

At a regular meeting of the Board of Supervisors, Alleghany County, Virginia held on Tuesday, November 1, 2016 at 7:00 p.m. in the Alleghany County Governmental Complex, Covington, Virginia, thereof:

PRESENT: Stephen A. Bennett, Chairman
G. Matt Garten, Vice-Chairman
Suzanne T. Adcock
Shannon P. Cox
James M. Griffith
Cletus W. Nicely
Richard Lee Shull

and Jonathan A. Lanford, County Administrator
Mike Lockaby, Assistant County Attorney
Melissa A. Munsey, Deputy Clerk to the Board

CALL TO ORDER:

The Chairman called the regular meeting to order. Mr. Nicely gave the invocation and the audience remained standing for the Pledge of Allegiance.

MINUTES:

Hearing no corrections or deletions, the Chairman declared the following minutes approved as submitted: (1) a regular meeting held on October 4, 2016; and (2) an adjourned meeting held on October 20, 2016.

PUBLIC HEARING AND APPROVAL - AMENDMENTS TO CH. 10 - ANIMALS AND FOWL OF THE COUNTY CODE:

Public Hearing was held to consider amendments to Chapter 10 - Animals & Fowl of "The Code of the County of Alleghany, Virginia" to bring the chapter up to date with current State code provisions.

The Chairman announced that this public hearing was advertised in the Virginian Review on Thursday, October 20, 2016 and Tuesday, October 25, 2016 in accordance with the Code of Virginia. He then called the public hearing to order.

Deputy Todd Ailstock, Animal Control Officer, stated that he has been working with the County Attorney office on tightening up the County's animal control ordinance and bringing it up to State standards. He commented that the main changes were: adding Section 10-6 pertaining to the care of companion animals which would be a class 4 misdemeanor; amending Section 10-38 pertaining to dogs killing, injuring, or chasing livestock or poultry to add microchipping the animal versus euthanizing or moving the dog out of the Commonwealth just in relation to poultry; amending Section 10-114 to change the registration fees for dangerous dogs; and minor changes to wording and definitions to be up to date with current State code provisions.

Mr. Carl Brinkley, 825 Acacia Avenue, asked how microchipping is effective if it is a vicious dog. Deputy Ailstock replied that there is a different section in the ordinance that deals with dangerous/vicious dogs.

There was further discussion regarding microchipping of dogs (only applies to attacking/killing poultry); if someone would be prosecuted if they killed a dog that was caught killing their animal (all have a right to defend their animals, family, and property and each case would be investigated separately); even though the State Code includes provisions, if the County's ordinance is not changed to be consistent then a conviction could be overturned; etc.

There being no one else who wished to speak, the Chairman declared the public hearing closed.

On motion of Mr. Garten, seconded by Ms. Adcock, that the Board waive its policy of not acting on a public hearing on the same night.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

On motion of Mr. Shull, seconded by Mr. Garten, that the following amendments proposed at the Public Hearing held on Tuesday, November 1, 2016 to The Code of the County of Alleghany, Virginia in Chapter 10 entitled "Animals & Fowl" be adopted as follows:

**CH. 10
ANIMALS & FOWL**

ARTICLE I. In General

Sec. 10-1. Definitions.

ADD:

Commercial dog breeder means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

Farming activity means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

Incorporated means organized and maintained as a legal entity in the Commonwealth.

Private animal shelter means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

Public animal shelter means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

DELETE:

Animal shelter means a facility, other than a private residential dwelling and its surrounding grounds that is used to house or contain animals and that is owned operated or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

Pound means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any locality or incorporated society for the prevention of cruelty to animals.

CURRENT:

Adequate water means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume and at suitable intervals, but at least once every 12 hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Boarding establishment means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

Foster care provider means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

Home-based rescue means any person that accepts: (i) more than 12 companion animals; or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

Releasing agency means a pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that releases the companion animals for adoption.

CHANGE TO:

Adequate water means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume and at suitable intervals appropriate for the weather and temperature to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Boarding establishment means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

Foster care provider means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

Home-based rescue means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

Releasing agency means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases the companion animals for adoption.

Section 10-2. Violations of chapter.

CURRENT:

Unless otherwise specifically provided, a violation of any section of this chapter shall constitute a class 4 misdemeanor.

CHANGE TO:

Unless otherwise specifically provided, a violation of any section of this chapter is a class 4 misdemeanor.

Section 10-4. Cruelty.

CURRENT:

(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; or (ii) deprives any animal of adequate sustenance, food, drink or shelter or emergency veterinary treatment; or (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; or (v) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or (vii) causes any of such 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 other penalties provided by this chapter, 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 persons convicted.

(b) Any person who (i) tortures, 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; or (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 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; (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 (v) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection (a), is guilty of a class 6 felony if the current violation or any previous violation of this subsection or subsection (a), is guilty of a class 6 felony 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).

(e) Nothing in this section shall be construed to prohibit the dehorning of cattle.

CHANGE TO:

(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; or (ii) deprives any animal of adequate sustenance, food, drink or shelter or emergency veterinary treatment; or (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) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose allowing veterinary care; (v) willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or (vi) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or (vii) causes any of such 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 other penalties provided by this chapter, 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 persons convicted.

(b) Any person who (i) tortures, 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; or (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 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; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the

purpose allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection (a), is guilty of a class 6 felony if the current violation or any previous violation of this subsection or subsection (a), is guilty of a class 6 felony 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).

(e) Nothing in this section shall be construed to prohibit the dehorning of cattle in a reasonable and customary manner.

CURRENT:

Sec. 10-5. Reserved.

CHANGE TO:

Sec. 10-5. Application of section 10-4 to fowl.

The term "animal," as used in section 10-4, shall be construed to include birds and fowl.

CURRENT:

Sec. 10-6. Application of section 10-4 to fowl.

The term "animal," as used in section 10-4, shall be construed to include birds and fowl.

CHANGE TO:

Sec. 10-6. Care of companion animals by owner.

- (a) Each owner shall provide for each of his companion animals:
 - (1) Adequate feed;
 - (2) Adequate water;
 - (3) Adequate shelter that is properly cleaned;
 - (4) Adequate space in the primary enclosure for the particular type of animal depending on its age, size, species, and weight;
 - (5) Adequate exercise;
 - (6) Adequate care, treatment, and transportation; and
 - (7) Veterinary care when needed to prevent suffering or disease transmission.

The provisions of this section shall also apply to every public or private animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

(b) Violation of this section is a Class 4 misdemeanor. A second violation of subdivisions (a)(1), (2), (3), or (7) is a Class 2 misdemeanor and a second or subsequent violation of subdivision (a)(4), (5), or (6) is a Class 3 misdemeanor.

Sec. 10-7. Burial or cremation of dead animals or fowl.

CURRENT:

(a) If the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, and if he fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed \$75.00, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed \$5.00, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating this section shall be guilty of a class 4 misdemeanor.

CHANGE TO:

(a) If the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried or request such service from an officer or other person designated for the purpose. If the owner fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial and a reasonable fee to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating this section shall be guilty of a class 4 misdemeanor.

ARTICLE II. Dogs Generally

Sec.10-38. Dogs killing, injuring or chasing livestock or poultry.

CURRENT:

(a) It shall be the duty of any animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the animal.

(b) Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. Any animal control officer or other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer or has committed any of the depredations mentioned in this section, the district court shall order that the dog be (i) killed immediately by the animal control officer or other officer designated by the court or (ii) removed to another state which does not border on the commonwealth and prohibited from returning to the commonwealth. Any dog ordered removed from the commonwealth which is later found in the commonwealth shall be ordered by a court to be killed immediately.

CHANGE TO:

(a) It shall be the duty of any animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to seize or kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the animal.

(b) Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. Any animal control officer or other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer or has committed any of the depredations mentioned in this section, the district court shall order that the dog be (i) killed or euthanized immediately by the animal control officer or other officer designated by the court or (ii) removed to another state which does not border on the commonwealth and prohibited from returning to the commonwealth. Any dog ordered removed from the commonwealth which is later found in the commonwealth shall be ordered by a court to be killed or euthanized immediately.

ADD:

(c) Notwithstanding the provisions of subsection (b), if it is determined that the dog has killed or injured only poultry, the district court may, instead of ordering killing, euthanasia, or removal to another state pursuant to this section, order either (i) that the dog be transferred to another owner whom the court deems appropriate and permanently fitted with an identifying microchip registered to that owner or (ii) that the dog be fitted with an identifying microchip registered to the owner and confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent the dog's escape; direct contact with the dog by minors, adults, or other animals; or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature. When off its owner's property, any dog found to be a poultry killer shall be kept on a leash and muzzled in such a manner as not to cause injury to the dog or interfere with its vision or respiration, but so as to prevent it from biting a person or other animal.

ARTICLE III. Dog License

Sec. 10-75. Failure to pay tax when due.

CURRENT:

(b) When any person is convicted of a violation of this section, the fine imposed and the license tax due shall be immediately paid and, if not so paid, the court shall order the dog killed by the animal control officer or other officer, but the killing of such dog shall not relieve its owner of the payment of the fine and the license tax already due.

CHANGE TO:

(b) When any person is convicted of a violation of this section, the fine imposed and the license tax due shall be immediately paid and, in addition or as an alternative, the court may order confiscation and the proper disposition of the dog.

Sec. 10-77. Issuance, composition and contents.

CURRENT:

(a) Upon receipt of a proper application and the prescribed license tax, the county treasurer shall issue a dog license. However, no such license shall be issued for any dog unless there is presented to the treasurer, at the time application for such license is made, a certificate signed by a licensed veterinarian and certifying that the dog for which the license is to be issued has been vaccinated in accord with section 10-146.

CHANGE TO:

(a) Upon receipt of a proper application and the prescribed license tax, the county treasurer shall issue a dog license. However, no such license shall be issued for any dog unless there is presented to the treasurer, at the time application

for such license is made, a certificate signed by a licensed veterinarian and certifying that the dog for which the license is to be issued has been vaccinated in accordance with section 10-146.

ARTICLE IV. Dangerous or Vicious Dogs

Sec. 10-111. Definitions.

CURRENT:

Vicious dog means a canine or canine crossbreed which has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or
- (3) Continued to exhibit the behavior which resulted in a previous finding by a court or, on or before July 1, 2006 by an animal control officer, that it is a dangerous dog, provided that its owner has been given notice of that finding.

CHANGE TO:

Vicious dog means a canine or canine crossbreed which has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person; or
- (3) Continued to exhibit the behavior which resulted in a previous finding by a court or, on or before July 1, 2006 by an animal control officer, that it is a dangerous dog, provided that its owner has been given notice of that finding.

ADD:

Serious injury means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Sec. 10-112. Summons and hearing.

CURRENT:

Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious 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 or she must notify the animal control officer and advise him or her of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. 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 this article. 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 Code of Virginia, § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in the Code of Virginia § 19.2-260, et seq. The commonwealth shall be required to prove its case beyond a reasonable doubt.

CHANGE TO:

Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious 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 or she must notify the animal control officer and advise him or her of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. In the case of a dangerous dog, 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 this article. 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 Code of Virginia, § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. 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 or returned to the owner. Trial by jury shall be as provided in the Code of Virginia § 19.2-260, et seq. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

Sec. 10-114. Dangerous dog registration certificate and tag.

CURRENT:

- (a) The owner of any animal found by a court to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of \$50.00 in addition to other fees that may be

authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which 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. All certificates obtained pursuant to this section shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(b) The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian. The owner of any dog found to be dangerous shall be required to register the animal with the Commonwealth of Virginia Dangerous Dog Registry, established under Code of Virginia § 3.2-6542, within 45 days of such a finding by a court of competent jurisdiction.

(c) The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses and telephone numbers of all owners; (ii) 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) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

CHANGE TO:

(a) The owner of any animal found by a court to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of \$150.00 in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which 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. All certificates obtained pursuant to this section shall be renewed annually for a fee of \$85 and in the same manner as the initial certificate was obtained.

(b) The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian. The owner of any dog found to be dangerous shall be required to register the animal with the Virginia Dangerous Dog Registry, established under Code of Virginia § 3.2-6542, within 45 days of such a finding by a court of competent jurisdiction.

(c) The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses and telephone numbers of all owners; (ii) 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 information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

Sec. 10-115. Conditions for issuance of dangerous dog registration certificates.

CURRENT:

(a) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons 18 years of age or older who present satisfactory evidence:

(2) 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.

(b) In addition to subsection (a) of this section, an owner who applies for a certificate or renewal thereof under this article shall not be issued a certificate or renewal thereof unless he presents satisfactory evidence that:

(2) The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

CHANGE TO:

(a) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons 18 years of age or older who present satisfactory evidence:

(2) 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; and

(b) In addition to subsection (a) of this section, an owner who applies for a certificate or renewal thereof under this article shall not be issued a certificate or renewal thereof unless he presents satisfactory evidence that:

(2) The animal has been permanently identified by means of electronic implantation; and

Sec. 10-118. Notices required.

CURRENT:

After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of such, notify the local animal control authority if the animal:

(4) Has been moved to a different address.

CHANGE TO:

After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon

learning of such, notify the local animal control authority if the animal:

- (4) Has been moved to a different address, including a move out of the jurisdiction.

Sec. 10-120. Penalties for non-compliance.

CURRENT:

- (b) Any owner of a canine or canine crossbreed or other animal is guilty of a:
(1) 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.
(2) 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) Class 1 misdemeanor, if any owner or custodian 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 bodily injury to any person.

CHANGE TO:

- (b) Any owner of a canine or canine crossbreed or other animal is guilty of a:
(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this article, 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) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this article, 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) Class 1 misdemeanor, if any owner or custodian of a dangerous dog 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 bodily injury to any person.

ADD:

(c) Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this article, 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 Board of Supervisors pursuant to Va. Code § 3.2-6562 or (ii) grant the owner up to 45 days to comply with this article, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by the Board of Supervisors pursuant to Va. 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.

(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 attaching and causing serious injury to any person is guilty of a class 1 misdemeanor. 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.

Adopted: November 1, 2016
Effective Date: 12:01 a.m., November 2, 2016
Adopted by the following roll call vote:

Table with 2 columns: Name and Vote. Rows include Ms. Adcock, Mr. Bennett, Mrs. Cox, Mr. Garten, Mr. Griffith, Mr. Nicely, and Mr. Shull, all with 'Yes' votes.

ALLEGHANY COUNTY BOARD OF SUPERVISORS

Deputy Clerk to the Board

PUBLIC HEARING - AMENDMENTS TO CH. 6 - AMUSEMENTS AND ENTERTAINMENT (OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVALS) OF THE COUNTY CODE:

Public Hearing was held to consider amendments to Chapter 6 - Amusements and Entertainment in Article II - Outdoor

Musical or Entertainment Festivals of “The Code of the County of Alleghany, Virginia.”

The Chairman announced that this public hearing was advertised in the Virginian Review on Thursday, October 20, 2016 and Tuesday, October 25, 2016 in accordance with the Code of Virginia. He then called the public hearing to order.

Mr. Lanford stated there is a draft of the revised ordinance in the agenda packet. He commented that the proposed changes to the ordinance came about in response to a request from an individual that wants to host festivals in the Longdale area next year. He mentioned that during the review of the existing ordinance it was found to be very rigid with little flexibility. He stated that ordinances from other areas were reviewed and changes were made using the framework of the County’s existing ordinance. He commented that the biggest change is the way the permit would be acquired. In Sec. 6-32, the application needed to be submitted at least 22 days in advance of the event with tasks in Sec. 6-33 completed before approval and sent certified mail to the Board prior to approval, but this was changed to the application being submitted at least 30 days in advance and the certified mail portion was removed. He commented that the individual could also apply up to 12 months in advance for a conditional permit contingent upon submittal of the items in Sec. 6-33 at least 30 days prior to the event, or they could apply for an annual permit. He mentioned that these changes give flexibility in planning. He stated that the Board needs to decide whether they want to give the final approval or authorize the County Administrator to do so. He commented that if the County Administrator is authorized, then any appeals would go to the Board.

Mr. Garten asked how long a festival can be. Mr. Lanford replied that it is not spelled out in the ordinance and would be on a case by case basis.

Mr. Nicely stated that he thinks the applications should come before the Board so that each can be looked at on an individual basis.

Mr. Griffith agreed with Mr. Nicely and mentioned that the people in the affected district would then be given the opportunity to hear and comment about the festival. Mr. Bennett added that this would also give citizens notice with it being on an agenda.

Mrs. Cox asked if the County Administrator is given authorization for permits and the permit is approved what would happen if the community comes out and says they do not want it. Mr. Lanford replied that this is not specifically spelled out, but they could come to a Board meeting to discuss as it is an open meeting. He commented that if the Board grants approval of events then citizens will know what is being planned as it would be discussed publicly.

Mr. Nicely asked if there is a minimum number of people to consider it a festival. Mr. Lanford replied that Sec. 6-35(b) mentions over 200.

Mr. Carl Brinkley, 825 Acacia Street, asked about noise. Mr. Lanford replied that Sec. 6-33(11) states that sound can not exceed 60 decibels at the property line, unless a higher limit is specified in the permit.

Ms. Michelle Rucker, 4301 Longdale Furnace Road, stated that they are hoping to have outdoor music festivals in early fall of next year with smaller events earlier in the year. She commented that they can not move forward with planning and scheduling bands/venues without approval.

The Chairman stated that this will be an action item on the next regular meeting agenda.

PUBLIC COMMENT (5 MINUTE TIME LIMIT):

Ms. Deloris Quarles, 701 Wrightstown Avenue, handed out information regarding her sister Ms. Delethea Quarles which is a part of the records of this meeting. She gave a brief overview of her sister’s accomplishments (graduate of AHS, coach at USC, head coach of the US Championship team in Beijing, etc.) and invited the Board to a reception honoring her sister on November 26th with more information on the time/location to be forthcoming in an email. She also asked what could be done to have an adopt-a-highway or other sign erected for her sister.

Ms. Susan Hammond, VDOT Resident Engineer, asked Ms. Quarles to contact her to get an application for an adopt-a-highway sign. She mentioned that bridges are only named for deceased individuals.

MS. SUSAN HAMMOND, VDOT RESIDENT ENGINEER - VIRGINIA DEPARTMENT OF TRANSPORTATION UPDATE:

Ms. Susan Hammond, VDOT Resident Engineer, gave a report on the following VDOT activities:

Maintenance

- Completed fall mow on primary and secondary routes.
- Interstate fence-to-fence mow should be in the area soon.
- Began grading secondary stabilized roads County-wide.
- Replaced pipes on Routes 641, 1302, and 781.
- Bridge repairs were completed on Route 18.
- Plant mix and skin patching are underway in preparation for next year's schedule.
- Completed signing up contractors for winter weather response. Prepping our equipment and stocking materials.
- Paving completed on Routes 60, 687, and starting on Route 311.

Mrs. Cox commented that the bridge at Wolfe Road is still bad. Ms. Hammond replied that an overlay will be done soon.

Mr. Garten commented regarding rocks and hanging trees on Rt. 220 near Honda Nissan potentially falling due to the weather. He stated that the paving on Rt. 687 turned out great. He asked about when work would be done at the Natural Well bridge. Ms. Hammond replied that the design is finished and they are waiting on funding, but thinks it will be advertised in early 2018. She will get Mr. Garten more information.

Mr. Bennett asked for an update on the Low Moor interchange project. Ms. Hammond replied that the project is on schedule to advertise on November 22nd for 30 days and then they will go through the review process, prices submitted, check certifications, etc. She commented that the project will probably be awarded in February with a Notice to Proceed in early March.

Mrs. Cox stated that it has been a couple weeks since the bridges and tunnels were patched in her area and the contractors did a wonderful job.

Mr. Griffith mentioned that as you drive onto the Rosedale bridge there is sinking. Ms. Hammond replied that this bridge is up for a significant rehabilitation in 2019.

APPROVE REVENUE SHARING AGREEMENT TO BE SUBMITTED TO THE COMMISSION ON LOCAL GOVERNMENT (COLG):

Mr. Lanford stated that there is a draft agreement and resolution in the agenda packet. He commented that the resolution would authorize the submittal of the revenue sharing agreement between the County and Covington along with other information to the Commission on Local Government for their review. He mentioned that the effective date of the resolution is November 9, 2016 as Covington Council will not be acting on the resolution until their November 8th meeting. He stated that section 2 of the resolution requires that surrounding jurisdictions be notified of the submittal which will be done after approval of the resolution by both localities.

On motion of Ms. Adcock, seconded by Mr. Griffith, that the following resolution be adopted:

WHEREAS, by concurrent resolutions dated October 4, 2016, the Board of Supervisors of Alleghany County and the City Council of the City of Covington adopted a Framework Memorandum of Understanding regarding various economic development issues affecting both localities; and

WHEREAS, among the matters addressed in the Framework Memorandum of Understanding is a development and adoption of a Voluntary Economic Growth-Sharing Agreement, as authorized by Section 15.2-1301 of the Code of Virginia, 1950, as amended; and

WHEREAS, such Growth-Sharing Agreement must be reviewed by the Virginia Commission on Local Government pursuant to Section 15.2-2903(4) of the Code of Virginia, 1950, as amended, prior to going into effect:

NOW THEREFORE, BE IT RESOLVED that:

1. The County Administrator shall cause the Joint Economic Development & Revenue-Sharing Agreement enclosed with this Resolution to be submitted to the Commission on Local Government for review, with such supporting documentation as the County Administrator and the County Attorney shall deem advisable; and
2. The County Administrator is directed to give notice of this referral in accordance with law to each local government with which either the City or the County is contiguous or with which either shares any function, revenue, or tax source, to wit, Bath County, Botetourt County, Craig County, Franklin County, Roanoke County, Rockbridge County, the City of Roanoke, the Town of Clifton Forge, the Town of Iron Gate, the Town of Rocky Mount, and the Town of Vinton; and
3. This resolution is effective as of noon Eastern Standard Time on November 9, 2016.

Unanimously adopted by the following roll call vote:

Suzanne T. Adcock	Yes
Shannon P. Cox	Yes
James M. Griffith	Yes
Cletus W. Nicely	Yes
Richard Lee Shull	Yes
G. Matt Garten	Yes
Stephen A. Bennett	Yes

Mr. Lockaby stated that he has been serving as the attorney for the County and the City on this submittal and wanted the Board to be aware of the possible conflict of interest.

COUNTY ADMINISTRATOR'S REPORT:

Mr. Lanford gave a report on the following items:

Joint Salary Study

Mr. Lanford stated that the Roanoke Valley-Alleghany Regional Commission (RV-ARC) is working on a regional salary and benefits study with the focus on Roanoke, Botetourt, etc. He commented that the regional study would be different than what is needed locally so he has been working with the Covington City Manager on doing one for just our area. He mentioned the intent is to look at our salaries and any inequities. He stated that the County's plan just includes starting salary scales, but does not include maximum pay, steps, etc.

Update on RADAR Funding

Mr. Lanford stated that there was a picture in the newspaper recently where the Alleghany Regional Hospital Auxiliary made a \$5,000 donation to RADAR. He commented that he also sent out an email to the Board regarding assistance that will be received from the Department of Rail and Public Transportation to provide gap funding for RADAR to keep them at the same level. He mentioned that they also are offering technical assistance funding for a consultant to do a ridership survey, evaluation and recommendations of routes, recommendation to increase ridership, etc.

Update on Capital Projects

Mr. Lanford commented that the substantial completion dates of four capital projects are as follows: (1) the Kmart/Mallow Mall pump station - October 26th; (2) the Cherokee/Indian Valley pump station - November 18th; (3) improvements to the Low Moor Wastewater Treatment Plant - December 5th; and (4) the connection of the trail to Covington and from N. Smith Bridge to Bath County - May 29th.

Community Planning Academy

Mr. Lanford stated that the Community Planning Academy has held two sessions so far and has been a success with approximately 15 participants per class to date. He commented that the first two sessions dealt more with legalese and the next three will be more interactive on what participants feel the Comprehensive Plan should include. He mentioned that there are participants from the local governments, school system, the Alleghany Foundation, the Chamber of Commerce, DSLCC, etc.

Director of Social Services Resignation

Mr. Lanford stated that he sent an email out to the Board regarding the resignation of Ms. Adcock as the Director of Social Services. He wished her well in her new role and commented that he has enjoyed working with her at the staff level.

BOARD MEMBER COMMENTS (INQUIRIES/REPORTS):

Miscellaneous

Mr. Griffith congratulated Ms. Adcock on her new position. He commented that the Community Planning Academy has been excellent so far and the next three classes will be more interactive.

Mr. Shull congratulated Ms. Adcock. He wished her the best in her new venture. He commented that it is good to see Mr. Carl Brinkley present.

Mr. Nicely wished Ms. Adcock all the best and mentioned that he is glad she is not leaving the Board.

Mrs. Cox thanked Ms. Quarles for the information regarding her sister and stated that she will try to attend the reception. She commented that she is a member of the Social Services Board and it will be a challenge to find a replacement for Ms. Adcock. She mentioned that during her time on that board she has learned a lot and could always go to Ms. Adcock with questions and get answers. She wished everyone a Happy Thanksgiving.

Ms. Adcock thanked everyone for the well wishes. She commented that it was a difficult decision to make, but she is up for the challenge. She mentioned that everyone is still stuck with her on the Board. She stated that Ms. Michelle Downs from the Clifton Forge Public Library wants to meet with the Board or a couple members at a time for an informational meeting. Various Board members mentioned that Ms. Downs had also contacted them.

Mr. Garten congratulated Ms. Adcock and commented that he is sure she will do a wonderful job. He wished everyone a Happy Thanksgiving.

Mr. Bennett welcomed Mr. Carl Brinkley back and wished Ms. Adcock good luck. He commented that Social Services has not been on the radar for anything since Ms. Adcock has been there so she was doing her job right.

ADJOURNMENT:

On motion of Mr. Nicely, seconded by Mr. Garten, that the meeting be adjourned at 8:10 p.m. to Thursday, November 3, 2016 at 6:30 p.m. at DSLCC. Motion carried.

Stephen A. Bennett
Chairman