

ACTIONS
Board of Supervisors Meeting of July 3, 2013

July 5, 2013

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>PODCAST</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 9:02 a.m., by the Chair, Ms. Mallek. All BOS members were present. Also present were Tom Foley, Larry Davis, Ella Jordan and Travis Morris. 		Listen
4. Adoption of Final Agenda. <ul style="list-style-type: none"> Ms. Mallek added for discussion, sending letter to Governor regarding performance standards for ABC officers. ACCEPTED the final agenda. 		
5. Brief Announcements by Board Members. <ul style="list-style-type: none"> There were none. 		
6. Recognitions: <ul style="list-style-type: none"> There were none. 		
7. From the Public: Matters Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> <u>The following individuals spoke about the appointment of the Scottsville District member to the Board of Supervisors:</u> <ul style="list-style-type: none"> Dell Erwin Linda O'Connor <u>Charles Battig</u> spoke about wi-fi in the school system. <u>Nancy Carpenter</u> spoke on the Board's continued financial support for the residents of The Crossing at 4th and Preston. 		Listen
8.2 Proposed Lease of Interim Emergency Medical Facilities Station on Berkmar Drive to Service the Route 29 North area. <ul style="list-style-type: none"> ADOPTED Resolution to approve proposed Lease Agreement for the Berkmar Drive office space and AUTHORIZED County Executive to sign the lease and any associated documents, after approval of both form and substance by the County Attorney. 	<u>Clerk:</u> Forward copy of signed resolution to County Attorney's office and Fire/Rescue. (Attachment 1) <u>County Attorney's office:</u> Provide Clerk with copy of fully executed agreement. (Attachment 2)	Listen
8.3 Resolution to Authorize Inmate Community Workforce Program. <ul style="list-style-type: none"> ADOPTED Resolution re-establishing inmate work forces from the Albemarle-Charlottesville Regional Jail to work on property owned, leased or operated by the County of Albemarle and on other property specified in Virginia Code § 53.1-128. 	<u>Clerk:</u> Forward copy of signed resolution to County Attorney's office and Parks and Recreation. (Attachment 3)	
8.4 FY 2013 Budget Amendment and Appropriations. <ul style="list-style-type: none"> APPROVED appropriations #2013099, #2013100, #2013101, #2013102, and #2013103 to provide funds for various local government projects and programs 	<u>Clerk:</u> Forward copy of signed appropriations form to OMB, Finance and appropriate individuals.	
8.5 Resolution to accept Timberwood Boulevard into the State Secondary System of Highways. <ul style="list-style-type: none"> ADOPTED resolution. 	<u>Clerk:</u> Forward copy of signed resolution and AM-4.3 Form to County Engineer and County Attorney's office. (Attachment 4)	
8.6 Resolution to Appoint Robert Gilmer as Assistant	<u>Clerk:</u> Forward copy of signed	

	<p>Fire Marshal's with Police Powers.</p> <ul style="list-style-type: none"> • ADOPTED resolution appointing Robert Gilmer as an Assistant Fire Marshal with police powers. 	<p>resolution to County Attorney's office and Fire/Rescue. (Attachment 5)</p>	
8.7	<p>SUB-2013-067. Napier Subdivision - Special Exception from Building Site Requirement under County Code § 18-4.2.1(b).</p> <ul style="list-style-type: none"> • APPROVED the special exception and waiver of the building site requirement in County Code § 18-4.2 of the Zoning Ordinance, as recommended by staff. 	<p><u>J. T. Newberry</u>: Proceed as approved.</p>	
8.8	<p>ZMA-1979-00032. Briarwood Application Plan – Special Exception to allow variation from side yard setback.</p> <ul style="list-style-type: none"> • APPROVED the special exception, subject to the following condition, as recommended by staff: <ul style="list-style-type: none"> 1. The minimum side yard setback for this parcel is 2.5 feet 	<p><u>J. T. Newberry</u>: Proceed as approved.</p>	
9.	<p>Crozet Library First Floor Space Usage.</p> <ul style="list-style-type: none"> • By a vote of 5:0: <ul style="list-style-type: none"> • APPROVED the blended approach as recommended and described by staff; • DIRECTED staff to negotiate a lease with the proposed retail tenant for the larger space, and to advertise a public hearing for public input for the Board to consider its approval of the lease; • DIRECTED staff to finalize details of the "Adventure Outpost" concept for final Board approval; and • APPROVED completion of a base upfit of the first floor while the General Contractor for the Library project is still on site. 	<p><u>Lee Catlin/Trevor Henry</u>: Proceed as approved.</p>	<p>Listen</p>
10.	<p>The Crossings at 4th and Preston.</p> <ul style="list-style-type: none"> • DIRECTED staff to draft letter to HUD Deputy Secretary, Maurice Jones, for his recent visit to The Crossings, and for his assistance in ensuring a timely review and approval of the SLR. • SCHEDULE update on August 14th agenda. 	<p><u>Ron White</u>: Draft letter for Chair's signature.</p> <p><u>Clerk</u>: Schedule on agenda.</p>	<p>Listen</p>
11.	<p>Work Session: Water Resources Program Development.</p> <ul style="list-style-type: none"> • HELD. 		<p>Listen</p>
12.	<p>Closed Meeting.</p> <ul style="list-style-type: none"> • At 11:14 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; under Subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring the provision of legal advice related to the appointment of the Scottsville District member to the Board of Supervisors. 		<p>Listen</p>
13.	<p>Certified Closed Meeting.</p> <ul style="list-style-type: none"> • At 1:34 p.m., the Board reconvened into open meeting and certified the closed meeting. 		

<p>14. Boards and Commissions: Appointments.</p> <ul style="list-style-type: none"> • REAPPOINTED Mr. Jason Burch to the Charlottesville-Albemarle Convention and Visitors (CACVB) Management Bureau with said term to expire June 30, 2015. • APPOINTED Ms. Cynthia Chiles to the Charlottesville-Albemarle Convention and Visitors (CACVB) Management Bureau with said term to expire June 30, 2015. • APPOINTED Ms. Cyndra Van Clief to the Jail Authority Board to fill the unexpired term of Valerie L'Herrou effective July 12, 2013, to expire on August 4, 2014. • APPOINTED Ms. Elly Tucker to the Places 29 Community Advisory Council to fill the unexpired term of Mr. Robert Short, to expire on January 31, 2016. • APPOINTED Mr. William Craddock to the Village of Rivanna Community Advisory Council with said term to expire March 31, 2016. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
<p>15. VDoT Monthly Report, Joel DeNunzio.</p> <ul style="list-style-type: none"> • Announced that John Lynch would be taking over as the new Culpeper District Administrator. • Highlighted various items from VDoT's monthly report. • Announced that the Route 708 road closure would begin mid August. • Announced that paving of Gillums Ridge Road would begin mid July. • Announced that Brent Sprinkel is preparing a response to the Board's request for a public meeting on the northern terminus of the Route 29 Western bypass interchange. • Reported that he has made requests for traffic studies at various locations as previously requested by the Board. 		Listen
<p>Recess. At 1:52 p.m., the Board recessed and then reconvened at 2:03 p.m.</p>		
<p>16. <u>Pb. Hrg: SP-2012-00032. Bellair CSA Barn (Sign # 90).</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, APPROVED SP-2012-00032 subject to eight conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 6)</p>	Listen
<p>17. <u>Pb. Hrg: Intent to adopt an ordinance to amend sections 4-100, Definitions, 4-108, Cruelty to animals; penalty and 4-218, Dangerous and Vicious Dogs, and to add section 4-219, Vicious Dogs, to Chapter 4, Animals and Fowl, of the Albemarle County Code.</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Ordinance to amend Sections 4-100, 4-108, 4-218 and to add Section 4-219 of the County Code. 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Police Department. (Attachment 7)</p>	Listen
<p>18. <u>Pb. Hrg: Intent to adopt an ordinance to amend Chapter 6, Fire Protection, of the Albemarle County Code by adding section 6-113, Physical examinations for firefighters and other operational members.</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Ordinance to amend Section 6-113 of the County Code. 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Fire/Rescue. (Attachment 8)</p>	Listen

<p>19. <u>Pb. Hrg: Intent to adopt an ordinance to amend Chapter 10, Offenses-Miscellaneous, of the Albemarle County Code by amending section 10-123, Prohibited activities on public roadways and medians.</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Ordinance to amend Section 10-123 of the County Code. 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Police Department. (Attachment 9)</p>	<p>Listen</p>
<p>20. <u>Pb. Hrg: Intent to adopt an ordinance to amend Article III, Dealers in Precious Metals, of Chapter 12, Regulated Enterprises, of the Albemarle County Code by amending section 12-308, Records, copies of bill of sales required; inspection, and section 12-311, Dealer to retain purchases.</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Ordinance to amend Sections 12-308 and 12-311 of the County Code. 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Police Department. (Attachment 10)</p>	<p>Listen</p>
<p>21. <u>Pb. Hrg: FY 2014 Budget Amendment and Appropriations.</u></p> <ul style="list-style-type: none"> • By a vote of 5:0, APPROVED, the FY 2014 Budget Amendment in the amount of \$5,509,444.99 and APPROVED appropriations #2014002, #2014003, #2014004, #2014005, #2014006, #2014007, #2014008, #2014009, #2014010, #2014011, #2014012, and #2014013 to provide funds for various local government projects and programs. 	<p><u>Clerk:</u> Forward copy of signed appropriations form to OMB, Finance and appropriate individuals.</p>	<p>Listen</p>
<p>Recessed. At 2:57 p.m., the Board recessed and reconvened at 3:04 p.m.</p>		
<p>22. From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Discussed appropriating \$13,000 to the Albemarle Charlottesville Historical Society. • Discussed sending letter to Governor concerning performance standards and practices of ABC officers. <ul style="list-style-type: none"> • AGREED to send a letter to the Governor. <p><u>Rodney Thomas:</u></p> <ul style="list-style-type: none"> • Updated Board on the Lewis and Clark Exploratory Center. 	<p><u>Clerk:</u> Reschedule on agenda when ready to come back to Board. <u>County Executive's office:</u> Prepare letter for Chair's signature.</p>	<p>Listen</p>
<p>23. From the County Executive: Report on Matters Not Listed on the Agenda. <u>Tom Foley:</u></p> <ul style="list-style-type: none"> • Announced that Board members would be receiving an email regarding the records retention policies staff has been following as they relate to land records. 		<p>Listen</p>
<p>24. To receive statements from candidates seeking appointment as the Scottsville District representative on the Board of Supervisors.</p> <ul style="list-style-type: none"> • Received. 		<p>Listen</p>
<p>25. Closed Meeting: Appointments.</p> <ul style="list-style-type: none"> • At 3:49 p.m., Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider the appointment of the Scottsville District member to the Board of Supervisors who will hold that office until a replacement Board member is elected in a special election to be held on 		<p>Listen</p>

	November 5, 2013, and such person qualifies for the office.		
26.	Certify Closed Meeting. <ul style="list-style-type: none"> At 4:45 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
27.	Adjourn to July 10, 2013, 3:30 p.m., Lane Auditorium. <ul style="list-style-type: none"> At 4:46 p.m., the Board adjourned until July 10, 2013. 		

ewj/tom

- Attachment 1 – Resolution Approving Lease Agreement for Emergency Medical Facilities Station
- Attachment 2 – Proposed Lease Agreement for Emergency Medical Facilities Station
- Attachment 3 – Resolution to Authorize Inmate Community Workforce Program
- Attachment 4 – Resolution to accept Timberwood Boulevard into the State Secondary System of Highways
- Attachment 5 – Resolution to Appoint Robert Gilmer as Assistant Fire Marshal's with Police Powers
- Attachment 6 – Conditions of Approval
- Attachment 7 – Ordinance – Animals and Fowl
- Attachment 8 – Ordinance – Fire Protection
- Attachment 9 – Ordinance – Offenses-Miscellaneous
- Attachment 10 – Ordinance – Regulated Enterprises

**RESOLUTION APPROVING LEASE AGREEMENT
FOR EMERGENCY MEDICAL SERVICES STATION**

WHEREAS, the County of Albemarle intends to provide twenty-four hours per day, seven days per week ambulance transport service beginning on July 1, 2013 to improve emergency response times in the 29 North area; and

WHEREAS, Claude and Carol Marsilia have offered a 13-month lease for space in the Village Offices on Berkmar Drive at which the County can locate an interim emergency medical services station until a permanent site can be finalized.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the Lease Agreement and authorizes the County Executive to sign the Lease Agreement and any associated documents between the County of Albemarle and Claude and Carol Marsilia after approval as to form and substance by the County Attorney for an interim emergency medical services station at 3042-A Berkmar Drive, Charlottesville, Virginia 22901.

LEASE

THIS LEASE made as of this 4th day of July, 2013, by and between Claude and Carol Marsilia (hereinafter referred to as "Lessor") and the County of Albemarle, Virginia (hereinafter referred to as "Lessee").

W I T N E S E T H:

ARTICLE I
PREMISES

1.1 Lessor does hereby demise, rent and lease to Lessee and Lessee hereby rents and takes from Lessor all that certain parcel of improved property known as Unit 7A, Phase-II, Village Offices, Albemarle County, Virginia. The property has a street address of 3042-A Berkmar Drive, Charlottesville, Virginia and is also known as Albemarle County Tax Map Parcel 061U0-03-00-007A0, consisting of approximately 0.10 acres of land and 836 square feet of office space, together with (a) the Lessor's interest in the parking lot and other common areas of the Village Offices and (b) two (2) parking space(s), located on the side of the building for Lessee's emergency response vehicle(s) (hereinafter collectively referred to as "Premises");

TO HAVE AND TO HOLD the Premises together with all privileges and appurtenances thereunto belonging or appertaining unto Lessee for the full term of this Lease in accordance with the terms and provisions of this Lease.

1.2 Lessor's Title. Lessor covenants that it has both fee simple title to the Premises and full right and authority to make and execute this Lease and perform its obligations hereunder.

ARTICLE II
TERM

2.1 The term of this Lease shall commence on July 4, 2013 and expire on July 31, 2014, both dates inclusive.

2.2 The Lessee shall have the right to six (6), one (1) month extensions of the Lease as long as Lessor received thirty (30) days notice of Lessee's intent to extend.

ARTICLE III
RENTAL

3.1 Lessee shall pay to Lessor at its offices as stipulated in paragraph 15.11, or at such other location as Lessor shall designate in writing, a monthly rental of \$1,025.00 beginning on August 1, 2013. One such monthly installment shall be due and payable without demand on or before the first day of each succeeding calendar month during such term (first rent payment shall be prorated to end of month). The covenant of Lessee to pay rent hereunder is and shall be deemed a separate and individual covenant and Lessee shall have no right of deduction or set-off whatsoever.

3.2 Lessee agrees to pay to Lessor or to the public officer charged with the collection thereof, as additional rent before the same become delinquent, all charges for electric power, telephone, license fees and charges that during the full term of this lease shall be levied, assessed, charged or imposed upon Lessee or Lessee's business, together with all interest and penalties that may accrue thereon, except that:

- (a) Income, sales, use, excise, or other taxes imposed on the rents or other sums payable to Lessor hereunder shall not be chargeable to Lessee;
- (b) Any estate, inheritance, succession or legacy tax or gift tax or capital gains tax or other tax imposed or any transfer of the interest of Lessor shall not be chargeable to Lessee;
- (c) All real estate taxes and assessments shall be paid by Lessor; and
- (d) Water and sewer charges shall be paid by Lessor.

3.3 The Lessor acknowledges receipt of the sum of \$1,025.00 to be held by Lessor as a Security Deposit for the faithful performance by Lessee of the terms, covenants and conditions to be performed hereunder. There shall be no interest payable on such Security Deposit. Any portion of the Security Deposit may be applied towards payment of overdue or unpaid rent at the option of Lessor, or as compensation to Lessor for any loss, damage or expense sustained by Lessor attributable to Lessee's default hereunder. Lessor shall refund the Security Deposit to Lessee thirty (30) days after the expiration of this Lease, or any extensions exercised pursuant to Section 2.2 of this Lease. Lessor may withhold only that portion of the Security Deposit necessary to repair damage to the Premises resulting from the intentional or negligent acts of the Lessee except ordinary wear and tear.

ARTICLE IV USE

4.1 The Premises shall be used only as offices and lodging for the County Emergency Services personnel and for such other lawful purposes as may be incidental thereto. The Premises shall not be used for any illegal purposes; nor in violation of any regulation of any governmental body; nor in any manner to vitiate the insurance on the Premises. Lessee shall, at its own expense, obtain any and all licenses and permits necessary for its use of the Premises. Without Lessor's prior written consent, Lessee shall not receive, store or otherwise handle any product, material or merchandise which is explosive or highly inflammable. In no event shall any activity carried out on the Premises emit smoke, noxious odor or dust.

4.2 Lessee shall not use the sidewalks, parking area or other parts of the common area for any business purpose except for the parking of vehicles owned or operated by the Lessee, its agents, and/or invitees, and for ingress and egress. Lessee shall have non-exclusive use of such areas in common with other occupants in the complex.

4.3 Lessor gives Lessee exclusive control of the Premises and shall be under no obligation to inspect the Premises. Lessor may, however, inspect the Premises during business hours to determine whether or not Lessee is complying with the terms and provisions of this lease or to show the Premises to prospective purchasers of the Premises or to prospective mortgagees of the Premises and during the last one (1) year of this lease to prospective tenants.

ARTICLE V REPAIRS

5.1 Lessor shall, at its expense, maintain the roof, structural parts, and outside walls of the premises. The condominium association for all units in the complex is responsible for all common area maintenance.

5.2 Lessee accepts the Premises in their present condition and as suited for the use intended by Lessee. Lessee shall be responsible for the interior of the building, including all plumbing and heating and air conditioning, subject, however, to the limits set in paragraph 5.3 below. Lessee shall, at the end of the term hereof, deliver possession of the Premises to Lessor in the same condition as the Premises were in on the commencement of the terms hereof, natural wear and tear excepted. Lessee shall not remove any fixtures, machines or equipment from the Premises unless it shall repair and restore any damage caused to Premises caused by the installation, removal or use of said fixtures, equipment or machines and in no event shall it remove any equipment or fixtures from premises if it is in default under this lease.

5.3 Notwithstanding anything herein contained, Lessee shall be required in any twelve (12) month period to spend a maximum of \$200.00 on heating and air conditioning maintenance service (administered by Lessor), \$200.00 on heating and air conditioning repairs, \$200.00 on electrical repairs and \$200.00 on plumbing repairs. Beyond these limits the Lessor shall be responsible for all such repairs. Provided however, electric fixture light bulbs and ballasts shall be Lessee's expense.

5.4 Lessor shall care for the grounds surrounding the building, including the mowing of grass, care of shrubs and general landscaping.

ARTICLE VI ALTERATIONS

6.1 Lessee shall not make any alterations, additions or improvements on the Premises without the written consent of Lessor. All such alterations, additions or improvements made by Lessee shall become the property of Lessor upon termination of this Lease.

6.2 At the termination of this lease, Lessee shall, only if requested by Lessor, remove all alterations, additions or improvements erected by Lessee and restore the Premises to their original condition, natural wear and tear excepted. Any such removals and restoration shall be accomplished in a good workmanlike manner. Lessee shall keep Premises free of any mechanic's lien or encumbrances due to Lessee's alterations, additions, removal or improvements.

ARTICLE VII
DESTRUCTION OR DAMAGE

7.1 In the event that the building on the Premises is totally destroyed or so substantially damaged as to be untenable by fire, lightning, earthquake, windstorm, or other casualty, and cannot be repaired within a reasonable time, this lease may be terminated by either party upon thirty (30) days written notice to the other, and rent shall be accounted for between Lessor and Lessee as of that date.

7.2 If the building on the Premises, or any part thereof, is damaged but not rendered untenable by any such casualty, Lessor shall repair the Premises within a reasonable time after receipt of written notice from Lessee of such damage, provided that Lessor shall not be required to rebuild, repair or replace any part of the alterations, additions, improvements, equipment or machinery which may have been placed on the Premises by Lessee. The rent until such repairs shall be made shall be abated proportionately to the part of the building which is usable by Lessee. At the completion of such repairs, full rent shall recommence.

ARTICLE VIII
INSURANCE

8.1 Lessor will maintain, at its expense, insurance on the Premises against loss or damage by fire, lightning and other risks. No furniture, equipment, fixtures, improvements or other property of Lessee will be included in said coverage. Lessee must provide its own coverage for any of its property.

ARTICLE IX
CONDEMNATION

9.1 If during the term of this lease the Premises or any part thereof be condemned or taken by any governmental authority or any corporation having the power of eminent domain, the court in such condemnation proceedings shall be requested to make separate awards to Lessor and Lessee, and Lessor and Lessee agree to request such action by such court; however, in the event that the court grants only one award then it shall be the sole and exclusive property of the Lessor, and Lessee shall make no claim against this award. If the entire Premises are condemned, or if a substantial portion of the Premises is taken and the portion remaining after such condemnation proceedings shall not be suitable for Lessee's use, this lease shall terminate as of the date of taking. If the portion of the Premises remaining after such condemnation proceedings shall be suitable for Lessee's use, the rent payable by Lessee to Lessor after taking shall be reduced to the proportion of the rent stipulated hereunder which shall be the market value of the Premises remaining after the taking bears to the market value of the Premises immediately prior to the taking.

ARTICLE X
LIABILITY

10.1 Lessee shall keep in full force and effect a policy or policies of public liability insurance with respect to the Premises and the business of Lessee, in which both Lessee and Lessor shall be adequately covered under reasonable limits of liability of not less than \$250,000 per person and \$500,000 per occurrence with \$50,000 coverage for property damage.

10.2 Lessee shall furnish Lessor with certificates that all such insurance is in effect and that all of said policies contain provision prohibiting cancellation without at least 15 days notice to Lessor.

10.3 All of Lessee's property of every kind or description which may at any time be on the Premises shall be at Lessee's risk and Lessor shall not be liable for any damages to said property or loss suffered by the business or occupation of Lessee caused by water from any source whatsoever or from the bursting, overflowing or leaking of sewer or from the heating or plumbing fixtures or from electrical wires or from gas or odors caused in any manner whatsoever except as may result from or be caused by the negligence of Lessor and/or its agents or employees.

ARTICLE XI
DEFAULTS AND REMEDIES

11.1 If Lessee fails to keep or perform any covenant or provision of this lease (except payment of any installment of rent or other charge or money obligation herein required to be paid by Lessee) or violates any such covenant or provision, Lessor may, in addition to any other remedies at law or in equity or elsewhere provided for in this lease, without notice, enjoin Lessee from any such failure or violation.

11.2 Any installment of rent or any other charge or money obligation herein required to be paid by Lessee which is not paid within five days when due shall bear a late charge of five percent (5%) and Lessor may treat any such charge or money obligation as additional rent hereunder.

11.3 The occurrence of any of the following is deemed to be an event of default under this lease:

- (a) The making by Lessee of an assignment for the benefit of its creditors;
- (b) The levying of a writ of execution or attachment on or against the property of Lessee and the same not being released or discharged within thirty (30) days thereafter;
- (c) The institution of proceedings for the reorganization, liquidation or involuntary dissolution of Lessee, or for its adjudication as a bankrupt or an insolvent, or for the appointment of a receiver of the property of Lessee, and said proceeding not being dismissed, and any receiver, trustee or liquidator appointed therein not discharged within thirty (30) days after the institution of such proceedings;
- (d) The doing or permitting to be done of any act by Lessee which creates a claim or a lien therefor against the building and the same not being released or otherwise provided for by indemnification satisfactory to Lessor within thirty (30) days thereafter; or
- (e) Failure of Lessee to pay any installment of rent or other charge or money obligation herein required to be paid by Lessee or to comply with any other covenant or provision of this lease within ten (10) days after written notice of such failure is given by Lessor, or if it is not possible to cure such failure within such period promptly after receipt of such notice, to advise Lessor in writing of Lessee's intention duly to institute all steps necessary to cure such failure or violation and to begin performance of such covenant within such period and diligently to pursue performance to completion in a reasonable time thereafter.

11.4 In the event of default, Lessor has the option of pursuing any one or more of the following remedies without any notice or demand whatsoever:

- (a) Terminate this lease, in which event Lessee shall immediately surrender Premises to Lessor, and if Lessee fails to do so, Lessor may, without prejudice to any other remedy which Lessor may have, enter upon and take possession of Premises and expel or remove Lessee and any other person who may be occupying the Premises or any part thereof, by force, if necessary, without being liable for prosecution or any claim of damages therefor; and/or
- (b) Enter upon and take possession of Premises and expel or remove Lessee and any other person who may be occupying Premises or any part thereof, without being liable for prosecution or any claim of damages therefor, and, if Lessor so elects, make such alterations and repairs as may be necessary to relet Premises, and relet Premises or any part thereof at such rent and for such period of time and subject to such terms and conditions as Lessor may deem advisable and receive the rent therefor. Upon each such reletting all rent received by the Lessor from such reletting shall be applied first to the payment of any loss and expenses of such reletting, including brokerage fees and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; third to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. Lessee agrees to pay to Lessor on demand any deficiency that may arise by reason of such reletting. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this lease for such previous breach; and/or

- (c) Lessor may, in addition to any other remedies at law or in equity or elsewhere in this lease provided, cure or prosecute the curing of such failure or violation at reasonable expenses, which expenses shall be paid to Lessor by Lessee on demand. Lessee agrees that in the event of any failure or violation covered by this Article and Lessor's failure to give notice or to exercise any rights under this Article, all rights of Lessor under this Article may be exercised by persons acting on behalf of Lessor, under authority granted by Lessor, with full right of reimbursement as provided hereunder. Lessee agrees that neither Lessor nor any such person acting on its behalf shall be liable for any damage resulting to the Lessee by the exercise of the rights granted under this Article.

11.5 Should Lessor terminate this lease in accordance with the provisions of this Article, Lessor may in addition to any other remedies it may have, recover from Lessee all damages Lessor may incur by reason of such breach, including the cost of recovering Premises, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this lease for the remainder of the lease term over the then reasonable rental value of Premises for the remainder of the lease term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

11.6 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Lessor hereunder or of any damages accruing to Lessor by reason of the violation of any of the covenants and provisions herein contained.

ARTICLE XII SERVICES

12.1 Lessee agrees to pay all charges incurred for any utility services used on the Premises except for water and sewer charges, which shall be paid by Lessor. Lessor shall in no event be liable for any interruption or failure of utility services on the Premises, but shall make reasonable effort to secure speedy resumption of said interrupted service.

ARTICLE XIII SUBORDINATION

13.1 This lease and all rights of Lessee hereunder are and shall be subject and subordinate to the lien of any mortgage, deed to secure debt, deed of trust or other instrument in the nature thereof which may now or hereafter affect Lessor's fee title to the Premises; provided, however, that the foregoing provision shall only be applicable with respect to those mortgages to which Lessee has been provided a Subordination, Non-Disturbance and Attornment Agreement ("Non-Disturbance Agreement"), providing generally that the mortgagee or any purchaser at the foreclosure of the mortgage will not disturb Lessee's possession of the Premises and that Lessee will attorn to such mortgagee or purchaser at foreclosure as Lessor under the terms and conditions of this Lease upon receiving written notice that such party has succeeded to the interest of Lessor under this Lease. In confirmation of such subordination, Lessee shall join with any such mortgagee and execute promptly (and, in any event, within thirty (30) business days after receipt of a written request therefor) a Non-Disturbance Agreement. Lessee's obligation to join with any mortgagee in the execution of a Non-Disturbance Agreement shall be applicable with respect to all present and future mortgages to which Lessor requests Lessee's execution of a Non-Disturbance Agreement. Lessor represents that there is no mortgage existing as of the date hereof.

ARTICLE XIV SUBLETTING AND ASSIGNMENTS

14.1 Lessee shall not have the right to assign this lease or any interest hereunder, or sublet the Premises, or any part thereof, to one or more subtenants, without the express written consent of Lessor, which consent shall not be unreasonably withheld. Notwithstanding any such assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of Lessee's other obligations under the terms, provisions and covenants of this lease.

14.2 Upon the occurrence of any default by Lessee as herein defined, if the Premises or any part thereof are then assigned or sublet, Lessor, in addition to any other remedies herein provided, or provided by law, may at its option collect directly from such assignee or subtenant all rents becoming due to Lessee under such assignment or sublease and apply such rent against any sum due to Lessor by Lessee hereunder, and such collection shall not be construed to constitute a novation nor a release of Lessee from the further performance of its obligations hereunder.

ARTICLE XV
MISCELLANEOUS

15.1 The words "terminate" or "termination" as used herein shall refer to the end of this lease whether due to the expiration of the term hereof or the earlier ending of this lease in accordance with the terms and provisions hereof.

15.2 No failure of Lessor or Lessee to exercise any power given Lessor or Lessee hereunder or to insist upon strict compliance by Lessor or Lessee with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's or Lessee's right to demand exact compliance with the terms hereof.

15.3 All rights, powers and privileges conferred herein upon the parties hereto shall be cumulative but not restrictive to those given by law.

15.4 The captions used in this lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

15.5 One or more waivers of any covenant, term or condition of this lease by either party shall not be construed as a waiver or subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

15.6 This lease contains the entire agreement of the parties and no representations or agreements, oral or otherwise, between the parties not embodied herein, shall be of any force or effect.

15.7 Time is of the essence of this agreement.

15.8 This contract shall create the relationship of landlord and tenant between Lessor and Lessee; no estate shall pass out of Lessor; Lessee has only a usufruct, not subject to levy and sale.

15.9 If Lessee remains in possession after expiration of the term hereof, with Lessor's acquiescence and without any agreement of parties, Lessee shall be a tenant at will; and there shall be no renewal of this lease by operation of law.

15.10 The term "Lessor" as used in this lease means only the owner for the time being of the Premises so that in the event of any sale or sales thereof, Lessor, who is grantor in any such sale, shall be and hereby is entirely free and relieved of all of the obligations of Lessor hereunder. Any such sale of the premises or any interest therein shall be subject to this lease, and it shall be deemed and construed without further agreement that the purchaser at any such sale has assumed and agreed to carry out any and all obligations of Lessor in this lease so long as such purchaser shall be the owner of the Premises.

15.11 All notices required to be given to Lessor hereunder shall, until contrary instructions are given to Lessee in writing, be effectively given to Lessor if mailed by registered or certified mail, return receipt requested, to Lessor:

Claude and Carol Marsilia
115 Paynes Landing Road
Scottsville, VA 24590

All notices required to be given to Lessee hereunder shall, until contrary instructions are given to Lessor in writing, be effectively given to Lessee if personally delivered or mailed, by registered or certified mail, return receipt requested, to Lessee:

Attention: Chief Dan Eggleston
County of Albemarle, Virginia
Fire and Rescue Division
460 Stagecoach Road
Charlottesville, VA 22902

15.12 If any clause or provision of this lease is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, or becomes unenforceable because of ambiguity or judicial construction, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

15.13 This Lease is subject to annual funding by the Board of Supervisors of the County of Albemarle, Virginia. In the event the Board of Supervisors fails to appropriate funds necessary to perform the obligations specified hereunder, this Lease shall be deemed cancelled, with no penalty to the Lessee, and of no effect. Notice of such cancellation must be given to the Lessor within thirty (30) days of the Board of Supervisors' final approval of the annual County budget. However, the failure of the Lessee to provide such notice shall not invalidate any non-appropriation decision by the County. In the event that this Lease is cancelled for the reasons set forth in this paragraph, the Lessor will be paid for any amounts due and owing as of the date of cancellation in accordance with the Lease, excluding any prospective amounts. Notwithstanding the above, Lessee is to give notice to Lessor not later than July 5, 2013 of its intent to fulfill the Lease obligations.

ADDENDUM -1

1. Electric – Lessee agrees to pay all charges incurred for any utility services used on the premises except for water and sewer charges, which shall be paid by Lessor. Lessee shall pay thirty-four percent (34%) of the electric bill to the adjacent Lessee (3042-A) within thirty (30) days after presentation of a copy of the Dominion Virginia Power invoice thereof. Lessee shall be provided a receipt for all payments made pursuant to this Addendum. Lessor shall in no event be liable for any interruption or failure of utility services on the Premise, but shall make reasonable effort to secure speedy resumption of said interrupted service.

IN WITNESS WHEREOF the Lessor and Lessee have caused these presents to be executed under seal on the date first above written.

**RESOLUTION AUTHORIZING
THE ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL
TO ESTABLISH WORK FORCES PURSUANT TO VIRGINIA CODE § 53.1-128**

WHEREAS, the County of Albemarle, Virginia is a member of the Albemarle-Charlottesville Regional Jail;
and

WHEREAS, Virginia Code § 53.1-128 allows the County to establish work forces to work on public property owned, leased or operated by the County; and on other property specified therein; and

WHEREAS, persons 18 years of age or older who are convicted and confined for any violation of a local ordinance and who are confined as a punishment or for failure to pay a required fine, may work in such workforce.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors for the County of Albemarle hereby establishes work forces in the County pursuant to Virginia Code § 53.1-128 and authorizes persons eighteen years of age or older to work on property owned, leased or operated by the County and on other property specified therein, when the person is convicted and confined for any violation of a local ordinance and is confined as a punishment or is confined for failure to pay a required fine.

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 3rd day of July, 2013, adopted the following resolution:

RESOLUTION

WHEREAS, **Timberwood Boulevard**, as described on the attached Additions Form AM-4.3 dated **July 3, 2013**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add **Timberwood Boulevard**, as described on the attached Additions Form AM-4.3 dated **July 3, 2013**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

**RESOLUTION TO APPOINT ROBERT GILMER
AS AN ASSISTANT FIRE MARSHAL WITH POLICE POWERS**

WHEREAS, Virginia Code § 27-30 provides that the governing body of a county may appoint a fire marshal and Albemarle County Code § 6-111 establishes the Office of the Fire Marshal; and

WHEREAS, Albemarle County Codes §§ 6-111, 6-200 and 6-201 recognize the Fire Marshal as Albemarle County's Fire Official for the duties and responsibilities as established by Title 27 of the Virginia Code, the Virginia Statewide Fire Code, and the Albemarle County Code; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize the fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officers upon completion of the training discussed in such section; and

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, on June 6, 2012, Robert Gilmer was appointed as an Assistant Fire Marshal without police powers; and

WHEREAS, the appointment of Robert Gilmer as an Assistant Fire Marshal with police powers will promote the efficient and effective operation of the Albemarle County Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Robert Gilmer as an Assistant Fire Marshal with full police powers of the Fire Marshal as authorized in Virginia Code §§ 27-34:2:1 and 27-36 and Albemarle County Code § 6-111.

CONDITIONS OF APPROVAL

SP-2012-00032. Bellair CSA Barn (Sign # 90).

1. The maximum number of events per calendar year shall not exceed twenty-four (24).
2. The maximum number of event guests shall not exceed one hundred fifty (150) persons.
3. Event activities shall not use any structure except: (1) the barn located at 5290 Bellair Farm; or (2) any structure located within two hundred fifty (250) feet of that barn.
4. Hours of operation for the events shall be no earlier than 3 p.m. and no later than midnight.
5. There shall be no amplified sound permitted for this use.
6. The use shall not commence without approval from the Virginia Department of Transportation of the entrance to the property at Bellair Farm and of the proposed driveway exit on Tax Map Parcel 11300000000800. The exit on Tax Map Parcel 11300000000800 shall be posted for exit-only use to the satisfaction of the Zoning Administrator.
7. The use shall not commence without approval from the building official, the fire official, and the Virginia Department of Health.
8. The use shall commence on or before July 3, 2015 or the permit shall expire and be of no effect.

ORDINANCE NO. 13-4(1)

AN ORDINANCE TO AMEND CHAPTER 4, ANIMALS AND FOWL, ARTICLE II, DOGS, DIVISION 4, DANGEROUS AND VICIOUS DOGS

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Animals and Fowl, Article II, Dogs, Division 4, Dangerous and Vicious Dogs, is hereby amended and reordained as follows:

By Amending:

Sec. 4-100 **Definitions**
Sec. 4-108 **Cruelty to animals; penalty**
Sec. 4-218 **Dangerous and vicious dogs**

By Adding:

Sec. 4-219 **Vicious dogs**

DIVISION 4. DANGEROUS AND VICIOUS DOGS**4-100 Definitions**

...

(35) *Serious injury to a person.* The term “serious injury to a person” means any bodily injury for which medical attention was sought and obtained, having a reasonable potential to cause death, or any injury other than a strain or sprain which involves a serious laceration requiring stitches to more than one puncture wound, serious disfigurement, serious impairment of health, or serious impairment of bodily function, or which is serious in the opinion of a licensed physician.

...

(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)

State law reference—Va. Code §§ 3.2-6500, 6528.

4-108 Cruelty to animals; penalty.

A. Any person who: (i) 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; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another shall be guilty of a class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection 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.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits

such acts to be done by another; and has been within five (5) years convicted of a violation of this subsection or subsection A, shall be subject to prosecution pursuant to Virginia Code § 3.2-6570 if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under the Code of Virginia, including Title 29.1, or to farming activities as provided by this Code or the Code of Virginia.

E. 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. A violation of this subsection is a class 1 misdemeanor. A second or subsequent violation of this subsection shall be subject to prosecution pursuant to Virginia Code § 3.2-6570.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or euthanasia of such animal on recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, shall be subject to prosecution pursuant to Virginia Code § 3.2-6570. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, 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. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not supersede section 4-106, 4-201, 4-218 or 4-219.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals or equine.

(Ord. 98-A(1), 8-5-98, § 4-207; Ord. 09-4(1), 7-8-09)

State law references- Va. Code § 3.2-6570.

4-218 Dangerous dogs.

A. As used in this section:

“Dangerous dog” means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous if:

- (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;
- (iii) such attack occurs on the property of the attacking or biting dog's owner or custodian; or
- (iv) for other good cause as determined by the court.

No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting 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. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

B. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within its jurisdiction is a dangerous dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a

law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.* The county shall be required to prove its case beyond a reasonable doubt.

C. No canine or crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog if 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 animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

D. If the owner of an animal found 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.

E. The owner of any animal found to be a dangerous dog shall, within forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the county for a fee of one hundred and fifty dollars (\$150.00), in addition to other fees that may be authorized by law. The county shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of eighty-five dollars (\$85.00) and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dogs Registry.

F. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence of:

- (i) the animal's current rabies vaccination, if applicable;
- (ii) that the animal has been spayed or neutered; and
- (iii) that the animal is and will be confined in a proper enclosure or 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.

In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

- (i) their 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; and
- (ii) the animal has been permanently identified by means of electronic implantation.

All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00) that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least one hundred thousand dollars (\$100,000.00).

G. While on the property of its owner, an animal 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 so confined within the structure, the animal shall be provided for according to section 4-105. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

H. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry as established under Virginia Code § 3.2-6542, within forty-five (45) days of such a finding by any appropriate court. The owner shall also cause the local animal control officer to be promptly notified of: (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 or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

I. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal: (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has been moved and the new address to which the animal has been moved.

J. Any owner or custodian of a canine or canine crossbreed or other animal:

1) shall be guilty of a class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or

2) shall be guilty of a class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3) shall be subject to prosecution pursuant to Virginia Code § 3.2-6540 if the owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animals is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

K. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by the county pursuant to Virginia Code § 3.2-6562 or (ii) grant the owner up to forty-five (45) days to comply with the requirements of this section, 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 a local governing body pursuant to Virginia Code § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

L. All fees collected pursuant to this section, less the costs incurred by the county in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance

of 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)

State law reference—Va. Code § 3.2-6540.

4-219 Vicious dogs

A. As used in this section:

“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.

B. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the county is a vicious dog shall apply to a magistrate serving the county for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Virginia Code § 3.2-6562. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damage to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.* The county shall be required to prove its case beyond a reasonable doubt.

C. No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a vicious dog if 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 animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

D. Any owner or custodian of a canine or canine crossbreed or other animal whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person may be prosecuted pursuant to Virginia Code § 3.2-6540.1. The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

State law reference—Va. Code § 3.2-6540.1

ORDINANCE NO. 13-6(3)

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE I, COORDINATED FIRE AND RESCUE SYSTEM, DIVISION I, IN GENERAL, 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 I, Coordinated Fire and Rescue System, Division I, General, is hereby amended and reordained as follows:

By Adding:

Sec. 6-113 Physical examination for firefighters.

Chapter 6. Fire Protection

Article I. Coordinated Fire and Rescue System

Division I. In General

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Sec. 6-113. Physical examinations for firefighters and other operational members.

The county shall employ physicians to perform physical examinations of (a) every salaried and volunteer firefighter and (b) every operational member participating in any fire, rescue, or EMS service delivery activities that may occur in a potentially hazardous environment. Such physical examination shall occur when such firefighter or operational member enters the service of the coordinated fire and rescue system.

State law reference—Performance of physical examinations, Virginia Code § 27-40.1:1.

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ORDINANCE NO. 13-10(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10, OFFENSES-MISCELLANEOUS, 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 10, Offenses-Miscellaneous, is hereby amended and reordained as follows:

By Amending:

Sec. 10-123 Prohibited activities on public roadways and medians

CHAPTER 10. OFFENSES-MISCELLANEOUS

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Sec. 10-123 Prohibited activities on public roadways and medians.

A. Definitions:

Roadway. As used in this section, the term “roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

Median. As used in this section, the term “median” means any area in the middle of any roadway, designed to provide a barrier to keep traffic on one side of the road from going to the other side of the road. A median may be a raised concrete strip or a grass strip.

Sell, solicit or distribute. As used in this section, the terms “distribute”, “solicit”, and “sell” mean any such activity which involves the delivery of any service, document, publication or other item or the intent to deliver any service, document, publication or other item to any occupant of a motor vehicle located on a county roadway or median or any such activity which involves the receipt of any money or any item or the intent to receive any money or any item from the occupant of an automobile located on a county roadway or median, other than a motor vehicle parked in a designated parking space.

B. It shall be unlawful for any person while on any public roadway or median therein to:

1. Distribute handbills, leaflets, bulletins, literature, advertisements or similar material to the occupants of motor vehicles on any roadway or median within the county.

2. Solicit contributions of any nature from the occupants of motor vehicles on any roadway or median within the county.

3. Sell or attempt to sell merchandise or services to the occupants of motor vehicles on any roadway or median within the county.

C. Any person, firm, organization, or corporation violating any provision of this section shall be guilty of a traffic infraction, punishable as provided under state law. Each separate incident may be considered a new violation.

(Ord. 05-10(1), 7-6-05)

State Law References -- Authority to enact section, Va. Code § 46.2-931.

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ORDINANCE NO. 13-12(1)

AN ORDINANCE TO AMEND CHAPTER 12, REGULATED ENTERPRISES, ARTICLE III, DEALERS IN PRECIOUS METALS, 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 12, Regulated Enterprises, Article III, Dealers in Precious Metals, is hereby amended and reordained as follows:

By Amending:

Sec. 12-308 Records, copies of bill of sales required; inspection.

Sec. 12-311 Dealer to retain purchases.

CHAPTER 12. REGULATED ENTERPRISES**ARTICLE III. DEALERS IN PRECIOUS METALS**

State law reference—Regarding dealers in precious metals generally, see Va. Code §§ 54.1-4100 et seq.; authority of county to enact ordinance regulating dealers in precious metals and gems, see Va. Code § 54.1-4111.

Sec. 12-308 Records, copies of bills of sale required; inspection.

A. Every dealer shall keep at such dealer's place of business an accurate and legible record of each purchase of precious metals or gems, security arrangement, or transaction involving the removal of precious metals or gems from any manufactured article not then owned by the dealer. The record of each such purchase or security arrangement shall be retained by the dealer for not less than twenty-four (24) months. These records shall set forth the following:

1. A complete description of all precious metals or gems purchased, taken as security or removed from a manufactured article not then owned by the dealer, including the true weight or carat of the precious metals or gems purchased or taken as security and all names, initials, serial numbers or other identifying marks or monograms appearing on each item in question;
2. The price for each item purchased or taken as security;
3. The date, time, and place of receiving the items purchased or taken as security;
4. The full name, residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, other identifying marks, and legible handwritten signature of the person selling the precious metals or gems;
5. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person selling the precious metals or gems, such as a driver's license or military identification card that contains a photograph of the seller and at least one other corroborating piece of identification. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;
6. A statement of ownership from the seller; and
7. A digital image of the form of identification used by the person involved in the transaction.

B. The information required by subparts (1) to (5) of paragraph (A) of this section shall appear on each bill of sale, the form of which shall be provided by the chief of police. One copy of the form is to be retained by the dealer, one copy to be delivered during regular work hours to the chief of police at his office within twenty-four (24) hours of the purchase or loan or mailed to the chief of police within such twenty-four (24) hour period, and one copy to be delivered to the seller of such precious metals or gems or to the borrower. If the purchase or loan occurs on a Saturday, Sunday or recognized holiday, then the delivery or mailing to the chief of police shall be made no later than 10:00 A.M. of the next regular workday.

(11-12-80, § 1; 7-8-81; 11-14-84; 4-13-88; Code 1988, §§ 5.1-6, 5.1-7; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 54.1-4101.

Sec. 12-311 Dealer to retain purchases.

A. The dealer shall retain all precious metals or gems in the condition in which purchased for a minimum of fifteen calendar days from the time of filing the bill of sale for their purchase with the chief of police. During such period of time, the dealer shall not sell, alter or dispose of a purchased item in whole or in part, or remove it from the county.

B. If a dealer performs the service of removing precious metals and gems, such dealer shall retain the precious metals or gems removed and the article from which such removal was made for a period of fifteen calendar days after receiving such article and precious metals or gems.

C. All items required to be retained hereunder shall be retained in the county at the location specified in the dealer's permit application. An agent of the dealer shall be readily accessible throughout the applicable retention period to make the retained items available for inspection by the chief of police or any law enforcement official of the state or federal government.

(11-12-80, § 1; 7-8-81; 11-14-84; Code 1988, § 5.1-9; Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11)

State law reference--Similar provisions, Va. Code § 54.1-4104.