

At a meeting of the Spotsylvania County Board of Supervisors held on _____, 2017 on a motion by _____, seconded by _____ and passed _____, the Board adopts the following ordinance:

AN ORDINANCE No. 13-3

To amend Chapter 13, Section 6, Dogs Constituting Public Nuisance, an amendment to ~~bring current with the Code of Virginia.~~ add dog attacks upon human beings and dog attacks upon poultry as acts deemed public nuisances

PUBLIC HEARING: _____

WHEREAS, staff has reviewed the code amendment and recommends approval as stated in the executive summary dated _____; and

WHEREAS, the Spotsylvania Board of Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on _____, and interested citizens were given an opportunity to be heard; and

WHEREAS, good practice and the general welfare are served by approval of the code amendment.

NOW, THEREFORE, THE COUNTY OF SPOTSYLVANIA BOARD OF SUPERVISORS HEREBY ORDAINS:

§ 1. That Chapter 13, Section 6, Dogs Constituting Public Nuisance, be and is hereby **amended** and reordained as follows:

Chapter 13 - NUISANCES^[1]

--- (1) ---

State Law reference— Nuisances generally, Code of Virginia, § 48-1 et seq.; authority of county to adopt measures to secure and promote the health, safety and general welfare of the inhabitants, § ~~45.1-510~~15.2-1200; authority of county to adopt ordinances that parallel §3.2-6540 (civil charge - but cannot charge felony), §3.2-6540(O); exceptions §3.2-6540(E)-

Sec. 13-6. - Dogs constituting public nuisance.

(a) No owner or custodian shall fail to exercise proper care and control of his or her dog to prevent it from becoming a public nuisance. Acts deemed nuisances shall include but are not limited to the following:

(1) Chasing vehicles;

- (2) Trespassing upon other's property in such a manner as to damage property;
- (3) Attacking ~~any human being, companion animal,~~ livestock or ~~poultry other domestic, companion, or exotic animals~~ so as to cause injury or death, unless such ~~human being, companion animal~~ livestock or ~~animal-poultry~~ is trespassing upon the property on which the dog or dogs are kept;
- (4) Habitually running at large; or
- (5) Three (3) or more convictions for running at large within two (2) years; or
- (6) Attacking any human being so as to cause injury or death, subject to the exceptions set forth in section (g).-
- (b) Any person owning or having in his or her possession or under his or her control any dog suspected of constituting a nuisance shall be proceeded against by warrant or summoned before the general district court of the county to show cause why such dog should not be confined, euthanized, removed or the nuisance otherwise abated.
- (c) The animal control officer, owner or custodian shall confine the animal until such time as the court has made a final decision in the case. If the animal control officer deems confinement necessary then the owner or custodian shall be responsible for the impound fees.
- (d) Upon proof that such dog does constitute a public nuisance, the dog shall, by order of the general district court be confined, euthanized, removed or the nuisance shall be otherwise abated, as the court shall order. No person shall fail to comply with such an order.
- (e) Any person violating subsections (a)(3), (a)(4), ~~or~~ (a)(5), or (a)(6) of this section shall be guilty of a Class 1 misdemeanor. Any person violating any other provision of this section shall be guilty of a Class 3 misdemeanor.
- (f) This section shall not apply to any person while engaged in law enforcement or search and rescue activity; in a supervised formal obedience training class or show; during formally sanctioned field trials; while engaged in lawful hunting with a dog or dogs during open season; or during bona fide hunting or field trial dog training.
- (g) No dog shall be found to constitute a public nuisance if, for purposes of section (a)(6), at the time of the attack:
 - (1) the human being who was attacked was committing a crime upon the premises occupied by the dog's owner or custodian; or
 - (2) the human being who was attacked was committing a willful trespass upon the premises occupied by the dog's owner or custodian; or
 - (3) the human being who was attacked was provoking, tormenting, or physically abusing the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times;
 - (4) the attacking dog was a police dog engaged in the performance of its duties as such at the time of the attack; or
 - (5) the attacking dog was responding to pain or injury that not caused by the human being who was attacked; or

(6) the attacking dog was protecting itself, its kennel, its offspring, its owner or custodian, or a family member, as defined by the Code of Virginia, who lives at the same residence, or its owner's or custodian's property from the human being who was attacked.

(h)–Enforcement. No person shall be charged with a violation of section 13-6(a), unless the complainant shall appear before a magistrate and make complaint thereof and request a summons or warrant be issued charging such violation in the manner provided by law; provided that, when a violation is committed in the presence of an animal control officer, the officer may proceed to issue a summons and take other action as set forth in this section.

~~(g)–Enforcement. No person shall be charged with a violation of section 13-6(a), unless the complainant shall appear before a magistrate and make complaint thereof and request a summons or warrant be issued charging such violation in the manner provided by law; provided that, when a violation is committed in the presence of an animal control officer, the officer may proceed to issue a summons and take other action as set forth in this section.~~

(Ord. No. 13-1, 5-10-05; Ord. No. 13-3, [Insert Date Adopted])

§ 2. This ordinance shall be in force and effect upon adoption.

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____