year due to siltation, and a plane and a boat are used to measure the reservoir topography to calculate the volume. He said that an agreement between the City and County requires this assessment every 10 years.

Ms. Palmer remarked that at the last meeting of the RSWA, staff made a presentation on a market study of area tipping fees, ranging from \$48–\$55/ton, with RSWA charging \$66/ton. She said that Mr. Trevor Henry would review staff recommendations to lower the fee and report on these and the potential budget impact to the Board of Supervisors. She remarked that the more trash they could process, the less it would cost the County to pay for the transfer station, though it would be hard to predict if the lowering of the fee would result in more business.

Mr. Gallaway said that Ms. Kim Swanson, his representative on the ACSA Board, had a question about how tariffs might impact construction costs. Mr. Mawyer said he would expect bidding contractors to have commitments from their materials suppliers at the time of a bid that would reflect any impacts from

tariffs. He noted that the contract includes a clause that allows for a change in price if it could be demonstrated that government action, including tariffs, had caused the price to increase.

Ms. Palmer asked if pipes were ever made from recycled scrap metal. She remarked that they are no longer sending things back to China on empty cargo ships and that an article in *The Economist* discussed how the scrap metal market was falling apart and may cause prices to increase. Mr. Mawyer responded that he thought that pipes were made from scrap metal, costs associated with tariffs should be reflected in the bids, and a clause in the contract allows an adjustment if laws or regulations change.

Mr. Gallaway wondered if there was a way they could predict the effects of tariffs in advance, as there could be budget ramifications.

Ms. Mallek commented that most contracts include a 10% contingency allowance.

Ms. Palmer pointed out that it was a 25% contingency.

Mr. Gallaway asked Mr. Mawyer if he could meet with him and the Director of ACSA. He also suggested they have a conversation about rates and projections and how these relate to capital projects, as suggested by Ms. Swanson, who he said should also attend the meeting. Mr. Mawyer agreed to schedule a meeting with Mr. Gallaway.

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Agenda Item No. 13. **Presentation:** Virginia Department of Transportation (VDOT) Quarterly Report.

Mr. Joel DeNunzio, VDOT Charlottesville Resident Engineer, stated that the recent large amount of rainfall had delayed maintenance activities, especially mowing, though they are attempting to catch up. He said that paving was also behind schedule and the contractor had informed him that they plan to finish all the projects this year. He said that paving at Mill Creek would begin next week, and at Hessian Hills – Canterbury Road, Wind River Road, Advance Mills Road, Route 22 from 231 to the Louisa County line, Route 29 from the Nelson County line to 3.75 miles north, Route 250 near Afton, and areas of Dick Woods Road by the end of the year. He said this information, including current progress, could be viewed at [www.virginiaroads.org](http://www.virginiaroads.org). He stated that much of this work involve gravel road maintenance, and they concentrate on the centerline and outwards, with less priority given to the shoulder areas, so it would take some time to get many of these areas back in shape.

Mr. DeNunzio announced that there would be public hearings on October 9, 10, and 11, 2018, to review six design/build projects and they were seeking to have one bundled contract for all six projects. He informed the Board that the public hearings would be: October 9 from 5:30–7:30 p.m. at Monticello High School, October 10 from 5:30–7:30 p.m. at Western Albemarle High School, and October 11 from 5:30–7:30 p.m. at Albemarle High School. He noted that the same information would be presented at all three public hearings; they would have an open forum to solicit comments, materials are available in his office, and comments could be made without attending the public hearings.

Mr. DeNunzio stated that crash data was always months behind, as it was collected from the police. He said he has two full years of data on the Rio Road grade-separated intersection project and one year on the widening project. Prior to the grade-separated intersection they were seeing about 94 crashes per year, including 21 involving injuries, between 29 Place and Woodbrook Road, which has reduced to 50 crashes and 10 injuries per year. He said that for the widening project from Polo Grounds Road to Towne Center Drive there were 48 crashes and 14 injury crashes per year prior to construction and these were reduced to 26 crashes and 5 injury crashes in the past year. He said that both crashes and travel times have been reduced along the corridor. He offered to respond to questions about the monthly report or any other items.

Ms. Mallek remarked that many landowners make no effort to clean debris from culverts which causes water to run down roads and asked who was responsible for culvert clearing. Mr. DeNunzio responded that property owners are welcome to clear culverts on their driveways, and it was the property owner's responsibility to clear culverts that are off the right-of-way or easement, while it was VDOT's responsibility to clear culverts that are in the right-of-way. He said that property owners could contact VDOT by phone or online to request culvert clearing.

Ms. Mallek asked for confirmation that the general easement was about 16 feet from the center of the road. Mr. DeNunzio clarified that it was 15 feet and that for older gravel roads, it was probably a 30-foot prescriptive easement, with 15 feet from the center. He said that most driveway culverts are in the right-of-way, though there are certain conditions where they are not. He said there are two different responsibilities for private and public entrances. With a commercial entrance, it was the responsibility of the property owner to maintain the drainage culvert in the entrance, while on a private driveway, VDOT would maintain drainage but it was the landowner's responsibility to maintain the surface of a driveway up to the edge of the shoulder.

Mr. Kamptner commented that the Water Protection Ordinance puts a burden on landowners to keep culverts clear on private property.

Ms. McKeel added that she has reported several cases through the online reporting system, and it worked beautifully; in some cases, a response was received within 24–48 hours.

Mr. DeNunzio pointed out that the upper right corner of the VDOT webpage has a 1-800 telephone number to call to request maintenance.

Ms. McKeel stated that along Georgetown Road, water was channeled away by swales, which are ditches on the side. She pointed out several nearby areas around Hessian Hills, Out of Bounds, across from the veterinarian, where there was not proper drainage and said it may have to do with the vegetation. Mr. DeNunzio noted that along a portion of the road, there was no drainage ditch and the culvert clogs easily. He said that it was recently cleared but was probably clogged again. He added that they do not have enough room to build a proper ditch and would have to keep an eye on it.

Mr. Gallaway thanked Mr. DeNunzio for taking a tour of the Rio District and asked for an update on the planters for the GSI. Mr. DeNunzio responded that they removed all the materials from the circular planters and discovered that they do not have weep holes drilled in them. He said they took all the material out of round planters, would drill holes in them, and would put the proper planting beds in them. He said he would like to see something planted that they all could agree on.

Ms. Mallek said that pansies would be nice to plant for the winter.

Mr. Gallaway said he learned at a recent Community Advisory Council (CAC) meeting that there was an issue with flooding at Eco Village and as part of the site plan, they may be asked to move the entrance, which would require frontage work. He said he presumes that they would look at the current movement of water and ways to mitigate it. Mr. DeNunzio remarked that there was a drainage ditch but there was water that goes to the other side of the road toward the house. Mr. Gallaway said his expectation was that the property owner would regain and reuse stormwater coming off the property. Mr. DeNunzio responded that they would keep that in mind.

Ms. Mallek asked if the automatic flow control was taking on side streets, as was originally planned. She asked about how far up the computer control goes. She said she thought a new VDOT system would replace all the things they were originally buying with the InSync system. Mr. DeNunzio responded that their system goes to Hydraulic for the Route 29 intersections but does not go down to the side streets, and there was a separate project for the lights coming off the bypass into town.

Ms. Mallek said that she was referring to the area around Stonefield, Cedar Hill, Georgetown Road and Commonwealth Drive where the signals were operating on their own. Mr. DeNunzio responded that he does not believe the SMART system goes there yet, though they are going to build a signal at Woodbrook and Route 29. He summarized that they redid the Earlysville segment and have plans to rebuild Woodbrook at Route 29 and Whitewood Road at Albemarle High School, which would make a big difference. He said he thinks they need to do work on Cedar Hill and want to get the pedestrian crossing on the other side of the road so it would not conflict with the left turn. He remarked that other than this rebuild, he does not think it was worth too much more to look at this signal unless they knew they were getting funding for the Hydraulic Road project because if they are getting funding, they do not want to spend \$300,000–\$400,000.

Ms. Mallek asked if the red light could be set so it does not change with the arrival of just one car but only once two cars have arrived. Mr. DeNunzio explained that the light has a normal cycle of 60 seconds of green for the main line, and if this has been reached it would switch immediately if the side street was called, but if only 45 seconds have passed, it would wait another 15 seconds before switching. He offered to look into this. He added that they are redoing the signals at Woodbrook and Albemarle High School.

Ms. McKeel remarked that at the Barracks Road area, which backs up so badly, VDOT was working with Charlottesville so that the City's lights coordinate with the County's lights. Mr. DeNunzio responded that VDOT has taken over operation of the signals at Angus Road and Morton Road from the City. He said the City was supposed to be progressing with three adaptive building signals to the south down to Barracks Road and up to that way. The signals will be coordinated.

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Agenda Item No. 14. **Presentation:** County Transportation Planner Quarterly Report.

Mr. Kevin McDermott, Principal Planner–Transportation, presented. He said he would review highlights from the quarterly report and invite questions. He informed the Board that Mr. Daniel Butch was the new Senior Transportation Planner and was present in the audience to answer questions. He reviewed major transportation planning projects. He said they were working on the Pantops Master Plan update as well as the Rio/29 Small Area Plan. He said they have accepted the scope and cost for the Avon Street Corridor Plan and expect a consultant team from Line and Gray to meet with the CAC soon.

Ms. Mallek asked if they were in the design phase or still conducting the planning study. Mr. McDermott responded that this was the planning study of corridor improvements approved through the NIFI process and as part of this scoping study they would pick the highest priority projects for a concept design and sketch from which he hopes to look into grant applications and believes this would be a real boom for the corridor and help them move forward with a lot of great projects.

Mr. McDermott continued. He said the Rural Long-Range Transportation Plan was approved; a draft was presented by the TJPDC, and this would probably come before the Board to consider for adoption into the Comprehensive Plan.

Mr. McDermott next reviewed transportation priorities. He said they have submitted 10 projects for Smart Scale applications and scores are expected to be released in January. He said the Revenue Sharing and Transportation Alternatives (RSTA) projects grants were awarded to the County the previous year, contracts have been signed with VDOT, and they are entering into contracts with on-call consultant teams to work on designs for the Commonwealth Drive and Dominion Drive sidewalks, Crozet Square/Oak Street improvements, Cale Elementary School crosswalk, and the Jouett/Greer/Albemarle shared-use path. He said that throughout 2019, he would come before the Board to suggest a new list of transportation priorities, provide status updates, and look to identify projects to submit for grants at the end of next year.

Mr. McDermott presented on transit. He said the Transit Development Plan was still underway, and he has learned from Charlottesville Area Transit that the final plan was expected to be ready this month. He informed the Board that the first phase of CAT bus stop improvements was underway with two shelters and three benches being installed.

Ms. McKeel asked how they determine the type of bus shelter to install. Mr. McDermott responded that CAT uses a standard shelter with sidewalls on three sides, a roof, and a bench, and the County was not involved in selecting the type. He said the transit partnership would be the appropriate venue to discuss alternative bus stop designs.

Ms. Mallek asked who was paying for the shelters. Mr. McDermott responded that funding was mostly provided through State grants with CAT providing a small portion. Ms. Mallek said the County should still have some say.

Ms. McKeel said she suggested to the Chairman of her CAC that they invite Mr. Brad Sheffield and Mr. John Jones to their meeting to present a tutorial on shelters.

Mr. McDermott remarked that for the Rio/29 Small Area Plan, the County would likely look to design its own shelters, which would be more attractive than what one normally sees.

Ms. McKeel emphasized the importance of having quality shelters if they wish to encourage people to use transit.

Mr. McDermott next reviewed bike/pedestrian projects. He said the quality-of-life bicycle and pedestrian projects were funded in the CIP, and they are seeking a consultant to create a concept design and cost estimate for six projects and to help them determine whether to do these projects internally or look at grants. He said they may request a small appropriation from the Board in November to pay for consultant work.

Mr. McDermott then presented a list of Development Projects, noted that Eco Village was on the list, and said he would bring up the stormwater issue. He informed the Board that the Miller School Road/Owensville Road Thru-Truck Restriction Study would be presented at a public hearing next week. He said they are under contract with an on-call consultant for a safety study of the Ivy Creek Natural Area project and would look at preliminary ideas developed by Mr. Jack Kelsey to open up sight lines, with a goal to create a safe intersection with a left turn lane. He said they are also looking to leverage state recreational access funds.

Ms. Mallek asked what could happen right away and expressed hope that the 500-foot sign to the natural area would slow down drivers. Mr. McDermott acknowledged that he had reached out to VDOT to request the sign and vegetation clearing and that they would likely look to recreational access funds for the grading of the hillside and improvements to the entrance road to bring it up to State standards.

Ms. Mallek asked Mr. McDermott to explain what the state standards were. She emphasized the importance of being able to close the main gate at dusk. Mr. McDermott responded that they are looking at the area from the parking lot entrance to Earlysville Road and expect to install a better base in the road but would likely not have to widen it. He confirmed that they could have a gate at the main access.

Ms. McKeel added that the good news was that if it was brought up to State standards it would be maintained. She noted that from looking at the guardrail one could tell there was another wreck.

Ms. Mallek remarked that the guard rail was in lethal condition as the cover was gone, spikes were sticking out, and the next person to hit it would get skewered.

Mr. McDermott said they would be going out there with Mr. DeNunzio, the consultants, and Project Management Division representatives within the next week. He concluded the presentation and invited questions.

Mr. Gallaway noted that at the Metropolitan Transportation Organization meeting, they were asked to review 21 projects and prioritize them in groups of seven, which they would do at a meeting in October. He said that seven projects would fall under the category of visionary, which means they would be in the plan but not a high priority. He expressed hope that MPO staff had reached out to Mr. McDermott for input and asked if there was a quick way to poll the Board of Supervisors to obtain input before he and Ms. Mallek attend the special meeting. His second request was for Mr. McDermott to explain what the long-range consequences for land use planning could be for the seven priorities listed as visionary.



Mr. McDermott noted that he is a member of the MPO Tech Committee and sees what the Board sees. He said the projects are from the County's transportation priority list and they are aware of the highest priorities.

Mr. Gallaway remarked that the Board and City Council have done their priorities based on their own jurisdictions and suggested that the list of 21 projects could be adjusted with Mr. McDermott's help through the MPO process.

Ms. Mallek remarked that regional items the MPO would put in are those that affect both jurisdictions. She asked that Mr. Gallaway share the results of the meeting with Supervisors.

Mr. McDermott agreed to accommodate Mr. Gallaway's request to schedule a meeting. Mr. Gallaway said an email would suffice.

Mr. McDermott remarked that the Long-Range Transportation Plan was a great process but acknowledged that it was slightly redundant in a good way because it provides a check on the County's planning. He said the projects first come from the County's master planning process, are prioritized, and then checked by them again. He said it was great to get them in the constrained Long-Range Transportation Plan, but they cannot expect to get this 100% right and could go back and fix that over the next five years.

Mr. Gallaway stressed that he does not want some to linger as Visionary if they are not going to be funded or have been there for a while that do not need to be there.

Ms. Mallek remarked that when a dirt road was paved, it was a rezoning of all the property around it, which was the sort of backhanded land use change that happens when they make a transportation decision, and some may be looking at items on the vision list that are not in the constrained plan, and therefore have less of a chance of occurring and making investments based upon that. She said she likes Mr. Gallaway's idea of making sure things really belong and to have some community consensus before they get on there.

Mr. Gallaway remarked that he was thrilled with the first CAC meeting and that it looks like they have the first project out of the gate: the small area plan at Rio. He said this could include a private green spot, which has made him think about surrounding properties and small pocket conservation or green areas accessible by connected paths could help the County guide planning. He added that they should make sure they stay ahead of things as random things pop up. Mr. McDermott assured Mr. Gallaway that they are looking at this situation.

Mr. Gallaway asked if the soon-to-be constituted Regional Transit Partnership would look at ridership data; as this was brought up at the Metropolitan Planning Organization meeting. He said this was an opportune time to obtain better data for the County.

Ms. McKeel commented that they have to decide on what data they need to make decisions. She added that they are getting the reports and having the same conversations.

Ms. Mallek said that the newest DCR map of scenic roads was in front of them and thanked Mr. Daniel Butch for his work in requesting a study by DCR to designate part of Route 240 at Route 810 in the western part of the County as a Virginia Scenic Byway.

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Agenda Item No. 15. Closed Meeting.

At 4:49 p.m., Mr. Gallaway **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (3), to discuss and consider the disposition of real property in the City of Charlottesville related to court facilities, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County; and
- Under Subsection (6), to discuss and consider the investment of public funds in an affordable housing project where bargaining is involved where, if made public initially, the financial interest of the County would be adversely affected; and
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for, and the possible relocation of, court facilities; and
- Under Subsection (29), to discuss the terms and scope of a possible public contract for transportation services involving the expenditure of public funds where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.  
NAYS: None.

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Agenda Item No. 16. Certify Closed Meeting.

At 6:22 p.m., the Board reconvened into open meeting. Mr. Gallaway **moved** that the Board certify by a recorded vote that, to the best of each member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

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Agenda Item No. 17a. Boards and Commissions: Vacancies and Appointments.

The Chair moved this item to later in the meeting.

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Agenda Item No. 18. From the Public: Matters Not Listed for Public Hearing on the Agenda.

As no one came forward to speak, Ms. Mallek closed this portion of the meeting.

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Agenda Item No. 19. Community Use of County Facilities Policy.

The Executive Summary forwarded to the Board states that since first adopting a Community Use of County Facilities Policy (the "Policy") on February 10, 1982, the Board has encouraged the use of County facilities by Local Government and the Schools Division for their activities, as well as by outside organizations and groups, as long as their activities do not interfere with County business. The Board reviewed and approved the most recent changes to the Policy on June 13, 2018, which amended among other things, the policies pertaining to the parking lots. The policy was revised to authorize the parking lots to be closed to general public use when the County Executive determines that their being open at any other times would conflict with County business ((subsection 10(b)(3)) or when a state of emergency or a local emergency has been declared (subsection 10(b)(4))) (See Attachment A). At its September 12, 2018 meeting, the Board received a presentation by staff regarding options on the continued use of parking.

The issue for the Board is whether the policy regarding the use of the parking lots should remain as it is or be further amended. During the September 12, 2018 Board meeting, staff presented for Board consideration the following three options regarding the Policy: OPTION A: The Policy to remain as is (Attachment A), OPTION B: The Policy to reflect parking open to the public only when the parking is related to County or School Division business being conducted in County facilities (Attachment B), and OPTION C: The Policy to reflect some public parking not associated with County or School Division business being accommodated in the lower parking lot (Attachment C).

OPTION A: Minimal budget impact to implement. Existing signs would have to be replaced.

OPTION B: \$38,000/\$65,000 to implement (manual gate/automatic gate)

OPTION C: \$44,500/ \$88,500 to implement (manual gate/automatic gate).

Staff recommends that the Board consider the options presented and approve one for implementation.

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Mr. Trevor Henry, Assistant County Executive, presented. He reminded the Board that they reviewed this policy at the September 12 meeting, with a Board action to consider the options discussed, and tonight they would talk about near-term and long-term Board direction. He said that staff recommended they conduct a comprehensive review of the policy for facilities and grounds, which would include benchmarking. He presented three options: A) restoration to current policy with increased enforcement, B) change of policy to continue with parking restrictions, C) "hybrid" option, securing County Office Building and grounds to perimeter, allowing public parking (free) at lower lot from 5 p.m. to midnight during work week and 6 a.m. to midnight on weekends. He presented an aerial photo of the County Office Building property and surrounding area that highlighted the parking lots and public sidewalk on McIntire Road and Preston Avenue. He remarked that the COB hosts an average of 48 meetings per month that run into the evening. He next presented data on the number of parking spaces: 431 total spaces, 53 in the upper lot, 51 behind COB, 37 in middle lot, 290 in lower lot (241 for employee parking).

Mr. Henry reviewed Option A and said staff believes it would be prudent to install cameras in the lots for safety reasons, at an estimated cost of \$12,000. He noted that there are already cameras around the perimeter of the building. He said that Option A would restore the current policy, which was the least restrictive use of parking and provides the most access after hours. He stated that at times when there are activities in the COB as well as things happening on the corner or outside of the perimeter, there could be some parking conflicts.

He reviewed Option B, which he said would limit parking to County business only and secure parking for weekends and be the strongest security posture for the building and grounds. He said there would be costs associated with the installation of a gate system.

He reviewed Option C, which he described as a blended option that tightened security around the building and perimeter, making sure there was parking for evening meetings while also allowing for parking public after business hours until midnight and on weekends from 6 a.m. to midnight. He presented an aerial photo of the grounds and pointed out the area of the proposed gate system and available parking spaces. He said that staff believes this option to be a reasonable compromise to allow tighter security while ensuring access to the public.

Mr. Gallaway asked if Option C would involve the creation of a path, if this was reflected in the cost, and what the timing would be. Mr. Henry outlined the area of the proposed connection on the aerial photograph, which he said would connect an interior sidewalk with an asphalt path that would tie into the sidewalk on McIntire Road. He confirmed this was reflected in the cost and expects the path to be created soon after the Board approves it.

Mr. Dill said he prefers to stay as open and welcoming as possible with reasonable security. He said he expects that after the November election, there would not be as much attention, and he suggested that they keep the current policy through the end of the year and see how things develop. He advocated a “go slow” approach, as they could always add more security, and he said that it was hard to take down gates and cameras once they have been installed.

Ms. Mallek asked Mr. Kamptner for confirmation that the draft policy that gave the County Executive the ability to make decisions, and changes on a local level were in place for all three options. Mr. Kamptner responded that this ability exists for Options B and C.

Ms. Mallek expressed support for Option C, as it provides protection for the building and parking for meeting attendees while also providing after-hours parking for community members.

Ms. McKeel agreed with Ms. Mallek for the same reasons.

Ms. Palmer expressed agreement with Mr. Dill's comments that they should leave things open and see what happens after the election. She said her second choice was Option C, as she does not want to close the entire lot.

Mr. Gallaway expressed support for Option C, as business hours could often go to 10:00 p.m., and they should provide sufficient parking to meeting attendees. He remarked that asset protection was not his primary concern.

Mr. Randolph said that part of him agrees with Mr. Dill and that they should keep things open, however, in light of what happened on August 11-12, 2017, they are in a different era in terms of security. He said that Option C was the only sensible way, as it strengthens the COB perimeter while allowing public access after hours.

Ms. Palmer **moved** that the Board adopted the Community Use of County Facilities Policy Option C - Limited public parking not associated with County or Schools Division business. Ms. McKeel **seconded** the motion.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

**(The adopted Policy is set out below:)**

## **COMMUNITY USE OF COUNTY FACILITIES**

### **A) Generally**

1. The Board of Supervisors believes in the full and best possible utilization of the physical facilities belonging to the citizens of the County. To achieve this end, the use of County facilities for governmental, school and related activities, as well as by outside organizations and groups, shall be encouraged when these activities will not interfere with the routine business of the County.
2. Proper protection, safety and care of County property shall be primary considerations in the use of County facilities.

### **B) Eligible Organizations**

1. The Board has classified various organizations and groups for the purposes of priority and the charging of fees.
  1. Classification
    - I. County government and School-affiliated or related groups.
    - II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veterans' or religious groups or organizations.

- III. Profit making or Private groups, organizations, or businesses.
- 2. Membership  
The membership of any group or organization requesting the use of County facilities must be largely from the County of Albemarle. This restriction shall not exclude the use of certain facilities, as determined by the County Executive, by state and national organizations that have a local sponsoring division of such organization.
- 3. Commercial Activities  
Commercial use of County property by any organization or individual is expressly prohibited.

**C) Applications and Approval**

- 1. Applications must be sponsored by reputable and established clubs, societies or organizations that can be held responsible for the payment of charges, compensation for damages to property and for use of the property in reasonable conformity with the regulations on the application.
- 2. The Board authorizes the County Executive or his designee to approve all applications for the use of County facilities that meet the requirements of the Board, that comply with implementing regulations the County Executive deems necessary to protect County property and that do not conflict with established business or commercial interests in the community. The County Executive shall design such application forms as are required. The completed and signed form shall be a binding agreement upon the applicant and the County.
- 3. No rental application will be considered more than six months prior to the desired rental date.
- 4. The County Executive or his designee reserves the right to cancel a rental contract up to ten calendar days prior to a scheduled rental.
- 5. The Lane Auditorium and COB – 5th Street Room A are available during business hours (8:00 a.m. – 5:00 p.m. Monday through Friday) only if the applicant provides shuttle bus services or off-site parking for participants of the meeting. On-site parking is not available for large meetings during business hours.
- 6. All activities shall end, with County facilities vacated, no later than 10:00 p.m.
- 7. The Lane Auditorium is not available on any day during which a local government board, commission, or other duly appointed entity is scheduled to use the facility due to the possibility of these meetings running beyond the scheduled end time.
- 8. Meeting rooms and Auditorium are not available on holidays, scheduled or declared, when the County Office Building is closed.
- 9. Reservations will automatically be cancelled when the County office buildings are closed due to inclement weather or emergency conditions.
- 10. County Office Buildings' Grounds, including Parking Lots and Sidewalks:
  - a. Generally. Unless otherwise specifically allowed in this policy, the Grounds of the County Office Buildings are not open for public use.
  - b. Parking. Parking lots are open to the public for parking as follows:
    - (1) County Office Building-McIntire Upper and Middle Parking Lots. The parking lots identified as the "Upper" and "Middle" parking lots (the "Upper and Middle Parking Lots") on Attachment A are open to the public for parking when the parking is related to County or School Division business being conducted in County facilities or on County grounds during the County's or the School Division's regular business hours or during meetings of the Board of Supervisors, the Planning Commission, or the School Board. The Upper and Middle Parking Lots are also open to the public for parking when the parking is related to a use by a third party in County facilities or on County grounds authorized by this policy.
    - (2) County Office Building-McIntire Lower Parking Lot. The parking lot identified as the "Lower" parking lot (the "Lower Parking Lot") on Attachment A is open to the public for general parking purposes, subject to the following:
      - (a) Parking within designated parking spaces in the Lower Parking lot is permitted Monday through Friday between 5:00 p.m. and 11:59 p.m. each day, except during meetings of the Board of Supervisors, the Planning Commission, or the School Board, subject to subsection (2)(c) below.
      - (b) Parking within designated parking spaces in the Lower Parking lot is permitted on Saturday and Sunday between 6:00 a.m. and 11:59 p.m. each day, subject to subsection (2)(c) below.
      - (c) The County Executive may close the Lower Parking Lot to general public parking: (i) when the Lower Parking Lot is used for County or School Division purposes; or (ii) when the Lower Parking Lot is used for an event sponsored by the County. The County Executive may also close the Lower Parking Lot to general public parking when a local emergency is declared by the County pursuant to Virginia Code § 44-146.21 or a state of emergency is declared by the governor and the closure is necessary to allow the Lower Parking Lot to be used by the County or any other public entity, or closure is otherwise necessary because of the particular circumstances of the local or state emergency. The County Executive may close the Lower Parking Lot in any of the situations described for a reasonable period of time before and after the actual use or necessity for closure begins and ends, and the duration of the closure is not required to be contemporaneous with the local or state emergency.
    - (3) County Office Building-Fifth Street Extended. Parking lots are open to the public for parking when the parking is related to County or School Division business being conducted in County facilities or on County grounds during the County's or the

School Division's regular business hours or during meetings of the Board of Supervisors, the Planning Commission, or the School Board. Parking lots are also open to the public for parking when the parking is related to a use by a third party in County facilities or on County grounds authorized by this policy.

- c. Sidewalks. Sidewalks abutting public streets are open for public use, provided that ingress and egress to and from the Grounds are not obstructed. Sidewalks not abutting public streets are:
  - (1) Open to the public when: (i) a County parking lot is open for general parking purposes under subsection 10(b); (ii) their use is related to County or School Division business being conducted in County facilities or on the Grounds during the County's regular business hours, or during meetings of the Board of Supervisors, the Planning Commission, or the School Board; or (iii) their use is in conjunction with a use in County facilities or on the Grounds by a third party authorized pursuant to this policy.
  - (2) Not open to the public when: (i) the County Executive or his designee determines that public use of any sidewalk not abutting a public street interferes, or may interfere, with County business; and (ii) the County Executive or his designee determines to close any sidewalk not abutting a public street when the Governor declares a state of emergency or when the County's Director of Emergency Managements declares a local emergency.
- d. Veterans' Memorials. The County Executive or his designee may consider requests for the use of the area in proximity to the veterans' memorials on the Grounds by veterans' groups or organizations consistent with this policy. Such requests must be made and approved no less than 5 business days before the proposed activity.
- e. At no time shall vehicles be parked on the lawns or pedestrian walkways.
- f. Unauthorized users of County facilities or Grounds are subject to removal and/or prosecution for trespassing.

**D) Fees (See Attachment)**

- 1. The County Executive shall establish a minimum schedule of fees and may make additional adjustments in the fees. The minimum schedule and additional adjustments shall be based upon the classification of the group or organization, the facilities to be used, the size of the group, the objectives of the organization, the approximate cost to the County and the purpose for which the facility will be used.
- 2. In general, the County Office Building Rental Charges schedule (attached below) will apply.
- 3. A full rental fee shall be charged to all groups (except Classification I) when County facilities are to be used for fund raising and/or when an admission charge is levied.
- 4. All fees must be paid at least seven (7) calendar days in advance, and the sponsoring organization whose name appears on the application shall be held responsible for any and all damages to property and equipment.

**E) Protection of County Property**

- 1. An employee or agent of the County shall be on duty on the property at times when the facilities are in use. No equipment or furnishings may be used or moved without the consent of the employee in charge if such usage is not in conformity with the contracted agreement. The employee in charge may expel any group if said group, after ample warnings, fails to adhere to the provisions of their rental agreement.
- 2. The sponsoring organization shall be responsible for crowd control measures, including the employment of police protection when required. Such control shall be arranged in advance when deemed necessary by the County Executive or his designee.

**F) Safety**

- 1. Organizations and individuals using the facility shall be responsible for familiarizing themselves with the nearest exits in case of emergency evacuation. Each conference room has a Fire Escape Plan posted at its entrance which shows the primary and secondary escape routes.

**G) Deposits**

- 1. A cash bond or deposit may be required at the discretion of the County Executive or his designee prior to use of the property.

Lane Auditorium and COB-5th Street Room A Rental Charges

Classification	Weekday-Business Hours	Weekday-Evening
I. County/Schools*	No Charge	No Charge
II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veteran's or religious groups or organizations	\$18.00 flat fee	\$40.00 per hour
III. Profit Making or Private Groups, Organizations or Businesses	\$200.00 flat fee	\$200.00 flat fee

\* Departments directly supervised or sponsored by the County Executive/Superintendent or sponsored by the local office of the Virginia Cooperative Extension

The Lane Auditorium and COB – 5th Street Room A are available during business hours (8:00 a.m.-5:00 p.m. Monday through Friday) only if the Applicant provides shuttle bus services or offsite parking for participants of the meeting. On-site parking is not available for large meetings during business hours.

County Office Building Meeting Rooms Rental Charges (Other than for Lane Auditorium and COB-5th Street Room A)

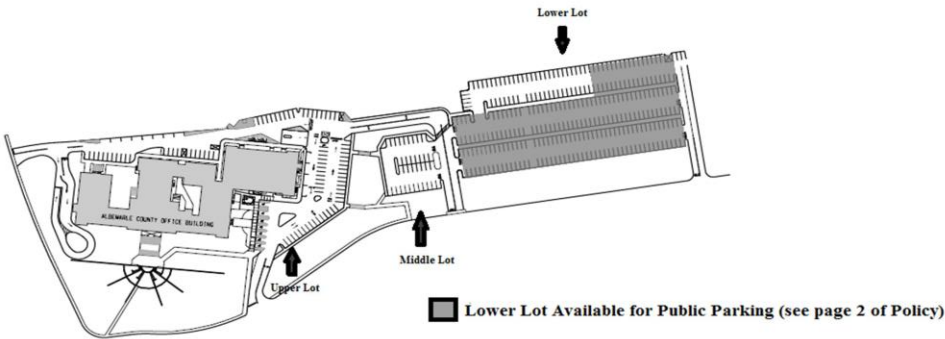
Classification	Weekday-Business Hours	Weekday-Evening
I. County/Schools*	No Charge	No Charge
II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veteran's or religious groups or organizations	\$18.00 flat fee	\$40.00 per hour
III. Profit Making or Private Groups, Organizations or Businesses	\$40.00 per hour	\$40.00 per hour

\* Departments directly supervised or sponsored by the County Executive/Superintendent or sponsored by the local office of the Virginia Cooperative Extension

Additional Charges

1. Each additional room used shall incur an additional charge, pursuant to the above schedule.
2. Requests to set up additional chairs/tables shall incur a flat \$18.00 charge.
3. Any portion of a meeting scheduled past 5:00 p.m. will be subject to the applicable weekday evening rate.
4. For any event at which food is served, a \$150.00 security deposit will be charged, to be returned upon satisfactory inspection of facility.

ATTACHMENT A  
COMMUNITY USE OF COUNTY FACILITIES  
County Office Building  
401 McIntire Road, Charlottesville, VA 22902



Agenda Item No. 20. **Public Hearing: East Rivanna Fire Station Easements.** To receive public comment on the proposed vacation of a two-acre drainfield easement and a fifty-foot-wide access easement, both of which are jointly held by the County and the East Rivanna Volunteer Fire Company, on a portion of Parcel ID 093A1-00-00-004R0, located at 3721 Richmond Road, northeast of the East Rivanna Fire Station. The easements are proposed for vacation in exchange for providing the Fire Station with access to the public water and sewer system. (Advertised in the Daily Progress on September 24, 2018.)

The Executive Summary forwarded to the Board states that in 1992, Glenmore Associates Limited Partnership conveyed a six-acre parcel to the County and the East Rivanna Volunteer Fire Company for the East Rivanna Fire Station. As part of the deed, the County and Fire Company also received a two-acre drainfield easement to serve the property and a fifty-foot- wide access easement to the drainfield site.

Rivanna Investment Holdings LLC is now developing the larger 81.703-acre parcel (TMP 93A1-4R) on which the drainfield easement is located. As part of that development, Rivanna Investment Holdings wishes to vacate the existing easements in exchange for providing the Fire Station with access to the public water and sewer system.

The connection of the Fire Station to the public water and sewer system was part of an existing “Agreement to Grant Easements,” which the Board previously approved on April 6, 2016. Though generally consistent with that Agreement, the proposed disposition of the existing drainfield easements was not specifically addressed at that time. Virginia Code § 15.2-1800 requires that the Board hold a public hearing prior to conveying County-owned real property such as these easements.

Because the East Rivanna Fire Station will now be served by public water and sewer, no budget impact is expected from the proposed vacation of the existing drainfield easements.

Staff recommends that, after the public hearing, the Board adopt the attached Resolution (Attachment C) approving the vacation of the two existing easements and authorizing the County

Executive to execute any deed(s) or other document(s) needed to vacate the easements once the deed(s) or other document(s) have been approved as to substance and form by the County Attorney.

Mr. Andy Herrick, Senior Assistant County Attorney, stated that the County and the East Rivanna Volunteer Fire Company acquired the East Rivanna Fire Station in 1992. He described it as a six-acre parcel adjacent to a two-acre drain-field easement and with a 50-foot access easement serving the drain-field easement. He said the Board approved an agreement in 2016 with the developer of the adjacent property, under which there would be a water and sewer connection to the fire station, though it was not specifically articulated that upon the connection to public water and sewer service there would no longer be a need for a drain field easement on the adjacent parcel. He said the developer wants to have the drain field easement formally vacated. He noted that State law requires a public hearing when public property was disposed of.

Mr. Dill asked if there was a payment involved. Mr. Herrick responded that there were payments associated at the time of the agreement, but they are not relevant to the consideration.

Ms. Mallek opened the public hearing.

As no one came forward to address the matter, Ms. Mallek closed the public hearing.

Mr. Randolph **moved** that the Board adopt the proposed resolution approving the vacation of the two existing easements and authorize the County Executive to execute any deed(s) or other document(s) needed to vacate the easements once the deed(s) or other document(s) have been approved as to substance and form by the County Attorney. The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

**(The adopted resolution is set out below:)**

**RESOLUTION APPROVING VACATION OF EASEMENTS  
SERVING EAST RIVANNA FIRE STATION**

**WHEREAS**, the County of Albemarle and the East Rivanna Volunteer Fire Co., Incorporated jointly hold a drainfield easement and an access easement (the "Easements") over Parcel 093A1-00-00-004R0, which Easements serve the East Rivanna Fire Station;

**WHEREAS**, Rivanna Investment Holdings LLC now wishes to vacate these existing Easements, in exchange for providing the East Rivanna Fire Station with access to the public water and sewer system; and

**WHEREAS**, the Board finds it is in the best interest of the County to vacate these existing easements in exchange for the provision of public water and sewer to the East Rivanna Fire Station.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the proposed vacation of these Easements, and authorizes the County Executive to execute any deed(s) or other required document(s) once they have been approved as to substance and form by the County Attorney.

\*\*\*\*\*

This document was prepared by:  
Williams Mullen  
321 East Main Street  
Suite 400  
Charlottesville, VA 22902

Albemarle Tax Map Parcel ID No.:093A1-00-00-004R0

This deed is exempt from taxation under Virginia Code § 58.1-811(A)(3).

**DEED OF VACATION**  
(for Drainfield and Access Easement – Phase IB)

**THIS DEED OF VACATION**, made as of this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between **RIVANNA INVESTMENT HOLDINGS LLC**, a Delaware limited liability company ("Rivanna"), to be indexed as Grantor, the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), and **EAST RIVANNA VOLUNTEER FIRE CO., INCORPORATED**, a Virginia corporation (the "Rivanna Fire Department"), each to be indexed as Grantees.

**W I T N E S S:**

**WHEREAS**, Rivanna is the owner in fee simple of that certain real property (hereinafter, the "Remaining Rivanna Village Property"), located in Albemarle County, Virginia more particularly described as follows:

ALL that certain lot or parcel of land, with improvements thereon and appurtenances thereto, containing 81.703 acres, more or less, shown as "Remainder of Revised TMP 093A1-00-00-00400" on that certain subdivision plat by Roudabush, Gale & Associates, Inc., entitled "Subdivision Plat, Phase I, Block A, Town Villas, Rivanna Village, Scottsville District, Albemarle County, Virginia," dated November 14, 2017, and recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia in Deed Book 5025, page 711;

BEING a portion of the same property conveyed to Rivanna Investment Holdings LLC by special warranty deed, from Rivanna Village LLC, a Virginia limited liability company, dated October 21, 2016, and recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia in Deed Book 4837, at page 148.

**WHEREAS**, by that certain Deed of Gift dated as of January 13th, 1992, and recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia in Deed Book 1204, page 201 (the "Existing Deed"), Glenmore Associates Limited Partnership, predecessor-in-interest to Rivanna, dedicated those portions of the Remaining Rivanna Village Property shown as "Drainfield Easement (2.000 Ac.)" and "50' Access Easement" on that certain plat prepared by S&L Key Incorporated, entitled "Plat Showing Parcel 'X', Drainfield Easement and Drainfield Access Easement, Being a Portion of Tax Map 93, Parcel 59, 'Glenmore Farm,' Rivanna District, Albemarle County, Virginia" last revised January 29, 1992 (the "Existing Plat") to the County and Rivanna Fire Department (the "Existing Easements"); and

**WHEREAS**, Rivanna is developing the Remaining Rivanna Village Property in accordance with that certain subdivision plat entitled "Subdivision Plat, Phase IB, Blocks A, B, C, D1, E, and F1, Rivanna Village, Scottsville District, Albemarle County, Virginia," prepared by Roudabush, Gale & Associates, Inc., dated July 7, 2016, last revised July 11, 2018, which such plat was recorded in the land records of the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book \_\_\_\_\_, at page \_\_\_\_\_ (the "Plat"); and

**WHEREAS**, as part of the development of the Remaining Rivanna Village Property, Rivanna desires to vacate all rights, title and interest in the Existing Easements, in exchange for providing the Grantees with access to the public water and sewer system.

**NOW, THEREFORE**, in consideration of the premises and the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt of which is hereby acknowledged, Rivanna does hereby VACATE the Existing Easements, as shown on the Existing Plat.

Rivanna hereby covenants to develop the Remaining Rivanna Village Property in accordance with the Plat, including providing the Grantees access to the public water and sewer system.

The Rivanna Fire Department accepts the vacation of the Existing Easements in exchange for Rivanna's provision of access to the public water and sewer system, as evidenced by the duly authorized execution and recordation of this Deed of Vacation.

The County, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts the vacation of the Existing Easements pursuant to Virginia Code § 15.2-1803, in exchange for Rivanna's provision of access to the public water and sewer system, as evidenced by the County Executive's signature hereto and the recordation of this Deed of Vacation.

**IN WITNESS WHEREOF**, Rivanna has caused this Deed of Vacation to be executed on its behalf by its duly authorized agent.

**RIVANNA INVESTMENT HOLDINGS LLC,**  
a Delaware limited liability company

By: Limehouse Street LLC, a Delaware limited liability  
company, its Sole Member

By: Wharf Street LLC, a Delaware limited liability  
company, its Majority Member

By: \_\_\_\_\_  
Todd Kuhl, Authorized Person

**EAST RIVANNA VOLUNTEER FIRE CO.,**  
**INCORPORATED,**  
a Virginia corporation

By: \_\_\_\_\_

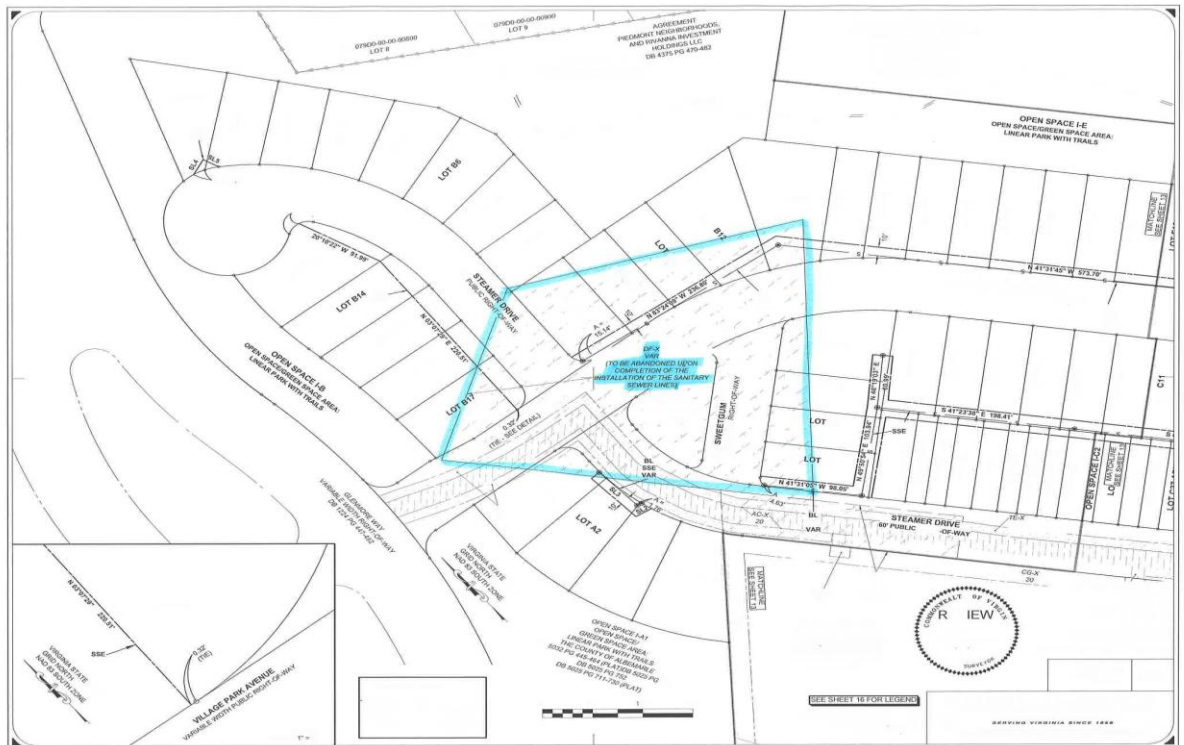
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COUNTY OF ALBEMARLE, VIRGINIA**

\_\_\_\_\_  
Jeffrey B. Richardson



County Attorney



Staff recognizes that citizens and the Board are also concerned about residential open air

burning. Staff plans to return to the Board in November to discuss how to address those concerns.

The budget impact will be some additional workload, but significant budget impact is not anticipated at this time.

Staff recommends that, after the public hearing, the Board adopt the attached proposed ordinance (Attachment B).

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Mr. Howard Lagomarsino, Division Chief of Fire Rescue Prevention and Fire Marshal, presented. He stated that they have been dealing with open burning in several different iterations for a while, with the first iteration involving trash burning and the current iteration dealing with land clearing for development and property maintenance. He stated that on June 6, the Board approved language to go before the Air Pollution Control Board, which acted in June, and had requested changes to outdated language in the ordinance. Mr. Lagomarsino said this has been worked out and approved, and he was seeking adoption of the changes. He said they have continued to engage with the public and recently a resident posed some questions, and the possibility of adding another section has arisen as a result of these questions. He explained that this section would call for notification to adjacent property owners of the exact time of a burn. He suggested the Board adopt the language approved by the Air Pollution Control Board, and he would return on November 14 for a work session on the residential part of the burn regulations, at which time the Board could adopt the revised language as part of the permit.

Ms. Palmer recalled that there were some issues with the permit having to be applied for in advance and developers opposing the requirement that a time be specified. Mr. Lagomarsino responded that the old code said 500 feet, whereas on the lands where the burning typically happens, there was never a building within 500 feet. Therefore, he said no one ever received a notification. He said they propose to increase the distance to 2,000 feet, which they thought would take care of the concerns, but a citizen made a point about how he would know when to take clothes off the line, and he agrees that the citizen had a point and they could add this later. He was concerned with delaying implementation to make the additional change.

Ms. Palmer asked how practical it was to ask a developer of a large land clearing operation to let everyone know the exact time of a burn. Mr. Lagomarsino said the changes approved by the Air Pollution Control Board limited burning to Monday – Friday, 8:00 a.m. – 8:00 p.m. He added that during the burn ban from February 15 – April 30, they could not do any burning. He remarked that he does not think it was a far stretch to expect them to provide a schedule to citizens, and this allows the citizen to make some lifestyle decisions.

Ms. Palmer asked for confirmation that if a developer obtains a permit to burn on certain days but does not conduct a burn, this was alright under the ordinance. She described this as an over notification versus an under notification. Mr. Lagomarsino confirmed this and said the proposal was to require 10 days' advance notice.

Mr. Kamptner remarked that there are several types of uses under the Zoning Ordinance where they require the permittee to notify neighbors that a particular use was proposed or about to begin. He said the idea here was similar to that.

Mr. Lagomarsino stated that this requires developers to plan and notify the County when they planned to burn, and in return they obtain the benefit of saving on haul-off costs by being permitted to burn materials. He noted that this saves on the carbon footprint of the trucks.

Ms. Palmer remarked that 2,000 feet in the development area was likely to be very large, though there are not many places to burn in the development area. She speculated that there could be a lot of notifications with 2,000 feet and the cost of notification could be substantial. Mr. Lagomarsino agreed that 2,000 feet was a big circle, but in the recent past they have been seeing from 1,500–3,000 feet to buildings for most burns. He added that with the use of an air curtain, this could be reduced to 1,000 feet.

Mr. Gallaway pointed out the cost of not notifying, as staff has to go out and investigate. He asked if a requirement that Supervisors be notified of burns and that signage be placed was still under consideration. Mr. Lagomarsino responded that they are trying to figure out how to deliver that and suggested they link to the GIS system by adding a layer. He added that he was told by Information Technology representatives that it could automatically depopulate after the expiration date. He said that if this was not feasible, they could create an Excel spreadsheet on the website. He said a problem with signage was that a sign placed on the road may not be visible to residents a few roads away. He said they have considered the creation of a burn permit mailing list that could be sent to the Board, and he prefers to have the information on the County website so members of the public could easily look things up.

Mr. Randolph remarked that it would be nice if every day one could find where burn permits have been issued. He said it would be ironic if they were not to include a requirement to notify adjoining property owners of a burn as they would have put bee notification ahead of burn notification as they require beekeepers to provide notification.

Mr. Kamptner recommended that the Board hold the public hearing on the proposed ordinance, act on it, and then further work would be rolled into the residential open burn ordinance.

Mr. Lagomarsino remarked that in the short-term to get a permit, that would be a requirement of the permit.

Ms. Mallek asked if, after a permit has been issued, a fire official inspected the burn every day. Mr. Lagomarsino responded that they do not inspect every day.

Ms. Mallek referred to the agricultural exemption mentioned in the text and asked what the accompanying guidelines were, as she does not want to give a blanket exemption to anyone that pretends to be agriculture. She asked if State law requires them to grant an agriculture exemption. Mr. Lagomarsino responded that while they do not have to pay for a permit, they must attend a Certified Open Burner class.

Mr. Kamptner confirmed that state regulations exempt agricultural practices.

Ms. Mallek suggested that in the future they consider whether stumping and disposal of stumps by fire was a legitimate agricultural practice.

Mr. Dill asked Mr. Richardson if he could address costs, transportation issues, and environmental aspects of hauling and if there was a way to encourage people to do the right thing environmentally. He said his sense was that composting was better environmentally provided the site was close by. Mr. Lagomarsino responded that while he could not speak to the agricultural part, he could speak to the land clearing part. He said they contacted those who normally burn and asked what the price difference was between burning and hauling and learned that the cost for hauling was almost triple.

Ms. Mallek pointed out that the person they asked has a vested interest, and they have to do a whole lot more thinking than that. She pointed out that some contractors grind debris onsite and do not haul it away. She added that there are alternatives to burning.

Mr. Randolph stated that if too high a penalty was created, they could have environmental problems elsewhere.

Ms. Mallek remarked that the fines are not big enough to get people's attention and asked how they could bring people into compliance when they are intent on not doing what they are supposed to do, as occurred with the still Meadow fire.

Mr. Lagomarsino remarked that State regulations do not allow the County to classify anything as more than a Class I misdemeanor, which carries up to a year in jail and a \$2,500 fine, according to the discretion of the judge. He pointed out that they charged the person who started the Ragged Mountain fire several years ago, but the judge dismissed the charges. He said they could be held liable for civil damages, though this was more difficult if there was not a criminal conviction. He added that violation of the fire code and the burn code are criminal offenses.

Ms. Mallek observed that the ordinance was worded so that the fire marshal could enforce it, and she would prefer it to say, "the fire marshal shall enforce." She remarked that the requirement that neighbors be asked to give approval for a shorter setback pits neighbor against neighbor and sets up intimidation that she does not like. Ms. Mallek asked other Supervisors to consider the removal of the setback waiver that put a neighbor in the position of being the only one who says "no".

Mr. Lagomarsino clarified that this was not in the land clearing part which was up for consideration today. He said the requirement to obtain written permission from neighbors was how they know that everyone has been notified.

Ms. Mallek said they could work on this issue at a later date. She asked Supervisors to consider a requirement that huge, 16-20 foot saw log pieces be removed instead of burned, as this large mass of timber caused a fire to go on for days.

Mr. Lagomarsino remarked that wood was typically sold if it could be sold rather than burned.

Ms. Palmer remarked that this may be impractical for some situations and she would hate to have a blanket rule.

Mr. Lagomarsino said his staff would not be in a position to determine if wood was sellable.

Ms. Mallek remarked that this makes it easier for them to say that any piece larger than a certain amount must be taken away.

Mr. Randolph noted that earlier in the day they discussed climate change, and he suggested that they consider whether there should be any recovery by the County of the impact of CO2 generated by burning.

Ms. Mallek noted that the ordinance specifies that demolition debris may not be burned but does not mention construction debris. She referred to a recent incident in which after the burn inspector left, additional materials were added to the burn pile. Mr. Lagomarsino responded that they know the identity of that suspect. He said this was also addressed in Section 403, which listed definitions and specified that construction and demolition debris could not be burned.

Ms. McKeel said she was concerned about a wooded area with a lot of dead trees that was crossed by walking paths where she found cigarette butts. Under dry conditions, this area could be at risk for a fire. Mr. Lagomarsino offered to look at it, although he does not know if anything in the fire code would address that; possibly the Zoning Ordinance could address it.

Ms. Mallek opened the public hearing.

Mr. Neil Williamson, Free Enterprise Forum, addressed the Board. He complimented Mr. Lagomarsino as a great resource and someone who has done great work. He said this would affect housing affordability and with the establishment of setbacks, they have effectively banned open burning. He pointed out that they are choosing to put all these materials onto trucks that would travel on neighborhood roads and burn fossil fuels. Mr. Williamson agreed that this was a choice and he understands the Board members' concerns, but he wants to make sure they understand the costs, which are double to triple. He said he suspects that the CO2 generated by a burn was equal to that generated by a truck full of timber. He recognized that the County has compact development areas that are tight fits by design and that setbacks would prevent burning in those places.

There being no further comments, Ms. Mallek closed the public hearing.

Ms. Mallek also recognized the health costs borne by certain individuals.

Mr. Gallaway remarked that increased costs may force one to look at other creative solutions to keep costs down and there could be other options they have not thought about.

Ms. McKeel said they could look at what they do in countries with large timber industries.

Ms. Palmer asked for confirmation that what they would vote on at this meeting does not include any of the additional things they discussed and was just what has been advertised. Ms. Mallek confirmed this.

Ms. McKeel **moved** that the Board adopt the proposed ordinance, as presented. The motion was **seconded** by Ms. Mallek.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

**(The adopted ordinance is set out below:)**

#### **ORDINANCE NO. 18-6(1)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE IV, BURNING OF BRUSH, ETC., 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 6, Fire Protection, Article IV, Burning of Brush, Etc., is hereby amended and re-ordained as follows:

#### **By Amending:**

Sec. 6-402	Adoption of Virginia State air pollution control board regulations.
Sec. 6-404	Prohibitions on open burning.
Sec. 6-406	Permissible open burning.
Sec. 6-407	Permits.
Sec. 6-408	Penalties for violation.

#### **CHAPTER 6. FIRE PROTECTION**

#### **ARTICLE IV. BURNING OF BRUSH, ETC.**

**State law reference**--For state law similar to provisions of this article, see Va. Code § 10.1-1142.

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#### **Sec. 6-402 Adoption of Virginia State Air Pollution Control Board regulations.**

The Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, Part IV, Emissions Standards for Open Burning (9VAC5, Ch. 130), in current form and as amended in the future, are hereby adopted and incorporated by reference; provided, however, any county regulation specified in this article more restrictive than such state regulations shall apply and take precedence over the state regulations. Any permits required by such state regulations may be issued by the county, if authorized by the state agency otherwise responsible.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98)

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**Sec. 6-404 Prohibitions on open burning.**

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of household waste or garbage.

F. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

G. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous as described in Chapter 70 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution, Air Pollution Episode Prevention. When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the Fire Marshal is authorized to order the extinguishment of the open burning operation.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

**Sec. 6-405 Exemptions.**

The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

1. open burning for training and instruction of government and public firefighters under the supervision of the designated official and industrial in-house firefighting personnel;
2. open burning for campfires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;
3. open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;
4. open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and
5. open burning for the destruction of classified military documents.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

**Sec. 6-406 Permissible open burning.**

A. Open burning is permitted for the disposal of leaves and tree, yard, and garden trimmings originating from and located on the premises of private property, provided that the following conditions are met:

1. the burning takes place on the premises of the private property; and
2. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.

B. Open burning is permitted for disposal of debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or any other clearing operations which may be approved by the Fire Official, provided that all of the following conditions are met:

1. all reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the Fire Official;
2. the material to be burned shall consist of brush, stumps, and similar debris waste originating from and located on the premises, and shall not include demolition material;
3. the burning shall be at least 2,000 feet, or 1,000 feet when using an incinerator device, from any occupied building not on the same property on which the burning is conducted, unless the occupants of the building has given prior written permission for the burning;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;
5. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. the burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;
7. the burning shall be conducted only between 8:00 a.m. and 8:00 p.m.;
8. the burning shall be conducted only Monday through Friday;
9. the burning shall not be conducted during the restricted dates of February 15 through April 30 of each year; and
10. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

C. Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas provided that all of the following conditions are met:

1. the burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;
2. the burning shall be attended at all times;
3. the material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;
4. all reasonable effort shall be made to minimize the amount of material that is burned;
5. no materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill shall be established in coordination with the regional director and the Fire Official; no other site shall be used without the approval of these officials. The fire official shall be notified of the days during which the burning will occur.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

**State law reference** – Va. Code § 10.1-1142.

#### **Sec. 6-407 Permits.**

A. *Permit for open burning required.* When open burning of debris waste (section 6-406(B)) or open burning of debris on the site of a local landfill (section 6-406(C)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the fire official prior to the burning.

B. *Application for permit.* The person responsible for the burning shall submit a complete application for a permit, which shall include proof of liability insurance in an amount of no less than \$1.5 million and must be issued by a company registered with the Virginia Bureau of Insurance. A written site and burn plan shall be submitted with any application.

C. *Issuance of permit.* Such a permit may be granted only after confirmation by the Fire Official that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by the Fire Official and in conformance with this article.

D. *Number of permits.* No more than three permits shall be issued per year for any parcel.

E. *Permit for use of special incineration device.* Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the Fire Official, such permits to be granted only after confirmation by the Fire Official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by the Fire Official to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. all reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, saw logs and firewood;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 1,000 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the Fire Official determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased;
4. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;
5. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area;
6. the use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste; and
7. permits issued under this paragraph shall be limited to a specific period of time deemed appropriate by the Fire Official and in conformance with this article.

F. *Fees.* An application for a permit under section 6-407(B) or 6-407(E) shall be accompanied by a processing fee as set forth in the fee schedule maintained by the Fire Official, as may be amended from time to time. An application is not complete without payment of the processing fee.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

#### **Sec. 6-408 Penalties for violation.**

- A. Any violation of this ordinance is punishable as a class 1 misdemeanor.
- B. Each separate incident may be considered a new violation.
- C. The Fire Official shall enforce the terms and conditions of this ordinance.

(Code 1988, § 9-25; Ord. 98-A(1), 8-5-98)

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Agenda Item No. 22. **Ordinance to Amend County Code Chapter 4, Animals and Fowl.** To receive public comment on its intent to adopt an ordinance to amend Chapter 4, Animals and Fowl, of the Albemarle County Code by reorganizing and rewriting the chapter, repealing obsolete and unnecessary provisions, adding new provisions to incorporate existing requirements of this chapter in new sections, and to add more stringent regulations pertaining to cruelty to animals in new County Code § 4-301. The subject matter of Chapter 4 is composed of: Article 1, Administration; Article 2, Dogs (Div. 1, Licenses, Div. 2, Dangerous Dogs, Div. 3, Vicious Dogs, and Div. 4, Dogs Running at Large and Dogs Damaging Livestock or Poultry); and Article 3 (Div. 1, Animal Welfare, Div. 2, Seizure, Impoundment, and Disposition, Div. 3, Rabies Control, and Div. 4, Stolen Dogs and Cats, and Noise).

*(Advertised in the Daily Progress on September 17 and September 24, 2018.)*

The Executive Summary forwarded to the Board states that the Board directed the County Attorney's Office to conduct a comprehensive review and recodification of the County Code. Chapter 4 of the County Code pertains to animals, and includes regulations that range from licensing dogs, dangerous dogs, vicious dogs, and dogs running at large to animal welfare.

The Board held a work session on August 8, 2018, at which time it reviewed a proposed ordinance that reorganized the chapter and included revisions to ensure consistency with State law. In addition, the Board considered a range of current and proposed acts that would create a rebuttable presumption of animal cruelty, as well as proposed changes to County Code §§ 4-306 and 4-308 that would replace some discretionary authority of the trial court in the disposition of animal abandonment and cruelty cases with mandatory requirements. The Board directed staff to incorporate all of the acts that would create a rebuttable presumption of animal cruelty into County Code § 4-301, and to incorporate a requirement that the court prohibit a person determined by the court to have abandoned, cruelly treated, or deprived adequate care to an animal from owning or possessing other animals into County Code §§ 4-

306 and 4-308.

On September 5, 2018, the Board received a revised proposed ordinance incorporating all of the above changes.

The attached proposed ordinance (Attachment A) was reviewed by the Board on September 5 and includes all of the changes the Board requested.

As noted in the September 5 executive summary, if the Board desires to explore additional regulations pertaining to feral cats, staff recommends that the work on that issue be initiated at a later date.

There is no expected budget impact.

Staff recommends that the Board adopt the attached proposed Ordinance (Attachment A) after the public hearing.

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Mr. Kamptner stated that he was accompanied by Ms. Amanda Farley from his office, and Lt. Terry Walls, from the Police Department, was in the audience in case they need his expertise. He remarked that this was the third time this item has come before the Board and they had two work sessions, after which a draft ordinance was presented to the Board in September, and tonight was the public hearing. He said this was part of the recodification process and involves Chapter 4 of the County Code, with Chapters 3 and 8 to come next.

Mr. Kamptner presented the following slide of stylistic changes to Chapter 4:

- Sections were reorganized
- Current sections that were lengthy were being broken into multiple sections so that the subject matter was easier to understand and stated in a more logical manner
- Using plain-English where possible
- In this draft, the new language was the non-underlined language

He next presented a slide comparing the current organization of the code to the proposed organization. He noted that the enabling authority for this chapter derived from the Comprehensive Animal Care law, which was part of Virginia Code Section 3.2-6500 and sections that followed. He said that state law was primarily self-executing and, to a large extent, regulations in this ordinance would be enforced solely at the state level even if the County did not have a Chapter 4. He said that some parts have been delegated to localities, with the leash law being a prime example. He said the state law identified multiple sections of the code that allows the locality to have more stringent regulations.

Mr. Kamptner presented the following slide with key substantive changes to Chapter 4:

Definitions: Definitions were proposed to be revised to mirror those in State law

Commercial Breeders: Regulations pertaining to commercial breeders were proposed to be removed because State law did not expressly enable localities to regulate commercial breeding and would continue to be enforced under State law.

Acts Punished as Felonies: Were being deleted and would be enforced under State law because localities were not enabled to punish violations of their ordinance as felonies (e.g., certain acts related to dangerous and vicious dogs)

Animal Cruelty: Regulations would be clarified to describe a number of acts that fall within the State law categories of animal cruelty. Some were in existing definitions, some were new.

He next presented a list of Categories of Animal Cruelty in Virginia Code Section 3.2-6570 and County Code Section 4-301:

- Inflicting death, injury, or pain generally
- Depriving food, drink, shelter, or treatment
- Roping, lassoing, or otherwise obstructing or interfering with an equine
- Soring an equine
- Willfully pursuing any act of cruelty
- Transporting an animal in a manner that produces torture or unnecessary suffering
- Causing or permitting another to engage in acts of cruelty described above

Ms. Palmer asked Mr. Kamptner to explain the definitions of rebuttable and presumption. Mr. Kamptner explained that it means the owner or person could present evidence that shows the dog was not being cruelly treated. He said an alleged violation could be rebutted by demonstrating that the dog was not cruelly treated.

Mr. Kamptner said he would focus primarily on the first two categories, which are being revised. He presented Section 4-301(A) (1) with the proposed changes:

A. Unlawful acts: The following acts were unlawful:



- 1) Inflicting death, injury, or pain generally. Any person who overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another. In addition, evidence of any of the following establishes a rebuttable presumption that this subsection had been violated:
  - Person places any animal, including any dog, on a tether:
    - That did not terminate at both ends with a swivel.
    - That was shared with other animals.
    - For more than two hours cumulative in any 24-hour period.
    - During a heat advisory issued by a State or local public entity
    - During a severe weather warning issued by National Weather Service, including any hurricane warning, tropical storm warning, tornado warning, severe thunderstorm warning, or winter storm warning
    - On uninhabited or abandoned property in the County.
  - Person places any female dog in heat on a tether or tethers a dog that was six months old or younger.

He next presented the proposed approach for County Code Section 4-301:

Section 4-301(A) (2):

A. Unlawful acts. The following acts were unlawful:

2. Depriving food, drink, shelter, or treatment. Any person who deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment. In addition, evidence of any of the following establishes a rebuttable presumption that this subsection had been violated:

Descriptions: Depriving food, drink, shelter, or treatment (A) (2)

- Person provides a shelter for an animal that was composed of metal or plastic barrels, airline crates, or carrying crates. (existing)
- Person deprives an animal of clean, fresh, potable water that was a drinkable temperature at least once every 12 hours (existing)(enforcement)
- Person provides a shelter for a dog or cat that was without a floor or the floor was not raised off the ground by at least two inches (existing) (new.
- Person provides a shelter for a dog or cat that was located so that it did not receive at least six hours of shade when the ambient temperature during that period exceeds 80 degrees Fahrenheit (new) (enforcement and proof)
- Person provides a shelter for a dog or cat that was not insulated or otherwise heated when the ambient temperature was below 35 degrees Fahrenheit (new)(enforcement and proof)
- Person provides shelter for a dog or crate that was infested with mold, insects, or parasites. (new)
- Person provides a shelter for a dog or cat that had vents, cracks, or holes, other than the entrance that allows rain or other moisture into the shelter. (new)(enforcement)

Ms. Palmer said the Board received a request earlier that day by email for the proposed Section 4-103 definitions: "Adequate water – the description mirrors the State Code and we support that; however, we ask that you remove every 12 hours from the cruelty section of 4-301. In 2008, the General Assembly removed at least every 12 hours from the adequate water definition." Mr. Kamptner commented that it was up to the Board as to whether to take this out, and the Board has the authority to impose more stringent requirements under animal cruelty.

Mr. Randolph said that with an older dog kidney function declines, and 12 hours seems to be a really long time for a dog to be left. He wondered if they could specify a more frequent interval for dogs over 10 years of age.

Ms. Palmer said the reason they took it out of the State Code was that people were interpreting it as only once every 12 hours, and so it was acting in the reverse, whereas if you make it more general, the animal control officer has the ability to ask an owner to provide more water.

Mr. Kamptner stated that a dog could fall under the category of "ill-treated," which was a broader umbrella.

Ms. Palmer remarked that at the August meeting, they received feedback that when they were very specific about things, it allows the defending attorney and owner to make the case that they meet a requirement, whereas if they left it a little more broad, the animal control officer could assess the hydration of the animal. She noted that at the last work session, Ms. Amanda Farley discussed issues that resulted from having regulations that were very specific.

Ms. Amanda Farley said she would echo what Mr. Kamptner said. She said that putting specific benchmarks in the ordinance does not hamper animal control from assessing the overall situation, but

once a case was in court, a judge would look at specific measures to arrive at a decision and if specific temperatures or numbers are in the ordinance and not met, they are likely to dismiss the case.

Mr. Kamptner acknowledged that when temperatures are specified, there needs to be proof of what the temperature was. He said that what came out of the work session was that the top two provisions were amended so that they recognize it would depend on the age, breed, or both. He said the field officer has further discretion to evaluate this for a particular animal.

Ms. Palmer stated that one of the reasons they wanted this in the ordinance was to provide for the opportunity to educate people. She asked if it would be possible to put something in for an educational purpose without codifying it.

Mr. Randolph pointed out that dog breeds tolerate heat and cold at varying degrees and since they could not impose breed specific requirements, he wants to make sure they leave enough latitude to the animal officer to make a species-specific assessment and be backed up by the court. Mr. Kamptner responded that the introductory clauses, depending on the breed and age, of the two provisions that deal with the 35 and 80 degree allow for this.

Ms. McKeel asked Ms. Farley for her opinion about the 12-hour water. She said she wants to make sure that a habitual offender or bad actor cannot use their own ordinance. Ms. Farley commented that the danger with this specific provision was there would always be an argument that unless an animal control officer were to stand outside for 12 hours and was able to confirm that the water was changed when it was supposed to have been, an owner could say that they changed the water without the officer noticing.

Ms. McKeel asked Ms. Farley for suggestions as to what would help with the language. Ms. Farley said she was a prosecutor for six years and had worked on a number of animal control cases. She said it has been her experience that the harder you made it to prove for the animal control officer and for the Commonwealth's Attorney Office, the worse it is. She said the penal code was not the best way to educate.

Mr. Kamptner said that one citizen commenter spoke about the economic equity of the standards imposed for shelters, as it disadvantages those who could not afford to purchase shelters that meet the requirements. He said the citizen also addressed the tethering issue as some could not afford to install fencing.

Mr. Kamptner recalled that in May and August and in the executive summary that accompanied the ordinance, there was a question as to whether a judge should retain discretion by leaving the word "may" in the ordinance or whether they should replace it with "shall." He said the current draft uses "shall" and took away this discretion and judges did not like this. He said they have regulations in place where they have taken away the discretion of the judge, with the clearest example being in the Zoning Ordinance, which they shifted from criminal to civil enforcement under which the judge has no discretion as to the kind of civil penalty that could be imposed as it was set by the ordinance.

Ms. Palmer remarked that the state has "shall" in their portion. Mr. Kamptner corrected that the state-enabling authority used "may".

Mr. Kamptner concluded his presentation, recommending that the Board adopt the ordinance as proposed or with changes.

Mr. Gallaway invited Lt. Terry Walls to address the Board about the discretion he has and whether he would arrest someone for ill treatment of an animal.

Lt. Walls agreed that he would not arrest someone. He expressed concern with some language that specifies temperature or time in the shade, as this would limit his ability to enforce some crimes, whereas if one acted under the general code of cruelty, they could use the totality of the circumstances and assess the condition of the dog and not a temperature or a time limit for being in the shade, which was difficult to observe.

Ms. Mallek noted that earlier they were told that the ill-treatment clause could be used instead of these parameters in that kind of circumstance, and it did not sound like the rules were preventing him from getting at the whole condition of the animal. Lt. Walls responded that more than likely, they would not be using the County ordinance but would look at the State Code for enforcement.

Ms. McKeel said she was worried they would not be able to press charges against someone who was habitually mistreating an animal. Lt. Walls says he foresaw that he would not use the County Code for these types of charges.

Mr. Gallaway recalled that he learned at the last work session that cruelty typically was not a single instance, and he assumes that Lt. Walls would use his discretion to make decisions. Lt. Walls confirmed this. He said they would look at the totality of the situation and probably use the State Code rather than try to loop it in to a temperature or hourly specification.

Ms. Palmer stated that at the last meeting, they had a discussion about intent and Lt. Walls and Ms. Farley explained that they did not intend to go after those who did something accidentally. Ms. Farley

stated that police and animal control officers always have the option not to charge someone as a criminal charge was very serious.

Mr. Randolph asked Lt. Walls if they were making his job harder. Lt. Walls responded that some additions to the code would be harder to enforce but they have the ability to follow the State Code, which was more general, and they would probably not follow the County Code.

Mr. Randolph commented that their effort to strengthen the ability to respond to animal cruelty would result in a greater reliance on the State Code for enforcement.

Mr. Gallaway remarked that he trusts the officer's discretion to assess the totality of a situation. He said it was difficult to legislate exactly what you want to dictate behavior and they have to rely on the officer's judgement.

Ms. Palmer said she was concerned about lumping all these things into one, although some of what they added was very good.

Lt. Walls said they support anything that helps them to better protect animals. He said he has no issue with the 12 hours, but enforcement was the concern.

Ms. Mallek stated that having a lot of strong rules was a very compelling story, and she would like to give Lt. Walls the tools to have an effect right away rather than having to go back multiple times.

Ms. Mallek opened the public hearing.

Ms. Angie Gunter, resident of Charlottesville and Executive Director, Charlottesville/Albemarle SPCA, addressed the Board. She said she would also speak on behalf of the Virginia Federation of Humane Societies. She thanked the Board for the considerable time and energy it has spent on the ordinance revision and its' clear intention to improve the welfare of animals in Albemarle County. She said they are grateful for the increased protections proposed for tethered animals. She said that virtually every major national animal welfare organization opposes the tethering of dogs, as they are naturally social beings that thrive on interaction with humans and other animals. The isolation that comes with perpetual tethering was one of the cruelest acts that could be inflicted on a dog and that continuous tethering was not only brutal to dogs but a danger to citizens. She said that dogs confined to a small space by tethering become neurotic, frenzied, anxious, and often aggressive. She read the following quote: "Chained dogs kill as many children as do firearms and more than falls from trees, playground equipment, and fireworks accidents put together." She said that a Center for Disease Control and Prevention study revealed that chained dogs are nearly three times as likely to bite as an unchained dog. She said that reasonable restrictions on tethering are good for humans and pets and thanked the Board for recognizing this and for creating policy to codify this. She said they request one change to the ordinance relative to the provision of water from proposed cruelty section 4-301.A.2.c. She asked that they remove "once every twelve hours" as some courts interpret this rule so strictly that cruelty charges are dismissed, and this provision could compromise enforcement of the broader water description in the definition section.

Ms. Kimberly Hawk, Dogs Deserve Better Blue Ridge, addressed the Board. She said that Mr. Matt Grave, State Director of the Humane Society, asked her to mention that the Virginia Animal Control Association supports removal of the 12-hour water restriction because they found it impossible to enforce. She said their mission was to rescue dogs that are forced to live their lives on a chain. She said they support the chaining ordinance for two reasons: 1) citizen Safety; and 2) humane treatment of the animal. She remarked that a study indicated that chained dogs are 2.8 times more likely to bite, many dogs break the chain and escape from the yard, many become tangled and cannot reach their water, and some freeze to death or die from heat stroke. She said that many dogs in the County live their entire lives at the end of a chain and become lonely, bored, anxious, often suffer from lack of food and shelter, and could develop aggressive behaviors. She said that many localities have begun passing laws against long-term chaining as the negative effects become more well-known. Local ordinances are a great tool for saving the lives of companion animals and they are thrilled that Albemarle was considering more humane laws. She offered to share the story of Ginger, one of the dogs they rescued in July. She said Ginger had just given birth to eight puppies at the end of a chain, was tangled up in a small tree, trapped in the direct sunlight, panting heavily and could not get to her water, the doghouse, or the puppies. She said they loaded Ginger and the puppies into a van and found that, like most chained dogs, she suffered from parasites, Lyme disease, and had a flea and tick infestation. She thanked the Board for the opportunity to share her organization's support of the revised ordinance.

Ms. Jalene Toko, Field Team Leader with The HOWS Project, addressed the Board. She said her organization services dogs in Albemarle County and asked the Board to support the proposal as they have called on over 1,000 residences over the last 10 years and witnessed animals kept in unbelievable yet legal conditions. She stated that dogs become entangled and cannot get to shade or shelter on hot days. She said the problem with the current code was that definitions were vague and lead to ambiguity which leads to misinterpretation. She said the proposal would help reduce this ambiguity and create efficiencies for animal control officers and improve the well-being of the animals that current laws are intended to protect. She said that those who keep animals outside 24/7 should not be granted less responsibility for these animals. The proposal was meant to affect irresponsible owners and require them to do better for animals under their care. She said that small changes could help reduce the suffering and death of so many animals if they were implemented in the animal codes. She said opponents of the proposal claim they would never mistreat their animals and claim to be reputable breeders and hunters with every right to own dogs. She invited Supervisors to attend a HOWS field day where they could

encounter reputable breeders and hunters who supposedly treat their animals like gold. She would like to show the Supervisors the conditions the animals live under. She remarked that many abuses occur that they are unable to see. She thanked the Board for listening and for taking steps to improve the lives of animals.

Ms. Theresa Toko, Field Team Leader with The HOWS Project, addressed the Board. She said that in the past year she visited hundreds of lonely, shivering, flea-infested, impregnated, wounded, heartworm-positive, thirsty, hungry, chained dogs living in their own feces. She said that what the law considers legal was inhumane on many levels, a chained dog has limited options for seeking shelter in extreme heat or cold, dog houses may not be adequate shelters, and dogs often become entangled. She described the chaining of dogs as cruel and inhumane, said many die, and her organization serves as a band aid but cannot adequately protect them. She invited Supervisors to ride along with The HOWS Project to see for themselves. She said her organization would be happy to contribute to the cost of thermometers for animal control officers to determine ambient temperatures for enforcement. She thanked the Board on behalf of herself and The HOWS Project for taking a courageous stand to help outside dogs.

Ms. Alice Harrington, resident of Arlington, VA and Legislative Liaison, Virginia Federation of Dog Clubs and Breeders, addressed the Board. She said her organization was a 501(c)(3) established in 1971 and affiliated with American Kennel Club. She acknowledged the Board's concern for dogs that are tethered but remarked that everything that has been discussed this evening was already illegal. She noted that the law requires animals to be protected from the ill effects of heat and cold and that the tether be constructed so it does not wrap around. She said that animal control officers need to be better trained. She commented that the Attorney General's office has said they are getting a lot of calls because localities are not responding. She said the changes would make it harder to prosecute, especially if they change "may" to "shall", and that they would enable people to call and lodge complaints which may take an animal control officer away from a legitimate complaint.

Ms. Andrea Denton, resident of Rio District and volunteer for The HOWS Project, addressed the Board. She expressed support for the proposal and related that she sees firsthand what dogs in the County has to endure under the current standards. She emphasized how dogs are bred to be social animals and want to be part of a family which often does not happen when they are out on a chain. She thanked the Board for its wisdom and compassion in considering the proposal and the time they have spent.

**(Note: Mr. Randolph left the meeting at 8:05 p.m.)**

Mr. Robert Hogue addressed the Board. He said the dog license fee should increase and there should be no reduction for a therapy dog, as people abuse this privilege. He remarked that the morning weather forecast of temperature could be wrong, he wondered if a vest on a dog makes a difference with enforcement, and he suggested that there be enforcement of the leash law.

**(Note: Mr. Randolph returned to the meeting at 8:08 p.m.)**

Mr. Larry Moyer, resident of Afton and a member of the Virginia Hunting Dog Alliance, addressed the Board. He said they have some concerns and that, unfortunately, many of them did not become aware of this proposal until yesterday. He said the current Virginia Code defines pretty much everything adequately, provides high level protection that guarantees animal welfare, and defines proper care, feed, water, and shelter. He said they should not encumber animal control officers with provisions that are unenforceable to the courts. He said his organization opposes the tethering provisions which attempts to criminalize a practice supported by the American Kennel Club and United Kennel Club. He said his organization was consulting with attorneys in the event this passes.

Ms. Suzanne Mackery, resident of Warrenton, VA and representing the Virginia Federation of Dog Clubs and Breeders, addressed the Board. She said the discussion today has put to rest a lot of issues she has but has also raised some other issues. She acknowledged that there was a lot of neglect, but this was already enforceable by Commonwealth laws and County regulations. She said that tethering, when used responsibly, would prevent issues. She remarked that dogs are escape artists and could escape from a fenced-in area and tethering would prevent the dog from going over or under a fence and chasing livestock. She asked the Board to consider the unintended consequences of legislation regarding tethering that could cause other problems in the future once cases are brought before the court.

Ms. Cindy Anderson, volunteer for The HOWS Project, addressed the Board. She said she was a County employee. She said her organization has been assisted by schools and community members in the construction of houses and fencing projects. She said she has heard reports that this would be a difficult winter and noted that her group responded to calls about dogs freezing to death. She noted that her organization also helps cats, chickens, and goats. She said there needs to be more enforcement and acknowledged the difficult job of the animal control officer in addressing repeat offenders. She said they have seen so much heartache and pain. She quoted the founder of The HOWS Project: "The greatness of a nation and its moral progress could be judged by the way the animals were treated." She thanked the Board and commended Supervisors for their compassion.

Ms. Kate Goodrich addressed the Board. She said she owns two rescued hounds and a beagle and has witnessed the atrocities and emotional trauma that exist with animals left out and stuck on a chain for extended periods of time. She said these are the animals that are brought into shelters and require the most money and time to recover. She noted that much of this would be left to the officers'

discretion and they need to make sure they hire the appropriate people. She said she hopes these guidelines would make it easier to enforce some of the trickier cases. She added that there are diseases that could be spread by animals and that the healthier they could keep animals in the County the healthier the people are.

Ms. Erin Schaefer, a front desk employee at the SPCA in Charlottesville, addressed the Board. She said she speaks on her own behalf. She said that one of the most difficult aspects of her job was when she sees an animal come in dragging a 30 lb. chain and she has to legally return the dog to its owner. She described the animal control officers as wonderful people but stressed they could only enforce the laws on the books. In her opinion the laws relating to outdoor tethering are inadequate and there was room for improvement. She said she would like to see officers work on the weekend to be available for welfare checks. She urged the Board to approve the ordinance changes.

Mr. Daniel Adcock, resident of White Hall District and member of Virginia Dog Hunting Alliance, addressed the Board. He said the tethering law would hurt those who try to take care of their animals. He pointed out that dogs climb and dig out of kennels. He stated that care of animals was a personal thing, and it would not matter whether a dog was inside or outside as a dog locked in the house was in the same neglect as being outside. He said they would inhibit those who take care of their animals and adequately water, feed, and care for their animals. He pointed out that hunting and working dogs are tied outside to protect livestock. He said his dogs are housed in a 10 X 20-foot kennel but dig and climb out. He said it was a serious offense and penalty if a dog attacks a cow or chicken. He agrees that animal cruelty was a terrible thing and he has seen it though they cannot change the way a person acts or treats animals. He said the State Code was already strict enough and needs to be enforced. He remarked that, by adding temperatures and time limits, they would make it more difficult to enforce.

Ms. Elizabeth Brinkley, resident of Louisa County, Legislative Liaison to The American Kennel Club, and member of Charlottesville/Albemarle Kennel Club, addressed the Board. She said she speaks on her own behalf. She quoted President Lyndon Baines Johnson: "All legislation should be examined, not only in the light of the good it could do but in the light of the harm it could cause." She described a tether as a valuable tool and said that any tool, including a fenced yard, could be abused. She noted that some dogs are escape artists and some pet owners are poor and cannot afford a fence. She said they are being penalized in their ability to care for their animals. She asked the Board to examine what harm could be done by setting a legislative limit and remarked that anytime one says there ought to be a law one was saying they are willing to give up some of their freedom.

Ms. Lena Seville addressed the Board, stating that she used to live in a place where animals were tethered and remarked that they were so lonely and desperate for attention. She said she recently adopted a dog that had spent nine years outside. She said that temperature restrictions are absolutely necessary as an educational tool and also as a reference for neighbors to use to report a situation.

Ms. Mallek closed the public hearing.

Ms. Mallek commented that one of the speakers said they were banning tethering, and she stated that they were not banning this but addressing the ways it was to be done.

Mr. Randolph recommended three changes as a result of the remarks made by Officer Walls and Mr. Gallaway's questions. Mr. Randolph referenced Page 54 of Attachment A, under C. He read the statement: "The person deprives an animal of clean, fresh, potable water that was a drinkable temperature at least once every twelve hours." He recommended that they put a period after temperature and drop the rest of the statement, as he does not see a way to enforce this. He remarked that Sections D and E provide specific temperatures, and he proposes that they consolidate D and E into one statement and leave out the temperature specification to allow animal control officers to use their discretion. Mr. Randolph said the third change he recommends was on Page 53 under "Tethering, Section 4-301." He suggested that they replace "for more than two hours cumulative in any 24-hour period to read "for an extended period of time, unattended and deemed reasonably to be neglected." He stated that tethering was not the problem but what went along with it, such as neglect of the dog. He noted that a broad ordinance would give officers flexibility.

Ms. Palmer expressed her approval with Mr. Randolph's suggestion that they remove "every 12 hours."

Ms. McKeel asked if there was Board consensus with this change, and a survey of Supervisors indicated there was consensus.

Ms. Palmer next addressed Mr. Randolph's suggestion that they combine D and E, drop the temperature, and use the adjectives "hot and "cold". Mr. Kamptner remarked that the words "hot" and "cold" are very vague. He suggested they address this through the condition of the animal.

Ms. McKeel advocated for something very general that allows the officer to act and does not give the courts an opportunity to throw something out.

Ms. Mallek remarked that this was basically what they have had in place forever, and they had not gotten the delivery of service they needed. She said that other communities put in numbers to provide some standard for officers, and they could not expect officers to make up the policy as they go along.

Ms. Farley said she thinks the balance that needs to be struck was that being overly specific creates the enforcement issue and being too vague put the ordinance in danger of being unconstitutional. She said that Mr. Kamptner had suggested they tie the environmental conditions to the conditions of the animal, as this should allow officers to have discretion to enforce and also give the court the ability to act without requiring temperature monitors.

Mr. Kamptner read the potential replacement language for the third recommendation of Mr. Randolph: "For more than an extended period of time, unattended, and deemed reasonably to be neglected."

Ms. Palmer indicated she had a problem with this one. She said there was discretion on the part of the animal control officer to take other factors into consideration, and for the tethering issue, she said they are not going to field trials, dog shows, or grooming facilities. She said she would prefer to keep this one as written.

Ms. Mallek stated that the majority of people would follow this if the board put it in but if the board puts nothing in, there would be nothing to follow and nothing for animal control officers to educate people about.

Ms. Palmer commented that Officer Walls indicated he would probably use State law rather than the County ordinance. She said the education piece was important and allows rescue groups to go out and try to educate and assist people. She asked if new ordinance regulations were something the officers could use in a court case or if they would continue to use State law.

Ms. Farley said she does not want to speak for Lt. Walls but in her experience, that would have fewer complications for enforcement. She added that it does not mean there could not be an argument raised that within a 24-hour period without monitoring, they could prove something occurred within a two-hour time period. She said a two-hour period was likely more enforceable than an extended one. She said a rebuttable presumption could come into play, even on the scene while they are investigating, and if they are able to observe a tethered dog during a two-hour period of time but the owner could demonstrate a reason for this, such as that the animal was blind and needed to be out, the officer could take this into account on the scene.

Ms. Palmer invited Lt. Walls to comment.

Lt. Walls agreed with Ms. Farley that the two-hour time limit would be easier to enforce than arbitrary temperatures, though it would be a standard they would have to be able to establish in order to charge someone with an offense. He said that it looks like the Board's direction was reasonable and that Section 301 addresses temperatures.

Ms. Mallek remarked that at another time they would have to examine why they have not been able to get compliance with the existing rules, but after 10 years of work to get here they need to keep it as strong as they could.

Mr. Gallaway stated that it was not a case of the officer deciding whether to use State or County law but was relying on State when the local was harder to prove. Addressing an earlier question about training, he asked Lt. Walls to speak about training for animal control officers. Lt. Walls responded that they receive three weeks of training as well as regular in-service required training on wildlife, horses, livestock, dogs, and cats. He said they work closely with the SPCA. They have had an open position they are looking to fill, and currently serve 723 square miles with two to three officers. He said that Officer Larry Crickenberger was the Chief Animal Control Officer for the County and also a police officer, which offers him more ability to investigate some of the crimes. He said they are in the process of looking for a second sworn officer.

Mr. Gallaway asked for confirmation that if an animal control officer was not on duty when a complaint came in, a police officer responded. Lt. Walls confirmed this and said that the police officer would file a report, which the animal control officer would follow up on or call an animal control officer, if necessary, at night and on weekends.

Mr. Gallaway noted the significant amount of time the Board has devoted to this issue, which demonstrates that it was a Board priority and they would expect the police to follow the changes they put in. Lt. Walls responded that animal welfare has been a priority of the police department for a long time, and they support anything that helps further that mission.

Ms. Palmer said she would expect to hear back from Lt. Walls in about a year to see if this has helped or hindered and asked him to let them know if they could make the ordinance better in any way.

Mr. Gallaway said he would like to be made aware of cases that were dismissed by a judge because the ordinance goes beyond the State Code.

Ms. Palmer asked Mr. Kamptner to address a comment made by a speaker about the Dillon Rule and whether they were stepping outside of this. Mr. Kamptner responded that in areas where they are allowed to go beyond State law, they are doing so.

Mr. Randolph said he does not have difficulty with two-hour tethering but was concerned with how this would work for Lt. Walls and staff, and he thinks the court would expect them to keep a site under



observation. He stressed the importance of Lt. Walls reporting back to the Board on how this was working, and they might have to move out of the two-hour time period and give officers more discretion.

Ms. Mallek clarified that the officers are not inhibited by the two-hour rule from using the current standard.

Mr. Kamptner read the proposed revised language of the combined Sections D and E on Page 54 which originally has the two temperatures: "Depending on the age, breed, or both of a dog or cat the person provides a shelter for a dog or cat that was located so it does not receive at least six hours of shade in a day or provides a shelter for a dog or cat that was not insulated or otherwise heated so that the dog or cat was deprived of necessary shelter because of the environmental conditions."

Ms. Mallek said the only thing missing was that the six hours of shade has to be in the heat of the day, and not from 6 a.m.–11 a.m. when it was cooler. She said that "in the heat of the day" was in the original wording.

Ms. Palmer asked Ms. Farley and Mr. Kamptner if they suggest the six hours be taken out.

Mr. Randolph commented to Mr. Kamptner that the way he read it, they did not make the temperature putting the dog at risk apply to both, but only to a high-heat environment. He said it should apply to both very cold and very hot conditions and they need to make sure this clause applies to when it was too hot and too cold.

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**Recess.** The Board recessed their meeting at 9:04 p.m. and reconvened at 9:13 p.m.

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Mr. Kamptner read the revised language for the combined Sections D and E: "Depending on the age, breed, or both of a dog or cat, the person provides a shelter for the dog or cat that was located or was in a condition so that because of environmental conditions the dog or cat was deprived of necessary shelter."

Ms. Palmer summarized that they are taking out the 12 hours for water, the temperature, hours of shade restriction and leaving the tethering.

Ms. McKeel remarked that they would monitor this and invite Lt. Walls back in six months or one year if issues or problems are identified.

Ms. Palmer and Ms. McKeel expressed their approval with this change.

Ms. Mallek pointed out that there are many community monitors who could provide feedback.

Ms. Farley remarked that the term was "adequate shelter" rather than "necessary shelter," and this specifically addresses hot and cold issues.

Mr. Kamptner said he thinks that adequate shelter falls under animal welfare, but at the top of the subsection it refers to necessary shelter.

Ms. Palmer **moved** that the Board adopt the proposed ordinance, with the two changes suggested by the County Attorney, as amended. The motion was **seconded** by Mr. Randolph.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.

NAYS: None.

Ms. Palmer recognized the very good comments made by people on both sides and expressed appreciation for everyone's input.

Ms. Mallek remarked that even though they have had a lot of argument about the last few lines, the overall improvement was huge. She said the wording was much more comprehensible and people would be able to know and be educated about what their responsibilities are. She noted that staffing for animal protection officers was at the 1983 level, while the population now was much greater than at that time.

Ms. Palmer recalled that this issue was brought up a couple of years ago with the previous police chief and it was not a priority for the police department, which had been 20 officers short. She said she would like to hear from the police chief to see if this has risen up on his needs list.

Mr. Dill remarked that it was not just a police issue but also one of creating a caring, compassionate community.

**(The adopted ordinance is set out below:)**

**ORDINANCE NO. 18-4(1)**

AN ORDINANCE TO AMEND CHAPTER 4, ANIMALS AND FOWL, 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 4, Animals and Fowl, is hereby amended as follows:

**By Amending and Renumbering:**

<u>Old</u>	<u>New</u>	
4-100	4-103	Definitions.
4-203	4-236	Unauthorized removal of collars or tags.
4-402	4-316	Harboring or concealing rabid animals.

**By Amending, Renaming, and Renumbering:**

<u>Old</u>		<u>New</u>	
4-102	Duty of animal control officer or other officer upon finding stolen, etc. dogs.	4-318	Authority of animal control officer seize stolen or unlawfully held or detained dog; disposition.
4-103	Boundary lines declared lawful fences; animals running at large beyond boundaries of own land.	4-304	Animals running at large beyond the boundaries of their own land; boundary lines declared lawful fences.
4-104	Dogs and cats deemed personal property.	4-317	Dogs and cats are deemed to be personal property.
4-105	Care of companion animals; penalty.	4-300	Providing care to companion animals.
4-106	Noise from animals; penalty.	4-319	Frequent or continuous sounds by animals are prohibited.
4-107	Abandonment of animal; penalty.	4-303	Abandoning or dumping an animal is prohibited.
4-109	Disposition of companion animal livestock carcasses.	4-311	Disposing companion animal and livestock and carcasses.
4-110	Diseased dogs or cats.	4-305	Diseased dogs and cats are prohibited from straying from their premises.
4-202	Compensation for livestock and poultry killed by dogs.	4-235	Compensation for livestock and poultry killed by by a dog.
4-204	Female dogs in season.	4-228	Failure to confine female dogs in heat is prohibited.
4-207	What license shall consist of; evidence of rabies; duplicate tags.	4-203	Duplicate license tax to replace, lost, destroyed, or stolen tag.
4-211	Payment of license tax subsequent summons to summons.	4-206	Paying the dog license tax after a is issued.
4-212	Effect of dog not wearing collar and tag as evidence.	4-207	Dog is presumed to be unlicensed if it is not wearing a valid license tag.
4-213	Display of receipts; collar and tag displaying to be worn; penalties.	4-208	Preserving dog license receipts; dog license tags.
4-214	Harboring or concealing unlicensed dogs.	4-209	Harboring or concealing an unlicensed dog.
4-303	Disposition of unlicensed dogs; running at large.	4-227	Seizure, impoundment, and disposition of dogs running at large.
4-400	Vaccination of dogs and cats required.	4-312	Vaccination of dogs and cats is required.

**By Separating, Amending, Renaming, and Renumbering:**

<u>Old</u>		<u>New</u>	
4-101	Enforcement of animal laws; penalties.	4-101	Administration.
		4-102	Powers of animal control officers.
		4-104	Penalties.
4-108	Cruelty to animals; penalty.	4-301	Cruelty to animals; acts that inflicting pain, injury, or suffering are prohibited.
		4-302	Cruelty to domestic dogs and cats; killing for hide, fur, or pelt.
4-201	Dogs killing, injuring or chasing livestock or poultry – Generally.	4-230	Finding a dog in the act of killing or injuring livestock or poultry or chasing livestock.

		4-231	Authority of court when dog is a confirmed livestock or poultry killer.
		4-232	Reason to believe a dog is killing livestock or poultry; seizing the dog.
		4-233	Reason to believe a dog is killing or injuring livestock or poultry, or chasing livestock; applying for a warrant.
		4-234	Judicial proceedings on a warrant that a dog is believed to have killed or injured livestock or poultry, or chased livestock.
4-208	Veterinarians to provide treasurer with rabies certificate Information; civil penalty.	4-205	Duty of the Director of Finance to notify owners of unlicensed by vaccinated dogs.
		4-313	Providing rabies certificates or rabies certificate information; veterinarians and the Director of Finance.
4-209	Amount of license tax.	4-200	Dog license tax required to be paid and dog License required to be obtained; exemptions.
		4-204	Amount of dog license tax.
4-218	Dangerous dogs.	4-210	"Dangerous dog" and "dog" defined.
		4-211	When there is reason to believe a dog is a dangerous dog; summons and confinement.
		4-212	Circumstances when a dog shall not be found to be a dangerous dog.
		4-213	Judicial proceedings on a summons that a dog is a dangerous dog.
		4-214	Dog found to be a dangerous dog; requirement to obtain a dangerous dog registration certificate.
		4-215	Dog found to be a dangerous dog; confinement, leashing, and muzzling.
		4-216	Dog found to be a dangerous dog; an owner's ongoing obligation to inform the County animal control officer.
		4-217	Previous finding that a dog is a dangerous dog; subsequent acts by a dangerous dog.
		4-218	Previous finding that a dog is a dangerous dog; willful noncompliance by owner.
		4-219	Responsibility if the owner of a dangerous dog is a minor.
		4-220	Fund to which collected fees are to be allocated.
4-219	Vicious dogs.	4-221	"Dog," "serious injury," and "vicious dog" defined.
		4-222	Reason to believe a dog is a vicious dog; summons and confinement.
		4-223	Circumstances when a dog shall not be found to be a vicious dog.
		4-224	Judicial proceedings on a summons that a dog is a vicious dog.
4-300	Duties of animal control officers; Seizure and impoundment of animals; notice and hearing; disposition of animals.	4-306	Seizure, impoundment, and disposition of animals that have been abandoned, cruelly treated, or are suffering,
		4-307	Sale of an animal, other than a companion animal, determined to have been abandoned, cruelly treated, deprived of adequate care.
		4-308	Release, adoption, or euthanization of an animal determined to have been abandoned, cruelly treated, deprived of adequate care.
		4-309	Delivery of an animal determined to have been abandoned, cruelly treated, deprived of adequate care.
4-401	Rabid animals.	4-314	Animals that show active signs of rabies, may have been exposed to rabies, or are suspected to be rabid.
		4-315	Animals that exposed or may have exposed a person to rabies.

**By Consolidating All or Part of Sections, Amending, Renaming, and Renumbering:**

Old

4-200 Running at large prohibited.  
4-213 Display of receipts; collar and

New

4-225 Dog running at large is prohibited.

Tag as evidence.

4-205	Required.	4-200	Dog license tax required to be paid and dog license required to be obtained; exceptions.
4-209	Amount of license tax.		
4-206	Procedure to obtain licenses.	4-201	When dog license tax is due and payable.
4-210	When license tax payable; valid.		
4-206	Procedure to obtain licenses.	4-202	Procedure to obtain license and pay license tax issuance; form of license.
4-207	What license shall consist of; evidence of rabies; duplicate tags.		
4-213	Display of receipts; collar and tag to be worn; penalties.		

**By Adding:**

- 4-100 Purpose.
- 4-213 Dog running at large without a license tag is prohibited.
- 4-229 Allowing kennel dogs to stray beyond enclosure is prohibited.
- 4-310 Seizure, impoundment, and disposition of animals running at large.

**By Repealing:**

- 4-215 Business license required.
- 4-216 Commercial dog breeding; requirements.
- 4-217 Violations; penalty.
- 4-302 Dogs killing, injuring or chasing livestock or poultry--Impoundment and disposition.
- 4-403 Inoculation for rabies at animal shelters.
- 4-404 Tag showing vaccination required on dogs at large.
- 4-405 Applicability of article.

**Chapter 4. Animals**

**Article 1. Administration**

**Sec. 4-100 Purpose.**

The purpose of this chapter is to promote the public health, safety, and welfare by protecting people, companion animals, and livestock by implementing certain portions of the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*).

**State law reference** - Va. Code § 3.2-6500 *et seq.*

**Sec. 4-101 Administration.**

This chapter is administered and implemented as follows:

- A. *Authority to administer and implement this chapter.* Animal control officers employed by the County are authorized to administer and implement this chapter.
- B. *Contract with other localities.* The County may contract with other localities to enforce animal protection and control laws. The contract may provide for reimbursement of a portion of the salary and expenses of any County animal control officer providing services to other localities.

(Code 1967, § 4-5, 4-13-88; § 4-16; Code 1988, § 4-5, § 4-16; Ord 98-A(1), 8-5-98; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6555.

**Sec. 4-102 Powers of animal control officers.**

Animal control officers have the following powers:

- A. *Power to enforce this chapter.* Any animal control officer is authorized to enforce this chapter.
- B. *Power to enforce State laws.* Any animal control officer is authorized to enforce those parts of the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*) that are required to be enforced by the County's animal control officers, and to enforce all other State laws for the protection of domestic animals.
- C. *Issue summons.* Any animal control officer is authorized to issue summons to any person found in the act of violating any provision of the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*) or this chapter.
- D. *Obtain a felony warrant.* Any animal control officer is authorized to obtain felony warrants as necessary regarding any person found in the act of violating any provision of the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*), provided that the execution of the warrant

shall be carried out by any law enforcement officer as defined in Virginia Code § 9.1-101.

- E. *Other State powers, duties, and restrictions.* Any animal control officer is authorized to perform all other powers and duties, and is subject to all restrictions on the powers and duties of animal control officers provided in the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*).

(Code 1967, § 4-5, 4-13-88; § 4-16; Code 1988, § 4-5, § 4-16; Ord 98-A(1), 8-5-98; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6555.

#### **Sec. 4-103 Definitions.**

The following definitions apply to this chapter unless the context requires a different meaning:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in Virginia Code § 3.2-6503 for a period of four consecutive days.

“Adequate care” or “care” means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size, and type of the animal, and the provision of veterinary care when needed to prevent suffering or impairment of health.

“Adequate exercise” or “exercise” means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

“Adequate feed” means access to and the provision of food that is: (i) of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; (ii) prepared so as to permit ease of consumption for the age, species, condition, size, and type of each animal; (iii) provided in a clean and sanitary manner; (iv) placed so as to minimize contamination by excrement and pests; and (v) provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

“Adequate shelter” means provision of and access to shelter that: (i) is suitable for the species, age, condition, size, and type of each animal; (ii) provides adequate space for each animal; (iii) is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; (iv) is properly lighted; (v) is properly cleaned; (vi) enables each animal to be clean and dry, except when detrimental to the species; and (vii) for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals’ feet to pass through the openings; (ii) sag under the animals’ weight; or (iii) otherwise do not protect the animals’ feet or toes from injury are not adequate shelter.

“Adequate space” means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, “adequate space” means a tether that: (i) permits the above actions and is appropriate to the age and size of the animal; (ii) is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and (iii) is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

“Adequate water” means: (i) providing and providing access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size, and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and (ii) is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

“Adoption” means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

“Agricultural animals” means all livestock and poultry.

“Ambient temperature” means the temperature surrounding the animal.

“Animal” means any non human vertebrate species except fish. For the purposes of emergency ordinances pertaining to rabid animals and County Code § 4-312 *et seq.* pertaining to rabid animals, “animal” means any species susceptible to rabies. For the purposes of County Code § 4-301 pertaining to cruelty to animals,

“animal” means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

“Animal control officer” means a person employed by the Board of Supervisors on behalf of the County and appointed by the Chief of the Albemarle County Police Department as an animal control officer or a deputy animal control officer.

“Boarding establishment” means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee. “Boarding establishment” does not include any private residential dwelling that shelters, feeds, and waters fewer than five companion animals not owned by the proprietor.

“Collar” means a well-fitted device, appropriate to the age and size of the animal, attached to the animal’s neck in such a way as to prevent trauma or injury to the animal.

“Companion animal” means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person, or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals are not considered companion animals for the purposes of this chapter.

“Dangerous dog” is defined in section 4-210.

“Dealer” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following people are not considered to be a “dealer”: (i) any person who transports companion animals in the regular course of business as a common carrier; or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

“Direct and immediate threat” means any clear and imminent danger to an animal’s health, safety or life.

“Dump” means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

“Emergency veterinary treatment” means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

“Enclosure” means a structure used to house or restrict animals from running at large.

“Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during the loss of consciousness.

“Exhibitor” means any person who has animals for or on public display, excluding an exhibitor licensed by the United States Department of Agriculture.

“Facility” means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

“Foster care provider” means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

“Foster home” means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

“Groomer” means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

“Home-based rescue” means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses the companion animals in a foster home or a system of foster homes.

“Humane” means any action taken in consideration of and with the intent to provide for the animal’s health and well-being.

“Humane investigator” means a person who has been appointed by a circuit court as a humane investigator as provided in Virginia Code § 3.2-6558.

“Humane society” means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.



“Incorporated” means organized and maintained as a legal entity in the State.

“Kennel” means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

“Law-enforcement officer” means any person who is a full-time or part-time employee of a police department or sheriff’s office that is part of or administered by the State or any political subdivision thereof and who is responsible for preventing and detecting crime and enforcing the penal, traffic, or highway laws of the State. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff’s office.

“Livestock” includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia Code § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

“Ordinance” means any law, rule, regulation, or ordinance adopted by the Board of Supervisors.

“Other officer” includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

“Owner” means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

“Pet shop” means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

“Poultry” includes all domestic fowl and game birds raised in captivity.

“Primary enclosure” means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

“Private animal shelter” means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

“Properly cleaned” means: (i) that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals’ contact with the above-referenced contaminants; (ii) the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and (iii) the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

“Properly lighted,” when referring to a facility, means sufficient illumination to: (i) permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; (ii) provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and (iii) promote the well-being of the animals.

“Properly lighted,” when referring to a private residential dwelling and its surrounding grounds, means sufficient illumination to: (i) permit routine maintenance and cleaning of the private residential dwelling and its surrounding grounds and observation of the companion animals; and (ii) provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

“Public animal shelter” means: (i) a facility operated by the State or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals; or (ii) a facility operated for the same purpose under a contract with any locality, which includes the Charlottesville-Albemarle Society for the Prevention of Cruelty to Animals.

“Releasing agency” means: (i) a public animal shelter; or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

“Sanitize” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

“Sore” means, when referring to an equine: (i) that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; (ii) any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; (iii) any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; (iv) any other substance or device that has been used by a person on any limb or foot of an equine; or (v) a person has engaged in a practice involving an equine, and as a result of an application, infliction, injection, use, or practice, the equine suffers, or can reasonably be expected to suffer, physical pain or distress,

inflammation, or lameness when walking, trotting, or otherwise moving, except that “sore” does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by, or under the supervision of, a licensed veterinarian. Notwithstanding anything in this definition to the contrary, nothing precludes shoeing, using pads, and using action devices, as permitted by 9 C.F.R. Part 11.2.

“Sterilize” or “sterilization” means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

“Treatment” or “adequate treatment” means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

“Veterinary treatment” means treatment by or on the order of a duly licensed veterinarian.

“Vicious dog” is defined in section 4-221.

(Code 1967, § 4-4; 4-13-88; Code 1988, § 4-4; Ord. 98-A(1), 8-5-98; Ord. 09-4(1), 7-8-09; Ord. 11-4(1), 2-2-11; Ord. 13-4(1), 7-3-13; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 15-4(1), 7-1-15)

**State law reference** - Va. Code § 3.2-6500.

#### **Sec. 4-104 Penalties.**

Any violation of this chapter for which a specific penalty is not specified is a class 4 misdemeanor.

**State law reference** - Va. Code § 3.2-6587(A)(9).

### **Article 2. Dogs**

#### **Division 1. Licenses**

#### **Sec. 4-200 Dog license tax required to be paid and dog license required to be obtained; exemptions.**

Each person who owns a dog that is at least four months old shall pay the dog license tax and obtain a dog license as provided in this division, subject to the following exemptions:

- A. *Dogs in the custody of releasing agencies; exemptions from tax and licensure.* A releasing agency that is registered with the County as a releasing agency is not required to pay the dog license tax or to obtain a dog license.
- B. *Guide dogs, hearing dogs, and service dogs; exemption from tax.* The dog license tax is not required to be paid on any dog that is trained and serves as a guide dog for a blind person, is trained and serves as a hearing dog for a deaf or hearing impaired person, or is trained and serves as a service dog for a mobility-impaired or otherwise disabled person. “Hearing dog,” “mobility-impaired person,” “otherwise disabled person, and “service dog” have the same meanings as assigned in Virginia Code § 51.5-40.1.

(Code 1967, § 4-17; 9-13-89; Code 1988, § 4-20; Ord. 98-A(1), 8-5-98; Ord. 08-4(2), 9-3-08, § 4-300; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code §§ 3.2-6524, 3.2-6528, 51.5-44.

#### **Sec. 4-201 When dog license tax is due and payable.**

The dog license tax is due and payable as follows:

- A. *When due and payable.* The license tax imposed on dogs by this division is due and payable no later than 30 days after a dog has reached the age of four months, or no later than 30 days after an owner acquires a dog four months of age or older, and each year thereafter for which the dog is required to be licensed, no later than January 31 of any year for which a license is required, subject to the following:
  - 1. *Dog reaches the age of four months or comes to County between January 1 and October 31.* If a dog reaches the age of four months, or if a dog over four months old is unlicensed by the County and comes into the possession of a County resident between January 1 and October 31 of any year, the license tax for the current calendar year shall be paid.
  - 2. *Dog reaches the age of four months or comes to County between November 1 and December 31.* If a dog reaches the age of four months, or if a dog over four months old is unlicensed by the County comes into the possession of a County resident between November 1 and December 31 of any year, the license tax for the succeeding calendar year shall be paid, and the dog shall be licensed from the date the license tax is paid.
- B. *Failure to pay dog license tax.* It is a violation of this chapter for any person required by this division to obtain a dog license to fail to pay the license tax prior to February 1 of any year or at any other

time as may be required by subsections (A)(1) and (A)(2).

(Code 1967, § 4-21; 9-13-89; Code 1988, § 4-24; Ord. 98-A(1), 8-5-98, § 4-304; Code 1967, § 4-23; Code 1988, § 4-26; Ord. 98-A(1), 8-5-98, § 4-306; Ord. 08-4(2), 9-3-08, § 4-305; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6530.

**Sec. 4-202 Procedure to obtain a license and pay license tax; issuance; form of the license.**

Dog licenses shall be obtained when the dog license tax is paid, as follows:

- A. *Application.* Any County resident shall obtain either a one year, two year, or three year dog license by: (i) making an oral or written application to the Director of Finance; (ii) paying the applicable license tax required by County Code § 4-204; and (iii) providing satisfactory evidence that the dog has been inoculated or vaccinated against rabies, as required by County Code § 4-312, which may be established by providing either a current certificate of vaccination against rabies or satisfactory evidence that a certificate has been obtained.
- B. *To whom license may be issued.* The Director of Finance shall license only dogs owned by County residents or dogs whose custodians are County residents. The Director of Finance may require the applicant to provide information to establish that the applicant is a County resident.
- C. *Issuing the license.* Upon receiving a complete application, the Director of Finance shall issue a receipt for the license tax paid, on which the name and address of the owner or custodian, the date of payment, the year(s) for which the license is issued, the serial number of the tag, whether the dog is a male or female, whether the dog is spayed or neutered, or whether the dog is in a kennel, and deliver the metal license tags or plates provided for herein. Multi-year dog licenses may only be issued upon evidence that the certificate of vaccination is valid for the duration of the multi-year license.
- D. *Form of the license.* A dog license consists of a license receipt and a metal tag. For individual licenses, the tag shall be stamped or otherwise permanently marked to show that the County issued the license and shall bear a serial number or other identifying information prescribed by the County. For kennel licenses, the metal tag shall show the number of dogs authorized to be kept under the license, and shall have attached to it a metal identification plate for each dog covered by the license tag, numbered to correspond with the serial number of the license tag.
- E. *Retaining application information; public inspection.* The Director of Finance shall retain the application information during the period that a license is valid, and shall allow it to be available for public inspection.
- F. *False statements prohibited.* It is a violation of this chapter for any person to make a false statement in order to obtain a dog license to which he is not entitled.

(Code 1967, § 4-18; 5-15-75; Code 1988, § 4-21; Ord. 98-A(1), 8-5-98, § 4-301; Code 1967, § 4-33; Code 1988, § 4-36; Ord. 98-A(1), 8-5-98, § 4-316; Code 1967, § 4-34; 4-13-88; 9-13-89; Code 1988, § 4-37; Ord. 98-A(1), 8-5-98, § 4-317; Ord. 08-4(2), 9-3-08, § 4-301; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code §§ 3.2-6526, 3.2-6527, 3.2-6530(B), 3.2-6587(A).

**Sec. 4-203 Duplicate license tag to replace lost, destroyed, or stolen tag.**

If a dog license tag is lost, destroyed, or stolen, the owner or custodian shall immediately apply to the Director of Finance to obtain a duplicate license tag as follows:

- A. *Present license receipt and an affidavit, and pay fee.* The owner or custodian shall present to the Director of Finance the original license receipt and an affidavit stating that the original license tag has been lost, destroyed or stolen, and pay a \$1.00 fee.
- B. *Issuing the duplicate license tag.* The Director of Finance shall issue a duplicate license tag to an owner or custodian who presents the information and pays the fee required by subsection (A). The Director shall endorse the number of the duplicate and the date issued on the face of the original receipt.
- C. *Affixing the duplicate license tag.* The owner or custodian shall immediately affix the duplicate license tag to the collar of the dog.

(Code 1967, § 4-19; Code 1988, § 4-22; Ord. 98-A(1), 8-5-98, § 4-302; Code 1967, § 4-25; 4-23-88; Code 1988, § 4-28; Ord. 98-A(1), 8-5-98, § 4-308; Code 1967, § 4-28; 4-13-88; Code 1988, § 4-31; Ord. 98-A(1), 8-5-98, § 4-311; Ord. 08-4(2), 9-3-08, § 4-302; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 6532.

**Sec. 4-204 Amount of license dog tax.**

The dog license taxes are as follows:

- A. *Spayed Female/Neutered Male.*

One year tag: \$5.00  
Two year tag: \$10.00  
Three year tag: \$15.00

B. *Unspayed Female/Unneutered Male.*

One year tag: \$10.00  
Two year tag: \$20.00  
Three year tag: \$30.00

C. *Kennel license:* \$50.00 per block of ten dogs

(Code 1967, § 4-20; 12-20-73; 80-11-76; 2-13-85; 4-13-88; Code 1988, § 4-23; Ord. 98-A(1), 8-5-98, § 4-303; Ord. 08-4(2), 9-3-08, § 4-304; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code § 3.2-6528.

**Sec. 4-205 Duty of the Director of Finance to notify owners of unlicensed but vaccinated dogs.**

The owner of each unlicensed but vaccinated dog is responsible for applying for a license for the dog as provided by this division. If the Director of Finance determines, from reviewing the rabies vaccination information required to be provided by veterinarians pursuant to County Code § 4-313, that the owner of an unlicensed dog has failed to apply for a license within 90 days after the date of the vaccination, the Director shall send an application to the owner and request the owner to submit a complete application and pay the applicable dog license tax required by County Code § 4-204. Upon receiving the completed application and payment of the applicable dog license tax, the Director shall issue a license as provided in County Code § 4-202.

(Ord. 08-4(2), 9-3-08, § 4-303; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6529.

**Sec. 4-206 Paying the dog license tax after a summons is issued.**

An owner is not relieved from the penalties or court costs provided by Virginia Code § 16.2-69.48:1 or Virginia Code § 17.1-275.7 if he pays the dog license tax after a summons to appear before the judge of the general district court or another court is issued for failure to pay the license tax within the time required by County Code § 4-201.

(Code 1967, § 4-22; Code 1988, § 4-25; Ord. 98-A(1), 8-5-98, § 4-305; Ord. 08-4(2), 9-3-08, § 4-306; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6536.

**Sec. 4-207 Dog is presumed to be unlicensed if it is not wearing a valid license tag.**

Any dog that is not wearing a collar bearing a valid license tag for the proper calendar year shall *prima facie* be deemed to be unlicensed. In any proceeding under this division, the burden of proof of the fact that the dog is licensed, or was otherwise not required to bear a tag at the time is on the owner of the dog.

(Code 1967, § 4-24; Code 1988, § 4-27; Ord. 98-A(1), 8-5-98; Ord. 08-4(2), 9-3-08, § 4-307; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6533.

**Sec. 4-208 Preserving dog license receipts; displaying dog license tags.**

Any dog owner and kennel shall preserve dog license receipts and display dog license tags as follows:

- A. *Individual owners.* Any dog owner shall carefully preserve dog license receipts and promptly show them when an animal control officer or any other officer requests to inspect them. Any dog owner shall securely fasten dog license tags to a substantial collar and ensure that the collar and

license tag are worn by the dog. A dog owner may remove the collar and license tag required by this section in any of the following situations:

1. The dog is engaged in lawful hunting.
  2. The dog is competing in a dog show.
  3. The dog has a skin condition which would be exacerbated by wearing a collar.
  4. The dog is confined.
  5. The dog is under the immediate control of its owner.
- B. *Kennels.* The kennel owner shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided with the license tag attached to the collar of each dog authorized to be kept enclosed in the kennel. The kennel owner must keep any identification plates not in use and promptly show them when an animal control officer or other officer requests to inspect them.

(Code 1967, § 4-26; 4-13-88; Code 1988, § 4-29; Ord. 98-A(1), 8-5-98, § 4-309; Code 1967, § 4-31; 4-13-88; Code 1988, § 4-34; Ord. 98-A(1), 8-5-98, § 4-314; Code 1967, § 4-32; 4-13-88; Code 1988, § 4-35; Ord. 98-A(1), 8-5-98; Ord. 05-4(1), 12-7-05, § 4-315; Ord. 08-4(2), 9-3-08, § 4-308; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code §§ 3.2-6531, 3.2-6587(A).

#### **Sec. 4-209 Harboring or concealing unlicensed dogs.**

It is unlawful for any person to conceal or harbor any dog on which the required license tax has not been paid.

(Code 1967, § 4-15; Code 1988, § 4-13; Ord. 98-A(1), 8-5-98, § 4-210; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6587(A)(7)

### **Division 2. Dangerous Dogs**

#### **Sec. 4-210 “Dangerous dog” and “dog” defined.**

As used in this division:

- A. “Dangerous dog” means:
1. *Bite, attack, or injury on a dog or cat; exceptions.* A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks, bites, or inflicts injury on a companion animal that is a dog or cat, the attacking or biting dog is not deemed dangerous if, upon investigation, a law enforcement officer or animal control officer finds that: (i) no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) the attack occurred on the property of the attacking or biting dog’s owner or custodian
  2. *Bite, attack, or injury on a person; exception.* A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.
- B. “Dog” means, when used in reference to a “dangerous dog,” a canine or canine crossbreed.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(A).

#### **Sec. 4-211 When there is reason to believe a dog is a dangerous dog; summons and confinement.**

If a law enforcement or animal control officer has reason to believe that a dog is a dangerous dog, the following applies:

- A. *Application for a summons.* The law enforcement officer or the animal control officer may apply to a magistrate serving the County to issue a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. A law enforcement officer who successfully applies for a summons to be issued shall contact the County’s animal control officer and inform the animal control officer of the dog’s location and the relevant facts pertaining to his belief that the dog is dangerous.
- B. *Content of the summons.* The summons shall advise the owner of the nature of the proceeding and

the matters at issue.

- C. *Confining the dog.* The animal control officer shall confine the dog until the time that evidence is heard in court and a verdict is rendered. If the animal control officer determines that the owner or custodian can confine the dog in a manner that protects the public safety, he may permit the owner or custodian to confine the dog until the time that evidence is heard in court and a verdict is rendered.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(C).

**Sec. 4-212 Circumstances when a dog shall not be found to be a dangerous dog.**

A dog shall not be found to be a dangerous dog if any of the following apply:

- A. *During hunting or dog handling event.* The dog bit, attacked, or inflicted injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.
- B. *Particular breed.* Solely because the dog is a particular breed. The ownership of a particular breed of dog is not prohibited.
- C. *Person was committing crime, trespassing, or provoking, tormenting, or physically abusing the dog.* The threat, injury or damage was sustained by a person who was: (i) committing, at the time, a crime upon the premises occupied by the dog's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the dog's owner or custodian; or (iii) provoking, tormenting, or physically abusing the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times.
- D. *Police dogs.* The dog is a police dog and was engaged in the performance of its duties as a police dog at the time of the acts complained of.
- E. *Responding to pain or injury or protecting.* The dog was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, at the time of the acts complained of.
- F. *Court finds dog not dangerous or a threat to the community.* The court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(B), (D), (E).

**Sec. 4-213 Judicial proceedings on a summons that a dog is a dangerous dog.**

Judicial proceedings on a summons that a dog is a dangerous dog are as follows:

- A. *Authority to compel the alleged dangerous dog to be produced.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the alleged dangerous dog to produce it.
- B. *Remedies if the court finds the dog to be a dangerous dog.* If, after hearing the evidence, the court finds that the dog is a dangerous dog:
1. *Pay restitution.* The court may order the owner, custodian, or harbinger of the dangerous dog to pay restitution for actual damages to any person injured by the dog or whose companion animal was injured or killed by the dog; and
  2. *Pay reasonable expenses.* The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for the dangerous dog from the time the dog was taken into custody until the dog is disposed of or returned to the owner.
- C. *Appeals.* The procedure for appeal and trial is the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code § 19.2-260 *et seq.* The State is required to prove its case beyond a reasonable doubt.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(C).

**Sec. 4-214 Dog found to be a dangerous dog; requirement to obtain a dangerous dog registration certificate.**

If the court finds a dog to be a dangerous dog, the dog shall be registered as a dangerous dog as follows:

- A. *Owner must obtain a dangerous dog registration certificate.* The owner of any dog found to be a dangerous dog shall, within 30 days after the finding, obtain a dangerous dog registration certificate from the Director of Finance.
- B. *Requirements to obtain a dangerous dog registration certificate.* In order to obtain a dangerous dog registration certificate, the owner shall pay a fee of \$150.00, in addition to other fees that may be authorized by law, and present to the Director of Finance satisfactory evidence of all of the following:
  - 1. *Rabies vaccination.* The dog's current rabies vaccination, if applicable.
  - 2. *Spayed or neutered.* The dog has been spayed or neutered.
  - 3. *Confinement.* The dog is and will be confined in a proper enclosure, is and will be confined inside the owner's residence, or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.
  - 4. *Dog identified by electronic implantation.* The dog has been permanently identified by means of electronic implantation.
  - 5. *Owner's residence posted.* The owner's residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property.
  - 6. *Liability insurance or bond in surety.* The owner has liability insurance coverage, to the value of at least \$100,000.00 that covers dog bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.00.
- C. *To whom certificate may be issued.* The Director of Finance may issue a dangerous dog registration certificate only to persons 18 years of age or older.
- D. *Form of the certificate; tag.* A dangerous dog registration certificate includes a uniformly designed tag provided by the Director of Finance that identifies the dog as a dangerous dog.
- E. *Affixing and displaying the tag.* The owner shall affix the tag to the dog's collar and ensure that the dog wears the collar and tag at all times.
- F. *Renewals.* The owner shall update and renew a dangerous dog registration certificate by January 31 of each year, until the dangerous dog is deceased. The annual renewal fee is \$85; otherwise, the certificate shall be renewed in the same manner as the initial certificate was obtained and the requirements of this section apply.
- G. *Virginia Dangerous Dogs Registry.* The animal control officer shall post dangerous dog registration information on the Virginia Dangerous Dogs Registry.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(G), (H).

#### **Sec. 4-215 Dog found to be a dangerous dog; confinement, leashing, and muzzling.**

If the court finds a dog to be a dangerous dog, the dog shall be controlled as follows;

- A. *When the dog is on the property of its owner.* When on the property of its owner, a dog found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While the dog is confined within the structure, it shall be provided for according to County Code § 4-300.
- B. *When the dog is off of the property of its owner.* When off the property of its owner, an animal found to be a dangerous dog shall be kept on a leash and muzzled in a manner that will not to cause injury to the animal or interfere with the animal's vision or respiration, but will prevent it from biting a person or another animal.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(I).

#### **Sec. 4-216 Dog found to be a dangerous dog; an owner's ongoing obligation to inform the County animal control officer.**



If the court finds a dog to be a dangerous dog, the owner has the following obligations to inform the County's animal control officer:

- A. *When prompt notification is required.* The owner shall promptly notify the animal control officer about: (i) the names, address, and telephone numbers of all owners; (ii) all the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person, cat or dog; (iv) any claims made or lawsuits brought as a result of any attack by the dog; (v) chip (electronic implantation as required by County Code § 4-214(B)(4)) identification information; and (vi) proof of insurance or surety bond as required by County Code § 4-214(B)(6).
- B. *When immediate notification is required.* The owner shall immediately, upon learning the information, notify the animal control officer if the dog: (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies.
- C. *When notification is required within 10 days.* The owner shall, within 10 days after relocating, provide written notice about the relocation to the County's animal control authority and the new address to which the dog has been moved.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(J), (K).

#### **Sec. 4-217 Previous finding that a dog is a dangerous dog; subsequent acts by a dangerous dog.**

If a dog was previously declared a dangerous dog pursuant to County Code § 4-213 and the declaration arose out of a separate and distinct incident:

- A. *Punishment; attack on cat or dog that is a companion animal.* The owner or custodian of the dog shall be guilty of a class 2 misdemeanor if the dog attacks and injures or kills a cat or dog that is a companion animal belonging to another person.
- B. *Punishment; attack on a person.* The owner or custodian of the dog shall be guilty of a class 1 misdemeanor if the dog bites a human being or attacks a human being causing bodily injury.
- C. *Exceptions.* Subsections (A) and (B) do not apply in the following circumstances:
  - 1. *Responding to pain or injury or protecting.* The dog was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, at the time of the acts complained of.
  - 2. *Police dogs.* The dog is a police dog and was engaged in the performance of its duties as a police dog at the time of the attack.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(L).

#### **Sec. 4-218 Previous finding that a dog is a dangerous dog; willful noncompliance by owner.**

Any owner of a dog that has been found by the court to be a dangerous dog who willfully fails to comply with the requirements of this division, the following apply:

- A. *Punishment.* The owner shall be guilty of a class 1 misdemeanor.
- B. *Confining the dangerous dog prior to hearing and verdict.* When an owner or custodian of a dog found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until the evidence is heard and a verdict is rendered by the court.
- C. *Authority to compel the alleged dangerous dog to be produced.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal alleged dangerous dog to produce it.
- D. *Additional remedies upon conviction.* If the owner is convicted under this section:
  - 1. *Order that the dog be disposed.* The court may order the dangerous dog to be disposed of by the County pursuant to Virginia Code § 3.2-6562.
  - 2. *Allow the owner 45 days to comply; order that the dog be disposed if compliance is not achieved.* In the alternative to subsection (D)(1), the court may grant the owner up to 45 days to comply with the requirements of this division, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court

shall order the dangerous dog to be disposed of by the County pursuant to Virginia Code § 3.2-6562.

3. *Pay reasonable expenses.* The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for the dangerous dog from the time the dog was taken into custody until the dog is disposed of or returned to the owner.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(M).

#### **Sec. 4-219 Responsibility if the owner of a dangerous dog is a minor.**

If the owner of a dog found by the court to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(F).

#### **Sec. 4-220 Fund to which collected fees are to be allocated.**

All fees collected pursuant to this division, less the costs incurred by the County in producing and distributing the certificates and tags required by this division and fees due to the State Veterinarian for maintaining the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund of the County for the purpose of paying the expenses of any training course required under Virginia Code § 3.2-6556.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13; Ord. 17-4(1), 6-7-17, effective 7-1-17)

**State law reference** - Va. Code § 3.2-6540(N).

### **Division 3. Vicious Dogs**

#### **Sec. 4-221 “Dog,” “serious injury,” and “vicious dog” defined.**

As used in this division:

- A. “Dog” means, when used in reference to a “vicious dog,” a canine or canine crossbreed.
- B. “Serious injury” means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, and it includes serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.
- C. “Vicious dog” means a canine or canine crossbreed that has: (i) killed a person; (ii) inflicted serious injury to a person; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court, or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

(Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code § 3.2-6540.1(A).

#### **Sec. 4-222 Reason to believe a dog is a vicious dog; summons and confinement.**

If a law enforcement or animal control officer has reason to believe that a dog is a vicious dog, the following applies:

- A. *Application for a summons.* The law enforcement officer or the animal control officer shall apply to a magistrate serving the County to issue a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. A law enforcement officer who successfully applies for a summons to be issued shall contact the County’s animal control officer and inform the animal control officer of the dog’s location and the relevant facts pertaining to his belief that the dog is vicious.
- B. *Content of the summons.* The summons shall advise the owner of the nature of the proceeding and the matters at issue.
- C. *Confining the dog.* The animal control officer shall confine the dog until the time that evidence is heard in court and a verdict is rendered.

(Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code § 3.2-6540.1(B).

**Sec. 4-223 Circumstances when a dog shall not be found to be a vicious dog.**

A dog shall not be found to be a vicious dog in the following circumstances:

- A. *Particular breed.* Solely because the dog is a particular breed. The ownership of a particular breed of dog is not prohibited.
- B. *Person was committing crime, trespassing, or provoking, tormenting, or physically abusing the dog.* The threat, injury, or damage was sustained by a person who was: (i) committing, at the time, a crime upon the premises occupied by the dog's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the dog's owner or custodian; or (iii) provoking, tormenting, or physically abusing the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times.
- C. *Police dogs.* The dog is a police dog and was engaged in the performance of its duties as a police dog at the time of the acts complained of.
- D. *Responding to pain or injury or protecting.* The dog was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, at the time of the acts complained of.

(Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code § 3.2-6540.1(C).

**Sec. 4-224 Judicial proceedings on a summons that a dog is a vicious dog.**

Judicial proceedings on a summons that a dog is a vicious dog are as follows:

- A. *Authority to compel the alleged vicious dog to be produced.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the alleged vicious dog to produce it.
- B. *Remedies if the court finds the dog to be a vicious dog.* If, after hearing the evidence, the court finds that the dog is a vicious dog:
  - 1. *Euthanize the dog.* The court shall order the dog euthanized in accordance with Virginia Code § 3.2-6562;
  - 2. *Pay restitution.* The court may order the owner, custodian, or harbinger of the vicious dog to pay restitution for actual damages to any person injured by the dog or to the estate of any person killed by the dog; and
  - 3. *Pay reasonable expenses.* The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for the vicious dog from the time the dog was taken into custody until the dog is disposed of.
- C. *Appeals.* The procedure for appeal and trial is the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code § 19.2-260 *et. seq.* The State is required to prove its case beyond a reasonable doubt.

(Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code § 3.2-6540.1(B).

**Division 4. Dogs Running at Large and Dogs Damaging Livestock or Poultry**

**Sec. 4-225 Dog running at large is prohibited.**

An owner shall not allow his dog to run at large in the County, subject to the following:

- A. *When a dog is deemed to run at large.* For the purposes of this section, a dog is deemed to "run at large" while roaming, running, or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.
- B. *When a dog is not considered to be running at large.* A dog is not considered to "run at large" if, during the hunting season, it is on a bona fide hunt in the company of a licensed hunter or during field trials or training periods when accompanied by its owner.
- C. *Seizure, impoundment, and disposition.* Any dog observed or captured while unlawfully running at large shall be seized, impounded, and disposed pursuant to Virginia Code § 3.2-6546(B), (C), and (D).

(7-19-73; 8-22-73; 9-26-73; 11-15-73; 12-19-73; 1-3-74; 1-23-74; 3-24-77; 5-22-74; 10-9-74, 1-22-75; 3-10-76; 4-21-76; 12-7-77; 5-22-78; 6-21-78; 10-7-81; 5-21-86; 5-13-87; 9-16-87; 11-4-87; 12-16-87; 9-8-88; Ord of 1-17-90; Ord. of 8-8-90; Ord. No. 94-4(2), 8-17-94; Ord. No. 94-4(3), 12-7-94; Ord. No. 95-4(1), 1-4-95; Ord. No. 95-4(2), 9-6-95; Code 1988, § 4-19; Ord. 98-A(1), 8-5-98; Ord. 98-4(1), 12-2-98; Ord. 00-4(1), 5-3-00; Ord. 03-4(2), 3-5-03; Ord. 04-4(1), 5-12-04; Ord. 05-4(1), 12-7-05; Ord. 06-4(1), 12-6-06, § 4-213; Ord. 09-4(1), 7-8-09; Ord. 09-4(2), 10-7-09; Ord. 12-4(1), 4-11-12)

**State law reference** - Va. Code §§ 3.2-6538, 3.2-6544(B),

**Sec. 4-226 Dog running at large without a license tag is prohibited.**

An owner shall not allow his dog to run at large as described in County Code § 4-225(A) in the County without wearing a license tag, subject to the following:

- A. *When a dog is not required to wear a license tag.* A dog is not considered to be “without wearing a license tag” if the owner removed the collar and license tag in any of the following situations:
  - 1. The dog is engaged in lawful hunting.
  - 2. The dog is competing in a dog show.
  - 3. The dog has a skin condition which would be exacerbated by wearing a collar.
  - 4. The dog is confined.
  - 5. The dog is under the immediate control of its owner.
- B. *Seizure, impoundment, and disposition.* Any dog observed or captured while unlawfully running at large without wearing a license tag shall be seized, impounded, and disposed pursuant to County Code § 4-227 and, as applicable Virginia Code §§ 3.2-6546(B), (C), and (D) and 3.2-6562.

**State law reference** - Va. Code §§ 3.2-6531, 3.2-6538, 3.2-6543.

**Sec. 4-227 Seizure, impoundment, and disposition of dogs running at large.**

Any dog observed or captured while unlawfully running at large shall be seized, impounded, and disposed:

- A. *Confinement in an animal shelter.* The dog shall be confined in a public animal shelter.
- B. *Minimum duration of confinement.* The dog shall be confined in the public animal shelter for a minimum of five days, unless it is sooner claimed by its rightful owner. The five-day period begins on the day immediately following the day the dog is initially confined in the shelter.
- C. *Effort to identify rightful owner; extended duration of confinement.* The operator or custodian of the public animal shelter shall make a reasonable effort to ascertain whether the dog has a collar, tag, license, tattoo, or other form of identification. If identification is found on the dog, it shall be held for an additional five days, unless it is sooner claimed by the rightful owner. If the rightful owner of the dog is identified, the operator or custodian of the shelter shall make a reasonable effort to notify the owner of the dog’s confinement within the next 48 hours following its confinement.
- D. *Vaccinations during confinement.* During the time that an animal is confined pursuant to subsection (C), the operator or custodian of the public animal shelter may vaccinate the animal to prevent the risk of communicable diseases, provided that: (i) all vaccines are administered in accordance with a protocol approved by a licensed veterinarian; and (ii) rabies vaccines are administered by a licensed veterinarian or licensed veterinary technician under the immediate direction and supervision of a licensed veterinarian in accordance with Virginia Code § 3.2-6521.
- E. *Charges and fees.* The owner of any dog claimed may be charged for the actual expenses incurred during its impoundment. In addition, the Board of Supervisors may, after a public hearing, adopt an ordinance to charge the owner a fee for impoundment and increased fees for later impoundments of the same dog.
- F. *Dog not claimed during the confinement period deemed abandoned.* If a dog confined pursuant to this section is not claimed upon expiration of the applicable holding period as provided in subsections (B) and (C), it shall be deemed abandoned and become the property of the public animal shelter.
- G. *Disposition of unclaimed dog deemed abandoned.* The public animal shelter may dispose of any unclaimed dog deemed abandoned under subsection (F) by any of the following methods:
  - 1. *Release to a releasing agency.* The public animal shelter may release the dog to any humane society, public or private animal shelter, or other releasing agency within the State, subject to the requirements of Virginia Code § 3.2-6546(D)(1).
  - 2. *Adoption by a County resident.* Adoption by a County resident, subject to the requirements of Virginia Code § 3.2-6546(D)(2).

3. *Adoption by a resident of an adjacent locality.* Adoption by a resident of an adjacent locality, subject to the requirements of Virginia Code § 3.2-6546(D)(3).
  4. *Adoption by any other person.* Adoption by any other person, subject to the requirements of Virginia Code § 3.2-6546(D)(4).
  5. *Release to an out-of-state releasing agency for purposes of adoption or euthanasia.* Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency, located in and lawfully operating under the laws of another state, subject to the requirements of Virginia Code § 3.2-6546(D)(5).
  6. *Euthanization.* Euthanization by the animal shelter, subject to the requirements of Virginia Code § 3.2-6546(D)(¶1).
- H. *Disposition of unclaimed and unlicensed dog by animal control officer.* In addition to the methods of disposition in subsection (G), if a dog for which a license tax has not been paid was found running at large, and the applicable holding period as provided in subsections (B) and (C) has expired, an animal control officer or other officer may deliver the dog to any person in the County who: (i) will pay the required license tax due on the dog; (ii) is able to provide adequate space and adequate shelter for the dog and is otherwise capable of adequately caring for the dog; and (iii) has never been charged with animal cruelty.

(Code 1967, § 4-10; 8-11-76; 4-13-88; Code 1988, § 4-10; Ord. 98-A(1), 8-5-98, § 4-205; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code §§ 3.2-6546(B),(C), (D), 3.2-6562.

**Sec. 4-228 Failure to confine female dogs in heat is prohibited.**

An owner shall confine his female dog in heat beyond the reach of any male dog who may run at large.

(Code 1967, § 4-13; Code 1988, § 4-18; Ord. 98-A(1), 8-5-98, § 4-212; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code §§ 3.2-6538, 3.2-6543.

**Sec. 4-229 Allowing kennel dogs to stray beyond enclosure is prohibited.**

A kennel owner or operator shall not allow a kennel dog to stray beyond the limits of the kennel enclosure, provided that kennel dogs may be temporarily removed from their enclosure while under the control of the owner for the purpose of exercising, hunting, breeding, trial, or showing.

**State law reference** - Va. Code §§ 3.2-6538, 3.2-6543.

**Sec. 4-230 Finding a dog in the act of killing or injuring livestock or poultry or chasing livestock.**

If an animal control officer or other person finds any dog in the act of killing or injuring livestock or poultry or chasing livestock, the following apply:

- A. *Duty of an animal control officer.* Any animal control officer finding a dog in the act of killing or injuring livestock or poultry has a duty to promptly seize or kill the dog, regardless of whether the dog is wearing a license tag.
- B. *Right of any other person.* Any person finding a dog in the act of killing or injuring livestock or poultry has the right to kill the dog on sight.
- C. *Right of livestock owner or agent.* Any livestock owner or the livestock owner's agent finding a dog chasing livestock on land used by the livestock has the right to kill the dog on sight when the circumstances show that the chasing is harmful to the livestock.

(Code 1967, § 4-9; 4-13-88; Code 1988, § 4-9; Ord. 98-A(1), 8-5-98, § 4-203; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 16-4(1), 7-6-16)

**State law reference** - Va. Code § 3.2-6552(A).

**Sec. 4-231 Authority of court when dog is a confirmed livestock or poultry killer.**

When a dog is a confirmed livestock or poultry killer, the court has the following authority:

- A. *Authority to compel the dog to be produced.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce it.
- B. *Authority order that dog be killed.* Any court may order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer. Any dog killing poultry for the third time shall be considered a confirmed poultry killer.

(Code 1967, § 4-9; 4-13-88; Code 1988, § 4-9; Ord. 98-A(1), 8-5-98, § 4-203; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 16-4(1), 7-6-16)

**State law reference** - Va. Code § 3.2-6552(A).

**Sec. 4-232 Reason to believe a dog is killing livestock or poultry; seizing the dog.**

Any animal control officer having reason to believe that any dog is killing livestock or poultry is empowered to seize the dog solely for the purpose of examining the dog in order to determine whether it has killed livestock or poultry.

(Code 1967, § 4-9; 4-13-88; Code 1988, § 4-9; Ord. 98-A(1), 8-5-98, § 4-203; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 16-4(1), 7-6-16)

**State law reference** - Va. Code § 3.2-6552(B).

**Sec. 4-233 Reason to believe a dog is killing or injuring livestock or poultry, or chasing livestock; applying for a warrant.**

If an animal control officer or other person has reason to believe that any dog is killing or injuring livestock or poultry, or chasing livestock, the following apply:

- A. *Application for warrant.* The animal control officer or person shall apply to a magistrate serving the County for a warrant.
- B. *Issuance of warrant; content.* The magistrate shall issue warrant, which shall require the owner or custodian, if known, to appear before the general district court at a time and place named in the warrant.

(Code 1967, § 4-9; 4-13-88; Code 1988, § 4-9; Ord. 98-A(1), 8-5-98, § 4-203; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 16-4(1), 7-6-16)

**State law reference** - Va. Code § 3.2-6552(B).

**Sec. 4-234 Judicial proceedings on a warrant that a dog is believed to have killed or injured livestock or poultry, or chased livestock.**

In judicial proceedings on a warrant that a dog is believed to have killed or injured livestock or poultry or chased livestock, the court may order the following:

- A. *Remedies if the court finds the dog to have killed or injured livestock or poultry, or chased livestock.* If, after hearing evidence, it appears to the court that the dog has killed or injured livestock or poultry, or chased livestock:
  - 1. *Killed or euthanized.* The court shall order that the dog be killed or euthanized immediately by the animal control officer or other officer designated by the court; or
  - 2. *Removed to another state.* The court shall order that the dog be removed to another state that does not border the State and be prohibited from returning to the State. Any dog ordered removed from the State that is later found in the State shall be ordered by a court to be killed or euthanized immediately.
- B. *Alternative remedies if the court finds the dog to have killed or injured only poultry.* If, after hearing evidence, it appears to the court that the dog has killed or injured only poultry, in the alternative to the remedies in subsection (A):
  - 1. *Transfer the dog to another owner and fitting with identifying microchip.* The court may order that the dog be transferred to another owner whom the court deems appropriate and permanently fitted with an identifying microchip registered to that owner; or
  - 2. *Confinement and fitting with identifying microchip; requirements when dog taken off of the owner's property.* The court may order that the dog be fitted with an identifying microchip registered to the owner and confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent the dog's escape, direct contact with the dog by minors, adults, or other animals, or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature. When off its owner's property, any dog found to be a poultry killer shall be kept on a leash and muzzled in so as not to cause injury to the dog or interfere with its vision or respiration, but so as to prevent it from biting a person or another animal.

(Code 1967, § 4-9; 4-13-88; Code 1988, § 4-9; Ord. 98-A(1), 8-5-98, § 4-203; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14; Ord. 16-4(1), 7-6-16)

**State law reference** - Va. Code § 3.2-6552(B), (C).

**Sec. 4-235 Compensation for livestock and poultry killed by a dog.**

Any person who has any livestock or poultry killed or injured by any dog not his own is entitled to receive as compensation from the County the fair market value of the livestock or poultry not to exceed \$750.00

per animal or \$10.00 per fowl if all of the following are satisfied:

- A. *Evidence of death and cause.* The claimant furnishes evidence within 60 days after discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog.
- B. *Animal control officer notified.* The animal control officer or other officer shall have been notified of the incident within 72 hours after its discovery.
- C. *Legal remedies exhausted.* The claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

(Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code § 3.2-6553.

#### **Sec. 4-236 Unauthorized removal of collars or tags.**

It is unlawful for any person, except the owner or custodian, to remove a collar or a legally acquired license tag from a dog without the permission of the owner or custodian.

(Code 1967, § 4-14; Code 1988, § 4-12; Ord. 98-A(1), 8-5-98, § 4-209; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6587.

### **Article 3. Animals**

#### **Division 1. Animal Welfare**

#### **Sec. 4-300 Providing care to companion animals.**

Companion animals shall be cared for as follows:

- A. *Required care.* Each owner, public or private animal shelter, other releasing agency, foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment shall provide all of the following for any companion animal:
  - 1. *Food.* Adequate feed.
  - 2. *Water.* Adequate water.
  - 3. *Shelter.* Adequate shelter that is properly cleaned.
  - 4. *Space.* Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight.
  - 5. *Exercise.* Adequate exercise.
  - 6. *Care, treatment, transportation.* Adequate care, treatment, and transportation.
  - 7. *Veterinary care.* Veterinary care when needed or to prevent suffering or disease transmission.
- B. *Punishment.* A violation of this section is a class 4 misdemeanor, provided that a second or subsequent violation of subsection (A)(1), (A)(2), (A)(3), or (A)(7) is a class 2 misdemeanor and a second or subsequent violation of subsection (A)(4), (A)(5), or (A)(6) is a class 3 misdemeanor.
- C. *Animals used as food.* This section does not require that animals used as food for other animals be euthanized.

(Ord. 09-4(1), 7-8-09; Ord. 10-4(1), 9-1-10; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code § 3.2-6544(B).

#### **Sec. 4-301 Cruelty to animals; acts that inflict pain, injury, or suffering are prohibited.**

Acts of cruelty to animals inflicting specific acts of pain, injury, or suffering are subject to the following:

- A. *Unlawful acts.* The following acts are unlawful:
  - 1. *Inflicting death, injury, or pain generally.* Any person who overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another. In addition, evidence of any of the following establishes a rebuttable presumption that this subsection has been violated:



- a. The person places any animal, including any dog, on a tether:
    1. That does not terminate at both ends with a swivel.
    2. That is shared with other animals.
    3. For more than two hours cumulative in any 24-hour period.
    4. During an excessive heat warning or heat advisory issued by the National Weather Service, the State, or the County.
    5. During a severe weather warning issued by the National Weather Service, including any hurricane warning, tropical storm warning, tornado warning, severe thunderstorm warning, or winter storm warning.
    6. On uninhabited or abandoned property in the County.
  - b. The person places any animal, including any dog, on a tether that, if it is on a pulley or running line:
    1. That restricts movement of the animal.
    2. Is inappropriate for the animal's age and size.
    3. Is not attached to the animal by a collar.
    4. Is less than 15 feet in length.
    5. Is more than seven feet above the ground.
    6. Is configured to allow the animal to be injured, strangled, or entangled with other animals or objects.
  - c. The person places any female dog in heat on a tether or tethers a dog that is six months' old or younger.
  - d. The person transports an animal in an open-bed truck or similar vehicle either when the animal is tethered or is in a carrier that is not secured to the vehicle so that it is unmovable and allows normal postural movements of the animal.
2. *Depriving food, drink, shelter, or treatment.* Any person who deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment. In addition, evidence of any of the following establishes a rebuttable presumption that this subsection has been violated:
- a. The person provides a shelter for an animal that is composed of metal or plastic barrels, airline crates, or carrying crates.
  - b. The person provides a shelter for a dog or cat that is without a floor or the floor is not raised off the ground by at least two inches.
  - c. The person deprives an animal of clean, fresh, potable water that is a drinkable temperature.
  - d. Depending on the age, breed, or both, of a dog or cat, the person provides a shelter for the dog or cat that is located or is in a condition so that, because of environmental conditions, the dog or cat is deprived of necessary shelter.
  - e. The person provides shelter for a dog or cat that is infested with mold, insects, or parasites.
  - f. The person provides a shelter for a dog or cat that has vents, cracks, or holes, other than the entrance, that allows rain or other moisture into the shelter.
3. *Roping, lassoing, or otherwise obstructing or interfering with an equine's legs.* Any person who ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless the actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care.
4. *Soring an equine.* Any person who sores any equine for any purpose or administers drugs or medications to alter or mask the soring for the purpose of sale, show, or exhibition of any kind, unless administering the drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes.
5. *Willfully pursuing any act of cruelty.* Any person who willfully sets on foot, instigates,

engages in, or in any way furthers any act of cruelty to any animal.

6. *Transporting animal in manner that produces torture or unnecessary suffering.* Any person who carries or causes to be carried by any vehicle, vessel, or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering.
  7. *Causing or permitting another to engage in acts of cruelty.* Any person who causes any of the acts in subsections (A)(1) through (A)(6) or, being the owner of an animal that has been subjected to any of the acts in subsections (A)(1) through (A)(6), permits those acts to be done by another.
- B. *Penalties.* Any person who commits any of the acts in subsection (A) is subject to the following:
1. *Class 1 misdemeanor.* A violation of this section is punishable as a class 1 misdemeanor.
  2. *Court-ordered treatment.* The court may, in its discretion, require any person convicted of violating subsection (A) to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.
  3. *Prohibiting possessing or owning companion animals.* The court may, in its discretion, prohibit any person convicted of violating subsection (A) from possessing or owning companion animals or equine.
- C. *Excepted acts.* The following acts are not prohibited by subsection (A):
1. *Dehorning cattle.* Dehorning cattle that is conducted in a reasonable and customary manner.
  2. *Wildlife management activities, hunting, fishing, and trapping.* Authorized wildlife management activities, or hunting, fishing or trapping as regulated under the Virginia Code, including Virginia Code Title 29.1.
  3. *Farming activities.* Farming activities as provided by the Virginia Code or the County Code.
  4. *Right of an owner to use force to protect a dog or cat against an attack by another dog.* If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the following apply:
    - a. *Owner may use force to protect the dog or cat.* The owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat.
    - b. *Owner presumed to have taken necessary and appropriate action.* The owner is presumed to have taken necessary and appropriate action to defend his dog or cat and is therefore presumed not to have violated this section.

(Ord. 98-A(1), 8-5-98, § 4-207; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code §§ 3.2-6544(B), 3.2-6570.

#### **Sec. 4-302 Cruelty to domestic dogs and cats; killing for hide, fur, or pelt.**

It is unlawful for any person to kill a domestic dog or cat for the purposes of obtaining the hide, fur, or pelt of the dog or cat. Any person who commits any of the acts prohibited by this section is subject to the following:

- A. *Penalty.* A violation of this section is punishable as a class 1 misdemeanor.
- B. *Prohibiting possessing or owning companion animals.* The court may, in its discretion, prohibit any person convicted of violating subsection (A) from possessing or owning companion animals or equine.

(Ord. 98-A(1), 8-5-98, § 4-207; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13)

**State law reference** - Va. Code §§ 3.2-6544(B), 3.2-6570.

#### **Sec. 4-303 Abandoning or dumping an animal is prohibited.**

It is unlawful for any person to abandon or dump any animal; provided that it is not unlawful for an owner to release an animal to a public or private animal shelter or other releasing agency. Any person who unlawfully abandons or dumps any animal shall be guilty of a class 1 misdemeanor.

(Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code §§ 3.2-6543(A), 3.2-6544(B).

**Sec. 4-304 Animals running at large beyond the boundaries of their own land; boundary lines declared lawful fences.**

It is unlawful for the owner or manager of any horse, mule, swine, sheep, goat, or cattle of any description to permit the animal to run at large beyond the boundaries of their own land. The boundary lines of each lot or tract of land in the County are hereby declared to be a lawful fence.

(Code 1967, § 4-1; Code 1988, § 4-1; Ord. 98-A(1), 8-5-98, § 4-102; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code §§ 55-306, 55-316.

**Sec. 4-305 Diseased dogs and cats are prohibited from straying from their premises.**

It is unlawful for the owner of any dog or cat with a contagious or infectious disease to permit the dog or cat to stray from the owner's premises if the owner knows that the animal has the disease.

(Code 1967, § 4-12; Code 1988, § 4-17; Ord. 98-A(1), 8-5-98, § 4-211; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6587.

**Division 2. Seizure, Impoundment, and Disposition**

**Sec. 4-306 Seizure, impoundment, and disposition of animals that have been abandoned, cruelly treated, or are suffering.**

Any animal subjected to cruelty, abandoned, or which is suffering from a violation of this chapter or Virginia Code § 3.2-6500 *et seq.* that has rendered the animal in a condition that poses a direct and immediate threat to its life, safety, or health may be seized, impounded, and disposed as follows:

- A. *Authority of law enforcement officer or animal control officer to seize and impound animal.* Subject to subsection (B), any law enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter or the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*) that has rendered the animal in a condition that poses a direct and immediate threat to its life, safety, or health.
- B. *Seizing or impounding an agricultural animal.* A law enforcement officer or animal control officer may seize or impound an agricultural animal only as follows:
  - 1. *Prerequisite to seizure or impoundment; contacting the State Veterinarian and notifying the owner and the Commonwealth's Attorney.* Before seizing or impounding any agricultural animal, the law enforcement officer or animal control officer shall contact the State Veterinarian or the State Veterinarian's representative, who shall recommend to the officer the most appropriate action for effecting the seizure and impoundment. The law enforcement officer or animal control officer shall notify the owner of the agricultural animal and the Commonwealth's Attorney for the County of the recommendation. This subsection does not apply if the agricultural animal is under a direct and immediate threat.
  - 2. *Seizure when the animal is subject to a direct and immediate threat.* If there is a direct and immediate threat to an agricultural animal, the law enforcement officer or animal control officer may seize the animal. The law enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.
  - 3. *Impoundment is allowed on the land where the agricultural animal is located.* The law enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located in any of the following circumstances:
    - a. *Owner or tenant gives permission.* The owner or tenant of the land where the agricultural animal is located gives written permission;
    - b. *Court order.* The general district court so orders.
    - c. *Owner or tenant cannot be immediately located.* The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.
- C. *Petition and hearing in general district court after seizing or impounding an animal.* Upon seizing or impounding an animal, the law enforcement officer or animal control officer shall petition the County general district court for a hearing.
  - 1. *When the hearing must be held.* The hearing shall be not more than 10 business days after

the date the animal was seized or impounded.

2. *Issue to be determined at the hearing.* The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.
3. *Notice of the hearing.* Notice of the hearing shall be given as provided in Virginia Code § 3.2-6569(D).
4. *Determination and disposition.* The disposition of the hearing shall be either of the following:
  - a. *Animal not abandoned, cruelly treated, deprived of adequate care.* If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner.
  - b. *Animal abandoned, cruelly treated, deprived of adequate care.* If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care, or raised as a dog that has been, is, or is intended to be used in dogfighting in violation of Virginia Code § 3.2-6571, then the court shall order that the animal may be: (i) sold by the County, if it is not a companion animal, subject to County Code § 4-307; (ii) disposed of by the County pursuant to County Code § 4-308, whether the animal is a companion animal or an agricultural animal; or (iii) delivered to the person with a right of property in the animal as provided in County Code § 4-309.
5. *Additional authority of the court if it determines that the animal has been abandoned, cruelly treated, or deprived of adequate care.* If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care:
  - a. *Ordering the owner to pay reasonable expenses.* The court shall order the owner of the animal to pay to the providers of care all reasonable expenses incurred in caring and providing for the animal from the time the animal is seized until the animal is disposed of in accordance with this section and County Code §§ 4-307, 4-308, and 4-309.
  - b. *Prohibiting the owner from owning or possessing other companion animals.* The court shall prohibit the owner from owning or possessing other companion animals if the court determined that the owner had abandoned, cruelly treated, or deprived adequate care to a companion animal. In making a determination to prohibit the owner from owning or possessing other companion animals, the court may take into consideration the owner's past record of convictions under this chapter, the Comprehensive Animal Care laws (Virginia Code § 3.2-6500 *et seq.*), or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition. Any person who is prohibited from owning or possessing animals pursuant to this subsection may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.
  - c. *Prohibiting the owner from owning or possessing other agricultural animals.* The court shall prohibit the owner from owning or possessing any other agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating County Code §§ 4-301, 4-303, or 4-304. The court may also take into consideration the owner's mental and physical condition. Any person who is prohibited from owning or possessing animals pursuant to this subsection may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.
- D. *Appeals.* The procedure for appeal and trial is the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code § 19.2-260 *et. seq.* The State is required to prove its case beyond a reasonable doubt.
- E. *Care for the animal until the hearing is concluded; cost and bond.* The law enforcement officer or the animal control officer shall provide for the animal until the court has concluded the hearing. The County may require the owner of any animal held pursuant to this section for more than 30 days to post a bond in surety with the County for the amount of the cost of boarding the animal for a period not to exceed nine months.
- F. *Humane destruction of critically injured or sick animal.* This section allows the humane destruction of a critically injured or ill animal for humane purposes by the impounding law enforcement officer or animal control officer, or by a licensed veterinarian.

(Ord. 98-A(1), 8-5-98, § 4-208; Ord. 09-4(1), 7-8-09; Ord. 11-4(2), 7-6-11)

**State law reference** - Va. Code § 3.2-6569.

**Sec. 4-307 Sale of an animal, other than a companion animal, determined to have been abandoned, cruelly treated, deprived of adequate care.**

If the court orders that an animal that is not a companion animal be sold pursuant to County Code § 4-306(C)(4)(b)(i), the following apply:

- A. *Disposition of proceeds.* Proceeds shall first be applied to the costs of the sale, then next to the unreimbursed expenses for the care and provision of the animal. Any remaining proceeds shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund of the State treasury.
- B. *Owner may not purchase or otherwise obtain the animal.* The owner determined by the court to have abandoned, cruelly treated, or deprived adequate care to an animal shall not purchase the animal or otherwise obtain the animal.

(Ord. 98-A(1), 8-5-98, § 4-208; Ord. 09-4(1), 7-8-09; Ord. 11-4(2), 7-6-11)

**State law reference** - Va. Code § 3.2-6569(G), (L).

**Sec. 4-308 Release, adoption, or euthanization of an animal determined to have been abandoned, cruelly treated, deprived of adequate care.**

If the court orders that an animal be disposed of pursuant to County Code § 4-306(C)(4)(b)(ii), the following apply:

- A. *Release, adoption or euthanization.* The animal may be disposed by the County by any of the following methods:
  - 1. *Release to a releasing agency.* Release to any humane society, public or private animal shelter, or other releasing agency within the State, subject to the requirements of Virginia Code § 3.2-6546(D)(1).
  - 2. *Adoption by a County resident.* Adoption by a County resident, subject to the requirements of Virginia Code § 3.2-6546(D)(2).
  - 3. *Adoption by a resident of an adjacent locality.* Adoption by a resident of an adjacent locality, subject to the requirements of Virginia Code § 3.2-6546(D)(3).
  - 4. *Adoption by any other person.* Adoption by any other person, subject to the requirements of Virginia Code § 3.2-6546(D)(4).
  - 5. *Release to an out-of-state releasing agency for purposes of adoption or euthanasia.* Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency, located in and lawfully operating under the laws of another state, subject to the requirements of Virginia Code § 3.2-6546(D)(5).
  - 6. *Euthanization.* Euthanization, subject to the requirements of Virginia Code § 3.2-6546(D)(1).
- B. *Owner may not adopt or otherwise obtain the animal.* The owner determined by the court to have abandoned, cruelly treated, or deprived adequate care to an animal may not adopt or otherwise obtain the animal.

(Ord. 98-A(1), 8-5-98, § 4-208; Ord. 09-4(1), 7-8-09; Ord. 11-4(2), 7-6-11)

**State law reference** - Va. Code §§ 3.2-6546(D), 3.2-6569(F), (G).

**Sec. 4-309 Delivery of an animal determined to have been abandoned, cruelly treated, deprived of adequate care.**

If the court orders that an animal be disposed of pursuant to County Code § 4-305(C)(4)(b)(iii), the following apply:

- A. *Delivery to a person with right of property in animal.* The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of that person.
- B. *Owner may not purchase or otherwise obtain the animal.* The owner determined by the court to have abandoned, cruelly treated, or deprived adequate care to an animal may not purchase or otherwise obtain the animal.

(Ord. 98-A(1), 8-5-98, § 4-208; Ord. 09-4(1), 7-8-09; Ord. 11-4(2), 7-6-11)

**State law reference** - Va. Code §§ 3.2-6546(D), 3.2-6569(F), (G).

**Sec. 4-310 Seizure, impoundment, and disposition of animals running at large.**

Any animal observed or captured while unlawfully running at large shall be seized, impounded, and disposed as follows:

- A. *Confinement in an animal shelter.* The animal shall be confined in a public animal shelter.
- B. *Minimum duration of confinement.* The animal shall be confined in the public animal shelter for a minimum of five days, unless it is sooner claimed by its rightful owner. The five-day period begins on the day immediately following the day the animal is initially confined in the shelter.
- C. *Effort to identify rightful owner; extended duration of confinement.* The operator or custodian of public shelter of the public animal shelter shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If identification is found on the animal, it shall be held for an additional five days, unless it is sooner claimed by the rightful owner. If the rightful owner of the animal is identified, the operator or custodian of the shelter shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.
- D. *Charges and fees.* The owner of any animal claimed may be charged for the actual expenses incurred during its impoundment. In addition, the Board of Supervisors may, after a public hearing, adopt an ordinance to charge the owner a fee for impoundment and increased fees for later impoundments of the same animal.
- E. *Animal not claimed during the confinement period deemed abandoned.* If an animal confined pursuant to this section is not claimed upon expiration of the applicable holding period as provided in subsections (B) and (C), it shall be deemed abandoned and become the property of the public animal shelter.
- F. *Disposition of unclaimed animal deemed abandoned.* The public animal shelter may dispose of any unclaimed animal deemed abandoned under subsection (E) by any of the following methods:
  - 1. *Release to a releasing agency.* Release to any humane society, public or private animal shelter, or other releasing agency within the State, subject to the requirements of Virginia Code § 3.2-6546(D)(1).
  - 2. *Adoption by a County resident.* Adoption by a County resident, subject to the requirements of Virginia Code § 3.2-6546(D)(2).
  - 3. *Adoption by a resident of an adjacent locality.* Adoption by a resident of an adjacent locality, subject to the requirements of Virginia Code § 3.2-6546(D)(3).
  - 4. *Adoption by any other person.* Adoption by any other person, subject to the requirements of Virginia Code § 3.2-6546(D)(4).
  - 5. *Release to an out-of-state releasing agency for purposes of adoption or euthanasia.* Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency, located in and lawfully operating under the laws of another state, subject to the requirements of Virginia Code § 3.2-6546(D)(5).
  - 6. *Euthanization.* Euthanization by the animal shelter, subject to the requirements of Virginia Code § 3.2-6546(D)(1).

**State law reference** - Va. Code § 3.2-6546.

**Sec. 4-311 Disposing companion animal and livestock carcasses.**

When a companion animal or livestock dies:

- A. *Owner required dispose of body.* The owner of the companion animal or livestock shall promptly cremate, bury, or sanitarily dispose of the animal upon its death. The failure of the owner to do so is a violation of this section.
- B. *Disposal of the body by a County officer.* If, after notice from the Police Department, animal control officer or other County officer, the owner fails to do so, the animal control officer or other officer shall bury or cremate the companion animal or livestock.
- C. *Recovery of costs by the County.* The County may recover from the owner its costs to dispose the animal.

(Code 1967; § 4-11; 4-13-98; Code 1988, §§ 4-3, 4-11; Ord. 98-A(1), 8-5-98, § 4-206; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6554.

### **Division 3. Rabies Control**

#### **Sec. 4-312 Vaccination of dogs and cats is required.**

Dogs and cats four months of age and older are required to be vaccinated as follows:

- A. *Owner required to have dog or cat vaccinated.* Any owner of a dog or cat four months of age or older shall have the animal currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises unless otherwise provided by regulations. The vaccine used shall be licensed by the U.S. Department of Agriculture for use in that species.
- B. *Vaccination certificate.* The supervising veterinarian on the premises shall provide the owner or custodian of the dog or cat with a rabies vaccination certificate or herd rabies vaccination certificate and shall keep a copy in his own files. At the discretion of the director of the Charlottesville-Albemarle Health Department, a medical record from a licensed veterinary establishment reflecting a currently vaccinated status may serve as proof of vaccination.
- C. *Contents of the vaccination certificate.* The rabies vaccination certificate shall include, at a minimum, the signature of the veterinarian, the animal owner's name and address, the locality where the animal resides, the species of the animal, the sex, the age, the color, the primary breed, whether the animal is spayed or neutered, the vaccination number, and the expiration date.
- D. *Obligation of owner to furnish a certificate upon request.* The owner or custodian of a dog or cat shall furnish within a reasonable period of time, upon the request of an animal control officer or other law enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat.
- E. *Rabies clinics.* Vaccinations provided by rabies clinics are subject to the following:
  - 1. *Approval of clinic is required.* All rabies clinics require the approval by the Charlottesville-Albemarle Health Department and the Board of Supervisors.
  - 2. *Duties of the clinic veterinarian.* The licensed veterinarian who administers rabies vaccinations at the clinic shall: (i) provide the owner or custodian a rabies vaccination certificate for each vaccinated animal; and (ii) ensure that a licensed veterinary facility retains a copy of the rabies vaccination certificate.
  - 3. *Obligation of sponsoring organization to furnish location of copy of certificate.* The sponsoring organization of a rabies clinic shall, upon the request of the owner or custodian, an animal control officer, a humane investigator, a law-enforcement officer, a State Veterinarian's representative, a licensed veterinarian, or an official of the Department of Health, provide the name and contact information of the licensed veterinary facility where a copy of the rabies vaccination certificate is retained. However, the County shall ensure that a clinic is conducted to serve its jurisdiction at least once every two years.
- F. *Vaccination after summons issued.* Vaccination after a summons to appear before a court has issued for failure to vaccinate a dog or cat does not operate to relieve the owner from the penalties or court costs provided under Virginia Code §§ 16.1-69.48:1 or 17.1-275.7.

(Code 1967, § 4-35; 4-8-87; 12-14-88; Code 1988, § 4-38; Ord. 98-A(1), 8-5-98, § 4-500; Ord. 09-4(1), 7-8-09; Ord. 10-4(1), 9-1-10)

**State law reference** - Va. Code §§ 3.2-6521, 3.2-6529(A).

#### **Sec. 4-313 Providing rabies certificates or rabies certificate information; veterinarians and the Director of Finance.**

Rabies certificates or rabies certificate information shall be provided by veterinarians and the Director of Finance as follows:

- A. *Duty of veterinarians.* Any veterinarian who vaccinates a dog against rabies or who directs a veterinary technician in his employment to vaccinate a dog against rabies shall provide a copy of the rabies vaccination certificate or the relevant information contained in the certificate to the County's Director of Finance within 45 days after the dog is vaccinated. "Relevant information" means the minimum information in a rabies vaccination certificate required by County Code § 4-312(C).
  - 1. *Penalty.* Any veterinarian who willfully fails to provide the Director of Finance with a copy of the rabies vaccination certificate or the relevant information contained in the certificate may be subject to a civil penalty not to exceed \$10 per certificate.
  - 2. *Disposition of penalties.* Penalties received pursuant to subsection (A)(1) shall be placed in the County's general fund for the purpose of animal control activities including spay or neuter programs.



- B. *Duty of Director of Finance.* The Director of Finance shall send any rabies vaccination certificate received for any dog or other animal owned by a person residing in another locality to the treasurer of that locality.

(Ord. 08-4(2), 9-3-08, § 4-303; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6529.

**Sec. 4-314 Animals that show active signs of rabies, may have been exposed to rabies, or are suspected to be rabid.**

The following apply when animals show active signs of rabies, may have been exposed to rabies, or are suspected to be rabid:

- A. *Dogs or cats showing active signs of rabies or suspected of having rabies.* Any dog or cat showing active signs of rabies or suspected of having rabies that is not known to have exposed a person, companion animal, or livestock to rabies shall be confined under competent observation for as long as to determine a diagnosis. If, in the discretion of the director of the Charlottesville-Albemarle Health Department, confinement is impossible or impracticable, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in Virginia Code § 3.2-6546.
- B. *Dogs or cats that may have been exposed to rabies; no proof of current rabies vaccination available.* The following applies when any dog or cat, for which no proof of current rabies vaccination is available, that may have been exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid:
1. *Isolation.* The dog or cat shall be isolated in a public or private animal shelter, kennel, or enclosure approved by the Charlottesville-Albemarle Health Department for a period not to exceed six months at the expense of the owner or custodian in a manner and by a date certain as determined by the director of the Charlottesville-Albemarle Health Department.
  2. *Vaccination.* The dog or cat shall be vaccinated for rabies by a licensed veterinarian before the dog or cat is released. Inactivated rabies vaccine may be administered at the beginning of isolation.
  3. *Disposition if isolation is not feasible or maintained.* If the director of the Charlottesville-Albemarle Health Department determines that isolation is not feasible or maintained, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian as provided in Virginia Code § 3.2-6546.
- C. *Dogs or cats that may have been exposed to rabies; proof of current rabies vaccination available*  
The following applies when any dog or cat, for which proof of current rabies vaccination is available, that may have been exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid:
1. *Confinement.* The dog or cat shall be confined to the premises of the owner or custodian, or other site as may be approved by the Charlottesville-Albemarle Health Department, at the expense of the owner or custodian, for a period of 45 days.
  2. *Revaccination.* The dog or cat shall be revaccinated for rabies by a licensed veterinarian immediately following the exposure.
  3. *Disposition if dog or cat not confined.* The director of the Charlottesville-Albemarle Health Department may exercise discretion to determine the disposition of any dog or cat not confined as provided in subsection (C)(1).
- D. *Animals other than dogs and cats showing active signs of rabies.* The director of the Charlottesville-Albemarle Health Department shall exercise discretion to determine the disposition of any animal, other than a dog or cat, showing active signs of rabies. The disposition may include testing and euthanasia.
- E. *Animals other than dogs and cats exposed or may have been exposed to rabies.* The director of the Charlottesville-Albemarle Health Department shall exercise discretion and determine the disposition of any animal, other than a dog or cat, that is exposed or may have been exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid.
- F. *Duty of person to report.* Every person having knowledge of the existence of an animal that is suspected to be rabid and that may have exposed a companion animal or livestock to rabies shall report immediately to the Charlottesville-Albemarle Health Department the existence of the animal, the place where it was seen, the owner's name, if known, and the signs suggesting rabies.
- G. *Punishment.* A violation of this section is punishable as a class 1 misdemeanor.

(Code 1967, § 4-37; Code 1988, § 4-40; Ord. 98-A(1), 8-5-98, § 4-502; Code 1967, § 4-38; Code 1988, §

4-41; Ord. 98-A(1), 8-5-98, § 4-503; Ord. 09-4(1), 7-8-09; Ord. 10-4(1), 9-1-10; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code § 3.2-6522.

**Sec. 4-315 Animals that exposed or may have exposed a person to rabies.**

The following applies to animals that exposed or may have exposed a person to rabies:

- A. *Confinement.* At the discretion of the director of the Charlottesville-Albemarle Health Department, any animal that may have exposed a person to rabies shall be confined under competent observation for 10 days at the expense of the owner or custodian, unless the animal develops active signs of rabies, expires, or is euthanized before that time. A seriously injured or sick animal may be euthanized as provided in Virginia Code § 3.2-6546.
- B. *Animals other than dogs and cats that exposed or may have exposed a person to rabies through a bite or other means.* The director of the Charlottesville-Albemarle Health Department shall exercise discretion and determine the disposition of any suspected rabid animal, other than a dog or cat, that exposed or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane. The disposition may include euthanasia as provided in Virginia Code § 3.2-6546, or as directed by the State agency with jurisdiction over that species.
- C. *Testing head or brain of dead animal that may have exposed a person to rabies.* When any animal may have exposed a person to rabies later dies due to illness or euthanasia, either within an observation period, when applicable, or as part of a public health investigation, its head or brain shall be sent to the Division of Consolidated Laboratory Services of the Department of General Services or be tested as directed by the Charlottesville-Albemarle Health Department.
- D. *Duty of person to report.* Every person having knowledge of the existence of an animal that is suspected to be rabid and that may have exposed a person to rabies shall report immediately to the Charlottesville-Albemarle Health Department the existence of the animal, the place where it was seen, the owner's name, if known, and the signs suggesting rabies.
- E. *Punishment.* A violation of this section is punishable as a class 1 misdemeanor.

(Code 1967, § 4-37; Code 1988, § 4-40; Ord. 98-A(1), 8-5-98, § 4-502; Code 1967, § 4-38; Code 1988, § 4-41; Ord. 98-A(1), 8-5-98, § 4-503; Ord. 09-4(1), 7-8-09; Ord. 10-4(1), 9-1-10; Ord. 14-4(1), 6-4-14, effective 7-1-14)

**State law reference** - Va. Code § 3.2-6522.

**Sec. 4-316 Harboring or concealing rabid animals.**

It is unlawful for any person to conceal a rabid animal to keep the animal from being killed.

(Code 1967, § 4-15; Code 1988, § 4-13; Ord. 98-A(1), 8-5-98, § 4-210; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-4543.

**Division 4. Stolen Dogs and Cats, and Noise**

**Sec. 4-317 Dogs and cats are deemed to be personal property.**

All dogs and cats are deemed to be personal property and:

- A. *May be the subject of certain prosecutions.* Dogs and cats may be the subject of prosecutions for larceny and malicious or unlawful trespass.
- B. *Owner may bring a lawsuit.* Any owner of a dog or cat may maintain any action for the killing of any such animals, or injury thereto, or unlawful detention or use thereof, as in the case of other personal property.
- C. *Owner may recover damages from the person who killed or injured dog or cat.* The owner of any dog or cat that is killed or injured contrary to the provisions of this chapter or State law by any person is entitled to recover from that person the value of the dog or cat, or the damage done to it, in an appropriate action at law from such person.

(Code 1967, § 4-6; Code 1988, § 4-6; Ord. 98-A(1), 8-5-98, § 4-200; Code 1967, § 407; Code 1988, § 4-7; Ord. 98-A(1), 8-5-98, § 4-201; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6585.

**Sec. 4-318 Authority of animal control officer to seize stolen or unlawfully detained dog; disposition.**

When an animal control officer finds a stolen or unlawfully held or detained dog, the following apply:

- A. *Authority of animal control officer to seize the dog.* Any animal control officer finding a stolen dog or a dog unlawfully held or detained is authorized to seize and hold the dog pending action before the general district court or other court.
- B. *Return to owner if court action not filed within seven days.* If a court action is not instituted within seven days, the animal control officer shall deliver the dog to its owner.
- C. *Presence of a dog on the premises of another does not create presumption of theft.* The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of the premises, but it shall be that person's duty to notify the animal control officer, and the animal control officer shall take the dog in charge and notify its legal owner to remove it.

(Code 1967, § 4-8; 4-13-88; Code 1988, § 4-8; Ord. 98-A(1), 8-5-98, § 4-202; Ord. 09-4(1), 7-8-09)

**State law reference** - Va. Code § 3.2-6585.

**Sec. 4-319 Frequent or continuous sounds by animals are prohibited.**

Frequent or continuous howls, barks, and other excessive or continuous sounds by animals may be enforced as follows:

- A. *Sounds from animals; exclusions.* It is unlawful and shall be a nuisance for an owner or custodian of an animal to harbor the animal within the County if that animal frequently or for a continued duration howls, barks or makes other excessive or continuous sounds which are audible on the property of a complainant in the County. For the purposes of this section, "excessive or continuous sounds" means any howling, barking or other animal noise which continues for at least 30 consecutive minutes with no cessation of such sounds for time periods greater than five minutes during the 30 consecutive minute period. This section does not apply to any of the following:
  - 1. *Animals on certain Rural Areas-zoned parcels.* Sounds created by any animal located on a parcel five acres or more in size that is zoned Rural Areas district.
  - 2. *Animals in shelters.* Sounds created by any animal in a public or private animal shelter.
  - 3. *Animals in commercial kennels.* Sounds created by any animal in a commercial kennel as defined in County Code Chapter 18.
  - 4. *Livestock or poultry.* Sounds created by livestock or poultry.
- B. *Complaints of animal noise.* Notwithstanding County Code § 4-102, no person shall be charged with a violation of this section unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of an animal control officer or police officer, he shall have the authority to initiate all necessary proceedings.
- C. *Penalty for violation.* A violation of this section is punishable as a class 3 misdemeanor, and any owner or custodian of an animal found guilty under this section shall be required to abate the disturbance.

(Ord. 08-4(1), 6-11-08, § 4-601, § 4-602, §4-603; Ord. 09-4(1), 7-8-09; Ord. 14-4(1), 6-4-14, effective 7-1-14)

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

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Agenda Item No. 23. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. McKeel provided an update on the Regional Transit Partnership. She remarked that the work has been slow because they only meet every other month but has agreed to increase this to monthly starting next year. She said they now have bylaws, are working on the mission statement, and are working with two committees on the contract formula piece for how budgets would be developed. She said they would not discuss the Transit Partnership at the joint meeting because they do not feel that they are ready to roll out a discussion between the joint boards. She said they had a great retreat, some really good work was taking place, and they would eventually formalize this in a report to the boards. She said they may alternate between business meetings and work sessions for the monthly meetings.

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Mr. Gallaway announced that TJPDC would hold an open house on the Long-Range Transportation Plan and the Jefferson Area Bike and Pedestrian Plan on October 17, 2018, from 5:30 – 7:30 p.m. at Water Street Center, 407 East Water Street with parking validation available at Water Street parking garage.

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Agenda Item No. 24. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 25. Closed Session (*if needed*).

At 9:23 p.m., Mr. Gallaway **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to:
  1. Discuss and consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and
  2. Conduct the annual performance review of the County Executive; and
- Under Subsection (3), to discuss and consider the disposition of real property in the City of Charlottesville related to court facilities, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County; and
- Under Subsection (7), to consult with legal counsel and briefing by staff members pertaining to actual litigation between the Board and the City of Charlottesville, where the consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the County and the Board; and
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for, and the possible relocation of, court facilities.

The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.  
NAYS: None.

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**Certify Closed Meeting**

At 10:30 p.m., Mr. Gallaway **moved** that the Board certify by recorded vote that, to the best of each member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.  
NAYS: None.

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**Vacancies and Appointments**

Mr. Dill **moved** that the Board make the following appointments/reappointments to boards and commissions:

- **Reappoint**, Mr. Jonathon Early and Mr. Robert Finley to the 5<sup>th</sup> & Avon Community Advisory Committee with said terms to expire September 30, 2020.
- **Reappoint**, Ms. Audrey Kocher to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2020.
- **Appoint**, Ms. Judith (Judy) Schulssel to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2020.

The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. McKeel, Ms. Palmer, Mr. Randolph, Mr. Dill, Mr. Gallaway and Ms. Mallek.  
NAYS: None.

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Agenda Item No. 26. Adjourn to October 4, 2018, 10:00 a.m., 1600 5<sup>th</sup> Street, Room A.

At 10:32 p.m., Ms. Mallek adjourned the meeting to October 4, 2018 at 10:00 a.m. 5<sup>th</sup> Street County Office Building, Room A.

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Chairman

Approved by Board
Date 09/18/2019
Initials CKB