ATTACHMENT 2

PROPOSED ORDINANCE 12/21/2021

Sec. 14-235 - Effect of approval of private street.
If the agent or the commission approves one or more private streets in a subdivision, the following requirements ~~shall~~ apply:

~~A. The subdivider shall submit a maintenance agreement as required by section 14-317.~~

A~~B~~. The final plat ~~shall~~ must contain the statement required by section 14-303(N).

B~~C~~. The subdivider ~~shall~~ must provide surety for the completion of the private street as required by section 14-435 if the private street will not be completed prior to approval of the final plat, unless the private street was authorized under sections 14-232(B)(1), 14-232(B)(2), or 14-233(B)(2).

Sec. 14-303 - Contents of final plat.
In addition to containing all of the information required by section 14-302, except for the information required by section 14-302(A)(12), a final plat ~~shall~~ must contain the following information:

N. ~~*Statement pertaining to private streets.* If the subdivision will contain one or more private streets, the following statement: "The streets in this subdivision may not meet the standards for acceptance into the secondary system of state highways and will not be maintained by the Virginia Department of Transportation or the County of Albemarle."~~ *Statement pertaining to private improvements.* "Unless specifically denoted as public, the streets and other required improvements in this subdivision are private in nature and will not be maintained by either the Virginia Department of Transportation or any other public agency. The maintenance thereof is the mutual obligation of the affected lot owners. Failure to maintain the improvements in substantially the same condition as originally approved by the County may constitute a violation of County ordinance(s)."

14-317 - ~~Instrument evidencing maintenance of certain improvements.~~ [Repealed]

~~If the subdivision will contain one or more improvements that are not to be maintained by the county or any authority or other public agency, the subdivider shall submit with the final plat an instrument assuring the perpetual maintenance of the improvement, as follows:~~

~~A. The instrument shall, at a minimum:~~

~~1. Identify the plat to which the instrument applies; if the plat has been recorded, the identification shall include a deed book and page number.~~

~~2. State that the improvement will be maintained in perpetuity.~~

~~3. State that the improvement will be maintained to a standard that, at a minimum, ensures that it will remain in substantially the condition it was in when approved by the county if the improvement was installed prior to the agent signing the plat or the condition it is to be in when the surety was released as provided in section 14-436; for a private street, shared driveway, or alley, the instrument also shall state substantially as~~

follows: "The travelway shall at all times be maintained so that it is safe and convenient for passenger automobiles and emergency vehicles at all times except in severe temporary weather conditions."

4. If the instrument pertains to the maintenance of one or more private streets, alleys or shared driveways, it shall define "maintenance" by stating substantially as follows: "For purposes of this instrument, 'maintenance' includes the maintenance of the private streets or alleys, and all curbs, curbs and gutters, drainage facilities, utilities, dams, bridges and other private street improvements, and the prompt removal of snow, water, debris, or any other obstruction so as to keep the private street or alley reasonably open for usage by all vehicles, including emergency services vehicles."

5. Describe the condition of the improvement when it was approved by the county if the improvement was installed prior to the agent signing the plat or the condition it is to be in when the surety was released as provided in section 14-436.

6. Identify the timing or conditions warranting maintenance of the improvement.

7. State a means to collect funds necessary for the cost of maintaining the improvement; at a minimum, the means stated shall include the right of any landowner subject to the instrument to record a lien against a non-contributing landowner, to bring an action at law to collect the funds, or both.

8. Describe how maintenance costs will be prorated among the landowners subject to the instrument (*e.g.*, "equally," or on a percentage basis); if any lot within the subdivision may be further divided, the instrument shall also describe how maintenance costs will be prorated among the landowners after division.

9. State substantially as follows: "No public agency, including the Virginia Department of Transportation and the County of Albemarle, Virginia, will be responsible for maintaining any improvement identified herein."

B. The instrument shall be subject to review and approval by the county attorney and shall be in a form and style so that it may be recorded in the office of the clerk of the circuit court of the county. The agent may require that the instrument be on a form prepared by the county attorney.

C. For purposes of this section, the term "to maintain," or any derivation of that verb, includes the maintenance, replacement, reconstruction and correction of defects or damage.

D. Nothing in this section shall affect the rights of the county reserved under section 14-440.