

ACTIONS
Board of Supervisors Meeting of November 3, 2010

November 5, 2010

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • Meeting was called to order at 9:01 a.m. by the Chair, Ann Mallek. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan, and Meagan Hoy. 	
<p>4. Recognitions.</p> <p>a. Virginia Farm-to-School Week.</p> <ul style="list-style-type: none"> • Chair read proclamation. 	(Attachment 1)
<p>5. From the Board: Matters not listed on the Agenda.</p> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • Updated the Board on how State budgeting and funding will impact local governments. <p><u>Rodney Thomas:</u></p> <ul style="list-style-type: none"> • Provided an update on Rockydale Quarry. He will contact the Police Department to see if they can do any traffic enforcement on Rio Mills Road. • The “No U Turn” sign at Stellar One Bank has been removed. • VDoT will “white edge” Commonwealth Drive this week. • He should have a report from VDoT about Four Seasons Drive next week. <p><u>Duane Snow:</u></p> <ul style="list-style-type: none"> • Working with VDoT and the Acting Police Chief on several traffic issues and road conditions. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Reiterated the Fire Department’s message that now is a good time to change smoke detector batteries and carbon monoxide detectors. 	
<p>6. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>Diana Foster</u>, a resident of Earlysville and member of the Natural Heritage Committee, spoke about the May 1, 2010 bio-blitz in the Patricia Ann Byrom Forest Reserve Park for the purpose of planning the new park and preserving the biodiversity of Albemarle County. • <u>Sam Freilich</u>, a County resident, expressed concerns with several of the items outlined in the flyer the regarding the Community Water Supply Plan. He asked the Board to work with City Council to come up with a beneficial plan. • <u>Jeff Werner</u>, of PEC, spoke about continued misinformation in the public about the Ragged Mountain Dam. He also mentioned Dominion Power’s open house regarding the Piedmont View-Transmission Line Expansion, and asked that Board members keep themselves informed of the plans. • <u>Neil Williamson</u>, of the Free Enterprise Forum, 	

	expressed concerns with ASAP's optimal population report that is to be presented to the Board later in the meeting. Asked the Board to reaffirm its commitment to high quality development within the development areas at price ranges for all citizens.	
7.2	Willis Drive Road Name Change. <ul style="list-style-type: none"> • APPROVED changing the road name of Willis Drive to Martha Jefferson Drive and AUTHORIZED staff to implement the change. 	<u>Andrew Slack/Tex Weaver</u> : Proceed as approved.
7.3	FY 2010 Budget Amendment and Appropriations. <ul style="list-style-type: none"> • APPROVED the budget amendment in the amount of \$185,940.02 and APPROVED Appropriations #2010104 and #2010105. 	<u>Clerk</u> : Forward copy of signed appropriations to Finance, OMB and appropriate individuals.
7.4	FY 2011 Budget Amendment and Appropriations. <ul style="list-style-type: none"> • APPROVED the budget amendment in the amount of \$1,092,089.18 and APPROVED Appropriations #2011048, #2011050, and #2011051. 	<u>Clerk</u> : Forward copy of signed appropriations to Finance, OMB and appropriate individuals.
7.5	FY2011 1 st Quarter Cash and Non-Cash Proffer Report and 2010 Survey of Cash Proffers for State. <ul style="list-style-type: none"> • Mr. Boyd asked that in future reports, staff include a line identifying the assessed value of noncash proffers for Albemarle Place. 	<u>Sarah Baldwin</u> : Include information.
8.	Public Hearing: <u>PROJECT: SP-2010-00016, Forest Lakes Farmers' Market (Sign #37).</u> <ul style="list-style-type: none"> • APPROVED SP-2010-00016, by a vote of 6:0, subject to two conditions. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
9.	Public Hearing: <u>PROJECT: SP-2010-00019, Afton Farmers' Market (Sign #48).</u> <ul style="list-style-type: none"> • APPROVED SP-2010-00019, by a vote of 6:0, subject to two conditions. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
10.	Public Hearing: <u>PROJECT: SP-2008-00056, Unity Church (Sign #6).</u> <ul style="list-style-type: none"> • APPROVED SP-2008-00056, by a vote of 6:0, subject to nine conditions. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
11.	Public Hearing: <u>An ordinance to amend Chapter 10, Offenses – Miscellaneous, of the Albemarle County Code.</u> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the Ordinance. 	<u>Clerk</u> : Forward copy of adopted ordinance to County Attorney's office and Police Department. (Attachment 3)
	NonAgenda. The Board recessed at 10:17 a.m., and reconvened at 10:28 a.m.	
12.	<u>PROJECT: SP-2009-00034. RE-STORE'N STATION (Signs #33&36).</u> Conditions of Approval. (Deferred from October 13, 2010) <ul style="list-style-type: none"> • APPROVED SP-2009-00034, by a vote of 6:0, subject to nine conditions. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 2)
13.	Board-to-Board, School Board Chairman. RECEIVED.	
14.	Presentation of ASAP's County-funded research findings, Jack Marshall. RECEIVED.	
15.	Closed Meeting. <ul style="list-style-type: none"> • At 12:11 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 and an administrative 	

	position; and under Subsection (5) to discuss the expansion of an existing business in the County where there has been no previous announcement of the business' interest in expanding its facilities in the County.	
16.	Certify Closed Meeting. <ul style="list-style-type: none"> At 1:53 p.m. the Board reconvened and certified the closed meeting. 	
17.	Boards and Commissions: Appointments. <ul style="list-style-type: none"> APPOINTED Ross Stevens to the Historic Preservation Committee to fill an unexpired term to expire June 4, 2013. APPOINTED Steve Thompson to the Historic Preservation Committee to fill an unexpired term to expire June 4, 2011. APPOINTED David Mitchell and Matthew Lucas to the Fiscal Impact Advisory Committee with said terms to expire July 8, 2012. 	<u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.
18.	Economic Vitality Action Plan Update. <ul style="list-style-type: none"> RECEIVED. 	
19.	Work Session: Five-Year Financial Plan. <ul style="list-style-type: none"> HELD. 	
20.	Work Session: Chesapeake Bay Watershed Implementation Plan. <ul style="list-style-type: none"> HELD. 	
21.	From the Board: Matters Not Listed on the Agenda. <u>Rodney Thomas:</u> <ul style="list-style-type: none"> He is attending the Citizen's Fire Academy at Hollymead Fire Station. Asked the Board for direction regarding the Fire/Rescue Ordinance. Consensus of the Board to schedule a work session on the December 1st, 2010 meeting. 	<u>Clerk:</u> Schedule on December 1, 2010.
22.	Adjourn to November 5, 2010, 10:30 a.m., Room 241. <ul style="list-style-type: none"> At 5:37 p.m., the meeting was adjourned. 	

ewj/mrh

- Attachment 1 – Proclamation – Virginia Farm-to-School Week
- Attachment 2 – Conditions of Approval on Planning Items
- Attachment 3 – Ordinance to amend Chapter 10, Offenses - Miscellaneous

**Proclamation
Virginia Farm-to-School Week**

*Whereas, during the 2010 Virginia General Assembly, the General Assembly established **Virginia Farm-to-School Week** during the second week of November in recognition of the Virginia Department of Agriculture and Consumer Services, Virginia Department of Education, Virginia Food System Council, and Virginia Farm-to-School Work Group many contributions to help develop, promote, and implement Virginia's Farm-to-School Program; and*

Whereas, one goal of Farm-to-School Week is to change the quality of school nutrition while providing economic opportunities for our farming community and strengthening farm-to-table connections throughout the Commonwealth of Virginia; and

Whereas, "Virginia's Farm-to-School Program is a true "win-win". Our students benefit from being served fresh, local food at school. These same schools represent a significant new market opportunity for Virginia farmers and an asset in the success of our rural economy; and

Whereas, in 2007, recognizing the problems associated with childhood obesity and the search to open additional markets for fresh farm products in Virginia, the Secretary of Agriculture and Forestry and the Secretary of Education established a Farm-to-School Task Force to develop a plan for implementing a Farm-to-School Program in the Commonwealth; and

Whereas, since then, there has been a 300 percent increase in locally grown foods served in public and private schools. Virginia public schools serve 681,505 lunches daily to nourish their students, resulting in more than 122 million lunches served during a 180-day school year; and

Whereas, if \$0.25 a day per student lunch is devoted to purchasing locally grown Virginia farm products, a total of \$170,376 would be generated daily and more than \$30.7 million would be reinvested annually in Virginia communities and the economy; and

Whereas, building connections between schools, students and agricultural producers throughout Virginia will provide better economic opportunity for agriculture, healthier options for our children and educational value for students in knowing where their food comes from; and

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors does hereby recognize **November 8 through November 12, 2010, as Farm to School Week** in Albemarle County and encourage all parents to join their children for lunch during this week.

CONDITIONS OF APPROVAL

PROJECT: SP-2010-00016. Forest Lakes Farmers' Market (Sign #37).

1. Site lay-out should be in general according with the application and the application plan; and
2. The time of operation limited to one (1) day per week, Tuesdays, from 4:00 p.m. to 7:00 p.m.

PROJECT: SP-2010-00019. Afton Farmers' Market (Sign #48).

1. Site layout shall be in general accord with the application plan submitted; and
2. The farmers' market shall be allowed two (2) days a week on Tuesday and Thursday from 3:00 p.m. to 8:00 p.m.

PROJECT: SP-2008-00056, Unity Church (Sign #6).

1. The church sanctuary shall not exceed two hundred fifty (250) seats;
2. The site shall be developed in general accord with the Conceptual Plan entitled "Application Plan for Unity Church," Revision 4, prepared by Dominion Engineering, and dated August 19, 2010 (hereinafter, the "Conceptual Plan"), and with the Architectural Review Board action of February 16, 2010, as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
 - Number of parking spaces and location of parking areas; and
 - Paving materials, as approved by the County Engineer; and
 - Location of proposed facilities, including the pergola, labyrinth, and playground as shown on the Conceptual Plan. Minor modifications to the Plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
3. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
4. The lawful physical construction of the parking areas, pergola, playground, and labyrinth as shown on the Conceptual Plan referenced in Condition 2 above shall commence by November 3, 2015 or the approval of the parking areas, pergola, playground, and labyrinth as shown on the Conceptual Plan shall expire and a new or amended special use permit shall be required for the parking areas to be expanded beyond the eighty-four (84) spaces as shown on SDP-2005-00046, as amended by SDP-2006-00077, and for construction of the pergola, playground, and labyrinth;
5. Expansion of the church and/or establishment of a daycare or provision of afterschool care shall require approval of an additional Special Use Permit;
6. Approval of the Public Health Department shall be required prior to site plan approval;
7. The applicants shall provide plantings to the satisfaction of the Architectural Review Board;
8. The property may not be further divided; and
9. There shall be no more than one (1) residential dwelling on the property.

PROJECT: SP-2009-00034. RE-STORE'N STATION (Signs #33&36).

1. The applicant shall install and maintain a meter on the well head to monitor water consumption. Prior to installation, the model of the meter shall be subject to approval by the Zoning Administrator in conjunction with the County Engineer. Results of daily water consumption shall be made available within forty-eight (48) hours of a request from the Zoning Administrator;
2. Water consumption from all wells on site shall not exceed one thousand six hundred twenty-five (1,625) gallons per day in the aggregate;
3. The applicant shall install and maintain a tamper-proof, flow restriction device limiting water flow to not more than one thousand six hundred twenty-five (1,625) gallons per day. Prior to installation, the model of the flow restriction device shall be subject to approval by the Zoning Administrator in conjunction with the County Engineer;
4. The total building footprint square footage shall not exceed three thousand (3,000) square feet;
5. The hours of business operation shall not exceed sixteen (16) hours per day;
6. There shall be not more than seven (7) pump stations and twelve (12) nozzle dispensers, with not more than eight (8) nozzles for four (4) pump stations for gasoline (or equivalent fuel), with not more than two (2) nozzles for one (1) pump station for diesel fuel (or equivalent fuel), with not more than one (1) nozzle for one (1) pump station for off-road diesel fuel, and with not more than one (1) nozzle for one (1) pump station for kerosene fuel ;
7. If rainwater is collected from roof tops of the pump station canopies or the building, it shall be stored in a lined underground storage tank and utilized for on-site landscaping purposes only;
8. Overnight customer parking on-site shall not be permitted between the hours of 12:30 a.m. and 4:30 a.m. The applicant shall post signs indicating no such overnight parking in such places designated by the Site Plan Agent as a condition of final site plan approval; and,
9. Development of the site shall be in general accord with the submitted preliminary site plan dated December 6, 2009. Permitted modifications may include those required by the Architectural Review Board, those necessary to satisfy the conditions of this special use permit, and additional landscaping/screening approved by the Site Plan Agent.

ORDINANCE NO. 10-10(1)

AN ORDINANCE TO AMEND 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. 10-100 Assault; assault and battery.**
- Sec. 10-102 Damaging signs, markers, etc., on highways.**
- Sec. 10-103 Disorderly conduct in public places.**
- Sec. 10-104 Drinking alcoholic beverages or offering alcoholic beverages to another in public places; possession of open alcoholic beverage containers in public places.**
- Sec. 10-105 Drinking or possessing alcoholic beverages in or on public school grounds.**
- Sec. 10-106 Drunkenness in public, profane swearing.**
- Sec. 10-107 Firearms--Discharging within residential districts.**
- Sec. 10-109 Standing or walking with loaded rifle or shotgun.**
- Sec. 10-110 Hunting; prohibited with firearms near highways generally.**
- Sec. 10-111 Shooting in, or along or near road or in street.**
- Sec. 10-115 Obstructing justice by threats or force.**
- Sec. 10-117 Peeping or spying into structure occupied as dwelling.**
- Sec. 10-119 Trees, shrubs, etc.--Unlawful destruction, injury, etc.**
- Sec. 10-120 Trespass--After having been forbidden to do so.**
- Sec. 10-121 Trespass--At night, upon church or school property.**

By Adding:

- Sec. 10-124 Urinating or Defecating in Public**

By Repealing:

- Sec. 10-118 Sunday closings--Applicability of state law within county.**

CHAPTER 10

OFFENSES--MISCELLANEOUS

State law reference--Crimes and offenses generally, Tit. 18.2, Code of Virginia.

Sec. 10-100 Assault; assault and battery.

A. It shall be unlawful for any person to commit a simple assault or an assault and battery upon any other person. Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor.

B. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to Virginia Code § 18.2-308.1, the person shall serve a mandatory minimum sentence of six months.

C. As used herein, "simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security

officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following:

1. incidental, minor or reasonable physical contact or other actions designed to maintain order and control;
2. reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property;
3. reasonable and necessary force to prevent a student from inflicting physical harm on himself;
4. reasonable and necessary force for self-defense or the defense of others; or
5. reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In demonstrating whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at the time of the event.

(Code 1967, § 13-3; Code 1988, § 13-1; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code § 18.2-57.

Sec. 10-102 Damaging signs, markers, etc., on highways.

It shall be unlawful for a person to willfully or maliciously displace, remove, destroy or injure any milestone, guide sign or other highway sign or signal or any historical marker or any inscription thereon lawfully within a highway.

(Code 1967, § 16-1; Code 1988, § 13-6; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code § 33.1-345.

Sec. 10-103 Disorderly conduct in public places.

A. It shall be unlawful for any person who, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

1. in any street, highway, public building, or while in or on a public conveyance, or public place, engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or

2. willfully, or being intoxicated whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of the county or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the funeral, memorial service, or meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or

3. willfully, or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school

or activity conducted or sponsored by a school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

B. The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any person(s) who may be called upon for such purpose.

C. A person violating any provision of this section shall be guilty of a class 1 misdemeanor.

(4-21-76; Code 1988, § 13-7; Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to adopt, Va. Code § 18.2-415.

Sec. 10-104 Drinking alcoholic beverages or offering alcoholic beverages to another in public places; possession of open alcoholic beverage containers in public places.

A. It shall be unlawful for any person to take a drink of alcoholic beverages or offer a drink thereof to another person, whether accepted or not, in any public place. Any person violation this section shall be guilty of a class 4 misdemeanor.

B. It shall be unlawful for any person to possess an open or opened container, can, cup, glass or bottle containing an alcoholic beverage in any public park or playground, on county-owned property or on any public street or sidewalk adjoining a public street in the county. Any person violating this section shall be guilty of a class 4 misdemeanor.

C. Nothing in this section shall prevent any person from drinking alcoholic beverages or offering a drink thereof in any public place, or from possessing an open or opened container, as described above in paragraph (A), in any area for any purpose approved and licensed by the Virginia Alcoholic Beverage Control ("ABC") Board pursuant to Virginia Code §§ 4.1-308 (B), (C) and (D). The types of ABC licenses referred to herein include, but are not limited to:

1. retail restaurant ABC licenses;
2. banquet-special event ABC licenses; and
3. private banquet ABC licenses.

D. As used herein, "alcoholic beverage" and "public place" shall have the same meanings and definitions set forth in Virginia Code § 4.1-100.

(Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to adopt, Va. Code § 4.1-128(B); similar provisions, Va. Code § 4.1-308.

Sec. 10-105 Drinking or possessing alcoholic beverages in or on public school grounds.

It shall be unlawful for any person to possess or drink any alcoholic beverage in or upon the grounds of any public elementary or secondary school during school hours or school or student activities. In addition, no person shall drink and no organization shall serve any alcoholic beverage in or upon the grounds of any public elementary or secondary school after school hours or school or student activities, except for religious congregations using wine for sacramental purposes only. Any person violating this section shall be guilty of a class 2 misdemeanor.

(Ord. 98-A(1), 8-5-98)

State law reference--Authority of county to adopt, Va. Code § 4.1-128(B); similar provisions, Va. Code § 4.1-309.

Sec. 10-106 Profane swearing and intoxication in public.

It shall be unlawful for any person to profanely curse or swear in public, or to be intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature. A law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to a court-approved detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center. Any person who engages in such conduct shall be deemed guilty of a class 4 misdemeanor.

(Code 1967, § 13-9; 4-13-88; Code 1988, § 13-8; Ord. 98-A(1), 8-5-98)

State law reference--Similar provision, Va. Code § 18.2-388.

Sec. 10-107 Firearms--Discharging within residential districts.

A. It shall be unlawful for any person to discharge any firearm within the boundaries of any residential district within the county. The provisions of this section shall not apply to:

1. a law-enforcement officer, as defined by Virginia Code § 9.1-101, in the performance of his official duties, or an animal control officer, as defined by Virginia Code § 3.2-6555, in the performance of his official duties;

2. any person whose discharge of a firearm is justifiable or excusable at law in the protection of life or as otherwise permitted by law;

3. any person discharging a firearm or starter gun with a blank cartridge or other ammunition not resulting in the expulsion of a projectile or projectiles.

B. Any person violating this section shall be liable for a penalty of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for each such violation.

C. For purposes of this section, "residential district" shall mean any district described as Village Residential - VR, Residential R-1, Residential R-2, Residential R-4, Residential R-6, Residential R-10, Residential R-15, Neighborhood Model - NMD, Planned Unit Development - PUD or Planned Residential Development - PRD on the official zoning map of the county.

(9-19-74; 6-10-81; Code 1988, § 13-9; Ord. 98-A(1), 8-5-98)

State law reference--For state law as to authority of county to adopt this section, see Va. Code § 15.2-1209.

Sec. 10-109 Standing or walking with loaded firearm.

A. It shall be unlawful for any person to carry or have in his possession, for the purpose of hunting, while on any part of a public highway within the county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking.

B. Any person violating this section shall be liable to a fine not to exceed one hundred dollars (\$100.00) for each such violation.

C. All law-enforcement officers authorized to act as such within the county shall have the power to enforce this section, including but not limited to all duly appointed and acting game wardens.

D. "Loaded firearm," as used in this section, is defined as a firearm with ammunition within the action chamber, magazine or clip which is within or on the firearm. "Firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material; or the frame or receiver of any such weapon.

E. The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles or for purposes other than hunting, or to persons acting at the time in defense of persons or property.

(3-11-81; Ord. of 9-15-93; Code 1988, § 13-9.2; Ord. 98-A(1), 8-5-98)

State law reference--State law as to authority of county to adopt this section, Va. Code § 15.2-1209.

Sec. 10-110 Hunting; prohibited with firearms near highways generally.

It shall be unlawful for any person to be engaged in the hunting or attempting to hunt with a firearm of any game bird or game animal within one hundred (100) feet of any primary or secondary highway in the county. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor. For the purpose of this section, the term "hunt" shall not include the necessary crossing of highways for the bona fide purpose of going into or leaving a lawful hunting area.

(Code 1967, § 13-10; Code 1988, § 13-11; Ord. 98-A(1), 8-5-98)

State law reference--State law authorizing county prohibit hunting with firearms within one hundred yards of highways and defining the term "hunt," see Va. Code § 29.1-526.

Sec. 10-111 Shooting in or across road or in street.

No person shall discharge any firearm, crossbow or bow and arrow in or across any road or within the right-of-way thereof, or in a street of any town, whether the town is incorporated or not. Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor. The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in performance of their lawful duties.

(Code 1967, § 13-21; Ord. of 5-4-94; Code 1988, § 13-18; Ord. 98-A(1), 8-5-98)

State law reference--For similar state law, see Va. Code § 18.2-286.

Sec. 10-115 Obstructing justice by threats or force.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to Virginia Code § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer, he shall be guilty of a class 1 misdemeanor.

B. If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or any animal control officer employed pursuant to Virginia Code § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be guilty of a class 1 misdemeanor.

C. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to Virginia Code § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a class 1 misdemeanor.

(4-13-88; Code 1988, § 13-15; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code § 18.2-460.

Sec. 10-117 Peeping or spying into dwelling or enclosure.

A. No person shall unlawfully enter upon the property of another and secretly or furtively peep or attempt to so peep, into or through or spy through a window, door or other aperture of any building, structure or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy.

B. No person shall use a peephole or other aperture to secretly or furtively peep, spy or attempt to peep or spy into a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location or enclosure for the purpose of viewing any nonconsenting person who is totally nude, clad in undergarments, or in a state of undress exposing the genitals, pubic area, buttocks or female breast and the circumstances are such that the person would otherwise have a reasonable expectation of privacy.

C. The provisions of this section shall not apply to a lawful criminal investigation or a correctional official or local or regional jail official conducting surveillance for security purposes or during an investigation of alleged misconduct involving a person committed to the Department of Corrections or to a local or regional jail.

D. As used in this section, "peephole" means any hole, crack or other similar opening through which a person can see.

E. A violation of this section is a class 1 misdemeanor.

(Code 1967, § 13-17; Code 1988, § 13-17; Ord. 98-A(1), 8-5-98)

State law reference--For similar state law, see Va. Code § 18.2-130.

Sec. 10-118 Repealed

Sec. 10-119 Trees, shrubs, etc.--Unlawful destruction, injury, etc.

It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found being or growing upon the land of another, or upon any land reserved, set aside or maintained by the Commonwealth as a public park or as a refuge or sanctuary for wild animals, birds or fish, without having previously obtained the permission, in writing, of such other person or his agent or of the superintendent or custodian of such park, refuge or sanctuary to do so, unless the same is done under the personal direction of such owner or his agent, tenant or lessee or superintendent or custodian of such park, refuge or sanctuary. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor; provided, that the approval of the owner, his agent, tenant or lessee, or the superintendent or custodian of such park or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit.

(Code 1967, § 13-22; 4-13-88; Code 1988, § 13-20; Ord. 98-A(1), 8-5-98)

State law reference--For similar state law, Va. Code § 18.2-140.

Sec. 10-120 Trespass--After having been forbidden to do so.

If any person, without authority of law, goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by such persons or by the holder of any easement or other right-of way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place or places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a

court of competent jurisdiction by an order issued pursuant to Virginia Code §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or 19.2-152.10 or an ex parte order issued pursuant to Virginia Code § 20-103, and after having been served with such order, he shall be guilty of a class I misdemeanor. This section shall not be construed to affect in any way the provisions of Virginia Code §§ 18.2-132 through 18.2-136.

(Code 1967, § 13-23; 4-13-88; Code 1988, § 13-21; Ord. 98-A(1), 8-5-98)

State law references--For similar state law, Va. Code § 18.2-119; as to authority of county to prevent trespass, Va. Code § 15.2-1218.

Sec. 10-121 Trespass--At night, upon church or school property.

A. It shall be unlawful for any person who, without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor.

B. It shall be unlawful for any person, whether or not a church member or student, to enter upon or remain upon any church or school property in violation of (i) any direction to vacate the property by a person authorized to give such direction or (ii) any posted notice which contains such information, posted at a place where it reasonably may be seen. Each time such person enters upon or remains on the posted premises or after such direction that person refuses to vacate such property, it shall constitute a separate offense. Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor.

C. For purposes of this section: (i) "school property" includes a school bus as defined in Virginia Code § 46.2-100 and (ii) "church" means any place of worship and includes any educational building or community center owned or leased by a church.

(Code 1967, § 13-24; Code 1988 § 13-22; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code § 18.2-128.

Sec. 10-124 Urinating or Defecating in Public.

A. It shall be unlawful for any person to urinate or defecate within public view upon any street, highway, sidewalk, ground, public place or place where others are present, except in a bathroom, restroom or other facility designed for such purposes.

B. Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor.

State Law References—Authority to enact section, Va. Code § 15.2-1200.