

ORDINANCE NO. 19-10()

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. 10-103 Disorderly conduct in public places.

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

By Repealing:

Sec. 10-120.1 Designation of police to enforce trespass violations

Chapter 10

Offenses – Miscellaneous

Sec. 10-103 Disorderly conduct in public places.

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

1. ~~In~~ 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~~ the 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~~ the 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~~ the 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. *Person in charge may eject persons violating this section.* The person in charge of any ~~such~~ building, place, conveyance, meeting, operation or activity referred to in subsection (A) 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. Designating the county executive as the person in charge of county property. The county executive is hereby designated as the “person in charge” for the purpose of ejecting any person from any county-owned or county-leased lands, buildings, or premises who violates this section or Virginia Code § 18.2-415.

1. Delegation to others; rescission. The county executive may delegate this authority to a deputy county executive, an assistant county executive, any county department head, and the superintendent of schools. The county executive may rescind any delegation of authority.
2. Delegation and rescission must be in writing; exception. Any delegation, and any rescission of a delegation, shall be in writing and the writing shall be kept on file in the office of the clerk of the board of supervisors. If the circumstances make it impracticable for the county executive to make a delegation in writing, he may do so orally and memorialize the delegation in writing and file it as soon as it is practicable to do so. The writing shall include the date and time that the oral delegation was made.

CD. Penalty. 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; Ord. 10-10(1), 11-3-10)

State law reference-Va. Code §§ 15.2-516, 15.2-1501, 18.2-415.

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 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Virginia Code §§ 18.2-132 through 18.2-136.

A. Designating the police department as the person lawfully in charge of the property. Any owner, lessee, custodian, or person lawfully in charge of any real property may designate the Albemarle County Police Department as a “person lawfully in charge of the property” for the purpose of forbidding another to go upon or remain upon the lands, buildings, or premises as specified in the designation, for the purposes of enforcing a trespass pursuant to this section or Virginia Code § 18.2-119.

1. Form of designation. Any designation shall be in writing on forms provided by the chief of police and the county attorney and shall be kept on file with the police department.

2. *Discretion of the chief of police to accept the designation.* The decision whether to accept or rescind a designation is solely within the discretion of the chief of police or his designee, who may base his decision on factors including, but not limited to, resource levels of the police department and the proper allocation of resources.
3. *Authority to establish rules.* The chief of police, in consultation with the Commonwealth's Attorney and the county attorney, may establish rules for accepting, using, and rescinding a designation.

B. *Designating the county executive as the person lawfully in charge of county property.* The county executive is hereby designated as the "person lawfully in charge of the property" for the purpose of forbidding another to go upon or remain upon county-owned or county-leased lands, buildings, or premises for the purposes of enforcing a trespass pursuant to this section or Virginia Code § 18.2-119.

1. *Delegation to others; rescission.* The county executive may delegate this authority to a deputy county executive, an assistant county executive, any county department head, and the superintendent of schools. The delegation shall be in writing and the writing shall be kept on file in the clerk of the board of supervisors' office. The county executive may rescind any delegation of authority.
2. *Designating the police department.* The county executive may designate sworn personnel of the Albemarle County Police Department as a "person lawfully in charge of the property" as provided in subsection (A). The designation shall be in writing and the writing shall be kept on file in the clerk of the board of supervisors' office. The county executive may rescind the designation.
3. *When a written delegation or designation is not required.* If the circumstances make it impracticable for the county executive to make a delegation or designation in writing, he may do so orally and memorialize the delegation in writing and file it as soon as it is practicable to do so. The writing shall include the date and time that the oral delegation or designation was made.

(Code 1967, § 13-23; 4-13-88; Code 1988, § 13-21; Ord. 98-A(1), 8-5-98; Ord. 10-10(1), 11-3-10)

State law references-Va. Code §§ 15.2-516, 15.2-1218, 15.2-1501, 15.2-1717.1, 18.2-119. For similar state law, Va. Code § 18.2-119; as to authority of county to prevent trespass, Va. Code § 15.2-1218.

Sec. 10-120.1 Designation of police to enforce trespass violations.

An owner, lessee, custodian, or person lawfully in charge of any real property may designate the Albemarle County Police Department as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings, or premises as specified in the designation. The decision whether to accept or rescind any such designation is solely within the discretion of the chief of police or his designee, who may base his decision on factors including, but not limited to, resource levels of the police department and the proper allocation of resources. Any such designation shall be in writing on forms promulgated by the chief of police and the county attorney and shall be kept on file with the police department. The chief of police, in consultation with the Commonwealth's Attorney and the county attorney, shall promulgate rules, regulations, and/or procedure for the acceptance, use, and rescission of such designation.

(Ord. 12-10(1), 5-2-12)

State law reference—Va. Code § 15.2-1717.1.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	____	____
Mr. Gallaway	____	____
Ms. Mallek	____	____
Ms. McKeel	____	____
Ms. Palmer	____	____
Mr. Randolph	____	____