

At a meeting of the Spotsylvania County Board of Supervisors held on October 10, 2017 on a motion by _____, seconded by _____ and passed _____, the Board adopts the following ordinance:

AN ORDINANCE No. 4-31

To amend Chapter 4, Animals and Fowls, Article I, In General, Sections 4-1, 4-4, 4-10, 4-13, and 4-17, Article II, Dogs Generally, Sections 4-21, 4-23, 4-24, and 4-25, Article III, Vicious and Dangerous Dogs, Sections 4-31 and 4-32, Article IV, Dog License, Sections 4-40, 4-41, 4-42, 4-43, 4-45, 4-46, 4-47, 4-47, and 4-49, and Article V, Rabies Control, Sections 4-62, 4-64 through 4-68, to bring current with the Code of Virginia.

PUBLIC HEARING: October 10, 2017

WHEREAS, staff has reviewed the code amendment and recommends approval as stated in the executive summary dated October 10, 2017; and

WHEREAS, the Spotsylvania Board of Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on October 10, 2017, 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 4, Articles I through V, be and are hereby **amended** and reordained as follows:

Chapter 4 - ANIMALS AND FOWL^[1]

Footnotes:

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Cross reference— Farm animals exempt from taxation as tangible personal property, § 21-27; animals running at large at Ni River Reservoir, § 22-237.

State Law reference— Comprehensive animal laws, Code of Virginia, §§ ~~3.1-796.66~~ ~~3.1-796.129~~ 3.2-6500 – 3.2-6590; authority of county to adopt ordinances paralleling state animal laws, § ~~3.1-796.94~~ 3.2-6543.

ARTICLE I. - IN GENERAL

Sec. 4-1. – Definitions.

For the purpose of this ~~article~~ chapter and Chapter 13, Section 13-6, unless otherwise required by the context, the following words, terms and phrases shall have the meanings respectively ascribed to them by this section. Words and terms not defined, herein, which are defined in the comprehensive animal care laws of the Code of Virginia, shall have the meanings respectively ascribed to them by that section:

Adequate care means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

Adequate exercise means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

Adequate feed means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water means provision of and access to clean, fresh, potable water of a drinkable temperature that 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 that 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.

Ambient temperature means the temperature surrounding the animal.

Animal means any nonhuman vertebrate species except fish. For the purposes of Article V of this chapter, animal means any species susceptible to rabies. For the purpose of Section 4-11, animal means any nonhuman vertebrate species, including fish, except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer means a person appointed as an animal control officer or deputy animal control officer as provided in the Code of Virginia.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person.

Direct and immediate threat means any clear and imminent danger to an animal's health, safety or life.

Emergency veterinary treatment means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

Humane means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

Kennel means any establishment in which five (5) or more canines, felines or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling or showing.

Livestock includes all domestic or domesticated: bovine animals, equine animals, ovine animals, porcine animals, cervidae animals, caprae animals, animals of the genus Lama, ratites, enclosed domesticated rabbits or hares raised for human food or fiber, or any other individual animal specifically raised for food or fiber, except companion animals.

Other officer includes all persons employed by the county whose duty it is to preserve the peace, make arrests, or enforce the law.

Own/owner includes any person having a right of property in an animal, any person who keeps or harbors an animal, any person who has an animal in his care, or any person who acts as its custodian.

Pet means any animal kept for pleasure rather than utility.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing facilities. As an example, if the sound source were a portable or personal vehicular sound

amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

Poultry includes all domestic fowl and game birds ~~and domestic fowl, including domestic laying hens as defined in section 23-2.1.4., Definitions,~~ raised in captivity.

Treatment or adequate treatment means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

Veterinary treatment means treatment by or on the order of a duly licensed veterinarian.

Wild or exotic animal means any live monkey (nonhuman primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula which can normally be found in the wild state or any other member of crocodilian, including but not limited to alligators, crocodiles, caimans and gavials. Ferrets, nonpoisonous snakes, rabbits and laboratory rats which have been bred in captivity and which never have known the wild shall be excluded [from] this definition.

(Code 1980, § 4-1; Ord. No. 4-2, 6-1-93; Ord. No. 4-26, 10-13-09; Ord. No. 4-28, 2-12-13; Ord. No 4-31, 10-10-17)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar provisions, Code of Virginia, § 3.2-6500.

Sec. 4-4. - Fees.

Fees for services provided by the animal control officer, or for reclaiming animals, not otherwise specified within this ~~Chapter~~ chapter shall be set by resolution of the board of supervisors.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.2-6546(C).

Sec. 4-10. - Impoundment of animals running at large.

Any animal, other than a dog, cat, or wild animal, found running at large in the county, shall be taken up by the animal control officer or other officer, as defined in section 4-1, and impounded at the animal pound or other facility and thereafter disposed of under the same terms and conditions as prescribed in section 4-22 for dogs. Nothing in this section shall apply to an animal disposed of under the provisions of section 4-7. For purposes of this section, running at large shall mean off the property of its owner or custodian and not leashed or otherwise tethered.

(Code 1980, § 4-11; Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.2-6538; authority of county to adopt above section, § 3.2-6543; and duty of county to maintain pound, Code of Virginia, § 3.1-796.963.2-6546.

Sec. 4-13. - Abandoning domesticated animal or fowl in public places or on property of another.

Any person who abandons any dog, cat or other domesticated animal or fowl in any public place, including the right-of-way of any public highway, road or street, or on the property of another, shall be guilty of a Class 3 misdemeanor.

(Code 1980, § 4-24; Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

Cross reference— Penalty for Class 3 misdemeanor, § 1-11.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.1223.2-6504; authority of county to adopt above section, § 15.1-29.1:15.2-1518.

Sec. 4-17. - Dogs and cats deemed personal property; rights relating thereto.

- (a) All dogs and cats in this county shall be deemed to be personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain an action for killing of any such dogs or cats, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.
- (b) The animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such dog or cat pending action before the general district court or other court. If no such action is instituted within seven (7) days, the animal control officer or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner or occupant of such premises, however the animal control officer may take such dog or cat in charge or notify its legal owner to remove the dog or cat. The legal owner of the dog or cat shall pay a reasonable charge, as fixed by the board of supervisors, for the keeping of such dog or cat while in the possession of the animal control officer.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-6, 10-11-94; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.1273.2-6585.

ARTICLE II. - DOGS GENERALLY

Sec. 4-21. - Running at large—Generally.

- (a) No dog shall run at large in the county. Any person who is the owner or custodian of a dog found running at large in the county shall be in violation of this section.
- (b) For the purposes of this section, a dog shall be deemed to be "running at large" while roaming, running or self-hunting off the property or premises of its owner or custodian and not under the immediate control of the owner or custodian or his agent. "Property or premises of its owner or custodian" for purposes of this section, shall not mean residential or commercial common areas.
- (c) 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.
- (d) It shall be unlawful for the owner of a dog to place such dog or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of such dog.
- (e) A violation of this section shall constitute a Class 4 misdemeanor for the first offense; provided, however, if the dog is a dangerous or vicious dog, a violation of this section shall constitute a Class 1 misdemeanor.
- (f) A second violation of this section within one (1) year of a conviction of the first violation shall constitute a Class 2 misdemeanor; provided, however, if the dog is a dangerous or vicious dog, a violation of this section shall constitute a Class 1 misdemeanor.
- (g) A third or subsequent violation of this section within two (2) years of conviction of the second or subsequent violation shall constitute a Class 1 misdemeanor.

(Code 1980, § 4-10; Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No. 4-14, 8-11-98; Ord. No. 4-15, 9-28-99; Ord. No. 4-22, 5-10-05; Ord. No 4-31, 10-10-17)

State Law reference— Authority for above section, Code of Virginia, §§ ~~3-1-796.93, 3-1-796.1003.2-6538.~~

Sec. 4-23. - Killing or injuring livestock or poultry.

- (a) It shall be the duty of the animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry in the county to seize or kill such dog forthwith, whether such dog bears a ~~license~~-tag or not. Any ~~other~~ 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

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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 dog.

- (b) The general district court or any other 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. Any dog killing poultry for the third time shall be considered a confirmed poultry killer. Any animal control officer who has reason to believe that any dog is killing livestock or poultry in the county 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 herein. 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 serving the jurisdiction where the dog is located, locality therein the 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 court or (ii) removed to another state that does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth that is later found in the Commonwealth shall be ordered by a court to be killed or euthanized immediately.
- (c) If any person, including the animal control officer, has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section, he shall apply to a magistrate of the county, who shall issue a warrant requiring the owner or custodian, if known, to appear before the judge of the general district court at the time and place named therein, at which time evidence shall be heard. If it shall be determined by the court that such dog is a livestock killer or has committed any of the depredations mentioned in this section, the dog shall be ordered (i) euthanized immediately by the animal control officer or other officer designated by the judge of the general district court or (ii) removed to another state which does not border on the commonwealth. Any dog ordered removed which is later found in the commonwealth shall be ordered by a court to be euthanized immediately. Notwithstanding the provisions of subsection (b), if it is determined that the dog has killed or injured only poultry in the county, 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 that 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 leashe 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.
- (d) Regulations under subsection (a), (b), and (c) shall not apply in cases of livestock or poultry running at large trespassing upon the property on which the dog or dogs are kept.

(Code 1980, § 4-16; Ord. of 8-28-84(3); Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No. 4-28, 2-12-13; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.1163.2-6552.

Sec. 4-24. - Compensation for livestock or poultry killed by dogs.

- (a) Any person who has any livestock or poultry killed or injured by any dog not his own in the county shall be entitled to receive as compensation therefor the fair market value of such livestock or poultry not to exceed ~~four-seven~~ hundred and fifty dollars (\$~~400~~750.00) per animal or ten dollars (\$10.00) per fowl, provided that if:
- (1) Within seventy-two (72) hours of discovery of the death or injury, the claimant gives notice of the incident to the animal control officer; The claimant has furnished evidence within sixty (60) days of the discovery of the quantity and value of the dead and injured livestock or poultry and the reasons the claimant believes that death or injury was caused by a dog;
 - (2) Within sixty (60) days of the discovery of the death or injury, claimant shall furnish such evidence, under oath, of the quantity and value of livestock or poultry so killed or injured and the reasons the claimant believes that death or injury was caused by a dog to the animal control officer; The animal control officer or other officer shall have been notified of the incident within seventy-two (72) hours of its discovery;
 - (3) The animal control officer conducts an investigation and determines the claim meets the criteria set forth in this section for compensation; and The claimant first has exhausted his or her legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.
 - ~~(4) The claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgement against the owner of the dog upon which an execution has been returned unsatisfied.~~
 - ~~(5) Compensation under subsection (a) shall not apply in cases of livestock or poultry running at large trespassing upon the property on which the dog or dogs are kept.~~
- (b) Requirements (2) or (3) above, or both, may be waived if the animal control officer conducts an investigation, and that investigation supports the claim. Upon payment under this section, the county shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action.
- (c) Compensation under subsections (a) and (b) shall not apply in cases of livestock or poultry running at large or trespassing upon the property on which the dog or dogs are kept.

(Code 1980, § 4-18; Ords. of 7-27-82; 6-14-88(1); Ord. No. 4-2, 6-1-93; Ord. No. 4-6, 10-11-94; Ord. No. 4-13, 8-11-98; Ord. No. 4-28, 2-12-13; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, §§ ~~3.1-796.118, 3.1-796.128~~ 3.2-6553.

Sec. 4-25. - Disposal of dead companion animals.

- (a) Any person, including the animal control officer or other officer, killing a companion animal under this article, shall cremate, bury or sanitarily dispose the body of such companion animal.
- (b) The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury or sanitarily dispose the body of such companion animal.
- (c) If, after notice, any owner fails to comply with this section, the animal control officer or other officer shall bury, cremate or sanitarily dispose the companion animal and may recover, on behalf of the county, from the owner his cost for this service.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

Cross reference— Burial or cremation of dead animals and fowl, § 4-14.

State Law reference— Similar provisions, Code of Virginia, §§ ~~3.1-796.119, 3.1-796.121~~ 3.2-6554.

ARTICLE III. - VICIOUS AND DANGEROUS DOGS

Sec. 4-31. - Definitions.

For the purposes of this article and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Dangerous dog means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, ~~when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed~~ such dog is not a dangerous dog if, upon investigation, an animal control officer or law enforcement officer finds that (i) ~~if~~ no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite, (ii) ~~if~~ both animals are owned by the same person, (iii) ~~if~~ such attack ~~occurs~~ occurred on the property of the attacking or biting dog's owner or custodian, or (iv) ~~for other good cause as determined by the court~~ the injury inflicted upon a person by the attacking or biting dog consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause shown, that the dog is not dangerous or a threat to the community.

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.

Vicious dog means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by local ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-3, 7-12-94; Ord. No. 4-21, 8-10-04; Ord. No. 4-24, 8-8-06; Ord. No. 4-29, 11-14-13; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.2-6540.

Sec. 4-32. - Control of dangerous dogs; penalties.

- (a) Any law enforcement officer ~~or~~ animal control officer or other officer who has reason to believe that a canine or canine crossbreed within ~~his jurisdiction~~ the county is a dangerous dog ~~shall~~ may apply to a magistrate ~~of the jurisdiction for the Fifteenth Judicial District serving the county~~ 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 or other officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him or her of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. 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 or she 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 the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by, ~~the animal~~ or whose companion animal-dog or cat was injured or killed by the ~~animal~~ dangerous dog. The court, in its discretion, may also order the dangerous dog's owner, custodian or harbinger 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 as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in ~~Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of~~ the Code of Virginia. The county shall be required to prove its case beyond a reasonable doubt.
- (b) No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog if the threat, injury or damage was

sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No 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, shall be found to be a dangerous dog.

- (c) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.
- (d) The owner of any animal found to be a dangerous dog shall, within ~~forty-fivethirty~~ (4530) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of one hundred fifty dollars (\$150.00), in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that 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. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be renewed for a fee of eighty-five dollars (\$85.00) and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.
- (e) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) 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. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00), that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least one hundred thousand dollars (\$100,000.00).
- (f) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to section 4-19 of this chapter. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere

with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

- (g) The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of 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 complaints 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.
- (h) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.
- (i) Any owner or custodian 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; or
 - (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.

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.

- (j) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, 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 a local governing body pursuant to the Code of Virginia or (ii) grant the owner up to 30 days to comply with the requirements of this section, 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 a local governing body pursuant to the Code of Virginia. 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.

- (k) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any animal control officer training course required ~~under § 3.2-6556 of by~~ the Code of Virginia.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-3, 7-12-94; Ord. No. 4-8, 7-8-97; Ord. No. 4-13, 8-11-98; Ord. No. 4-21, 8-10-04; Ord. No. 4-24, 8-8-06; Ord. No. 4-26, 10-13-09; Ord. No. 4-29, 11-14-13; Ord. No 4-31, 10-10-17)

Editor's note— Ord. No. 4-29, adopted November 14, 2013, changed the title of section 4-32 from "Control of dangerous or vicious dogs; penalties" to "Control of dangerous dogs; penalties." The historical notation has been preserved for reference purposes.

State Law reference— Similar provisions, Code of Virginia, § 3.2-6540; authority or county to adopt above section, Code of Virginia, § 3.2-6540.

ARTICLE IV. - DOG LICENSE

Sec. 4-40. - Required.

It shall be unlawful for any person to own a dog four (4) months old or older in the county, unless such dog is licensed under the provisions of this article.

(Code 1980, § 4-25; Ord. of 9-13-88(1); Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § ~~3.1-796.853~~3.2-6524; authority of county to adopt above section, § 3.2-6543.

Sec. 4-41. - Application; applicant must be county resident.

- (a) Any person may obtain a dog license by making oral or written application to the treasurer, accompanied by the amount of the license tax. The treasurer shall only have the authority to license dogs of owners or custodians who reside within the boundary limits of the county and may require information to establish the location of the residence of any applicant.
- (b) It shall be unlawful for any person to make a false statement in order to secure a dog license to which he is not entitled. Violation of this section shall constitute a Class 3 misdemeanor.
- (c) Nothing in this article shall preclude compliance with all provisions of the zoning chapter of this Code.

(Code 1980, §§ 4-29, 4-30; Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, §§ ~~3.1-796.86, 3.1-796.1283.2-~~6527.

Board of Supervisors of Spotsylvania County, Virginia
Adopted October 10, 2017

Sec. 4-42. - Fee imposed.

- (a) An annual license fee is hereby imposed on dogs required to be licensed under this article. The amount of the license tax shall be established by resolution adopted by the board of supervisors.
- (b) The annual license shall be available to be purchased individually for all dog owners subject to the number of dogs that may be owned as set forth in this chapter. The annual license shall also be available for purchase as a multi-dog license for those county residents who satisfy the requirements of this chapter, specifically those set forth in Section 4-51 and subject to the number of dogs, which may be owned as set forth in this chapter. The multi-dog license may be available as ten (10), twenty (20), thirty (30), forty (40) or fifty (50) dog licenses as established by resolution adopted by the board of supervisors. However, a person or persons regardless of whether the dogs are kept on one or more tax map parcels may purchase only one multi-dog license.
- (c) No license fee shall be imposed under this section on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing-impaired person; or that is a search and rescue dog; or that is trained and serves as a service dog for a mobility-impaired person. As used herein, the term "*hearing dog*" means a dog trained to alert its owner, by touch, to sounds of danger and sounds to which the owner should respond; and "*service dog*" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities or service or support.
- (d) All money collected by the treasurer pursuant to this section shall be deposited into the general fund of the county.

(Code 1980, § 4-25; Ord. of 9-13-88(1); Ord. No. 4-2, 6-1-93; Ord. No. 4-5, 9-27-94; Ord. No. 4-6, 10-11-94; Ord. No. 4-23, 8-9-05; Ord. No 4-31, 10-10-17)

~~**Cross reference**—General license tax schedule, § 11-51 et seq.~~

State Law reference—Duty of county to impose dog license tax, limit on the amount thereof and provisions similar to subsection (b) above, Code of Virginia, § ~~3-1-796.87.3.2-6528.~~

Sec. 4-43. - When license tax due and payable.

The license tax imposed on dogs by section 4-42 shall be due and payable as follows:

- (1) On or before the first day of January and not later than the thirty-first day of January of each year, the owner of any dog four (4) months old or older shall pay such tax.
- (2) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person between the first

day of January and the thirty-first day of October of any year, the license tax for the current calendar year shall be paid by the owner forthwith.

- (3) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person between the first day of November and the thirty-first day of December of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect the dog from the date of payment of the license tax to the end of the succeeding calendar year.

(Code 1980, §§ 4-25, 4-26; Ord. of 9-13-88(1); Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.883.2-6530.

Sec. 4-45. - Issuance, composition and contents.

- (a) Upon receipt of a proper application and the prescribed license tax, the treasurer shall issue a dog license; provided, that no such license shall be issued for any dog, unless there is presented to the treasurer a current certificate of vaccination or inoculation issued for the dog pursuant to section 4-61, valid for the entire license year or years. When the license is issued, such certificate shall be marked and returned to the dog's owner. It shall be unlawful for any person to present a certificate for a dog other than that for which it was issued.
- (b) Each dog license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog, the date of payment, the year for which the license is issued, the serial number of the tag and whether the license is for a male, female or unsexed female dog or for a kennel. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county, the sex of the dog and the calendar year for which issued and a serial number.

(Code 1980, §§ 4-29, 4-33; Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, §§ 3-1-796.86, 3-1-796.90, 3-1-796.973.2-6526, 3.2-6527, 3.2-6529.

Sec. 4-46. - Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.

- (a) A dog license receipt shall be carefully preserved by the person to whom it is issued and exhibited promptly on request for inspection by the animal control officer or any other officer of the county. Dog license tags shall be securely fastened to a substantial collar by the owner and worn by such dog. The owner of the dog may remove the collar and license tag required by this section when the dog is engaged in lawful hunting; when the dog is competing in a dog show, supervised obedience training, or supervised field trial; when the dog has a skin

condition which would be exacerbated by the wearing of a collar; when the dog is confined; or when the dog is under the immediate control of its owner.

- (b) Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceedings under this article, the burden of proof of the fact that such dog has been licensed or is otherwise not required to bear a tag at the time shall be on the owner of the dog.

(Code 1980, §§ 4-35, 4-36; Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, §§ 3.1-796.89, 3.1-796.923.2-6531, 3.2-6533.

Sec. 4-47. - Removal of tag.

It shall be unlawful for any person, other than the owner, to remove a license tag from a dog without the permission of the owner.

(Code 1980, § 4-37; Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.1283.2-6587.

Sec. 4-48. - Duplicate tags.

If a dog license tag shall become lost, destroyed or stolen, the owner shall at once apply to the treasurer for a duplicate license tag. Upon presenting the original license receipt and an affidavit that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner shall immediately affix to the collar of the dog. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag shall be established by resolution adopted by the board of supervisors.

(Code 1980, § 4-32; Ord. of 8-28-84(3); Ord. No. 4-2, 6-1-93; Ord. No. 4-6, 10-11-94; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.913.2-6532.

Sec. 4-49. - Concealing or harboring unlicensed dog.

It shall be unlawful for any person to conceal or harbor any dog upon which the license tax imposed by this article has not been paid.

(Code 1980, § 4-20; Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.1283.2-6587.

ARTICLE V. - RABIES CONTROL^[3]

Footnotes:

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State Law reference— Authority of county to adopt ordinances to prevent spread of rabies, Code of Virginia, § 3-1-796.1003.2-6525.

Sec. 4-62. - Emergency declaration of quarantine.

The health director may declare an emergency exists in the county or any section thereof, upon finding there is a widespread rabies epizootic. Upon such declaration, for the protection of public health, the health director may declare a quarantine in the county, or such section of the county as may be affected, and restrict all dogs or cats to the owner's premises and to the immediate custody of a responsible person, either or both, for the duration of such emergency.

(Ord. No. 4-2, 6-1-93; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.983.2-6522.

Sec. 4-64. - Procedure when dog or domesticated cat exposes person to rabies.

- (a) The owner of a dog or domesticated cat which has exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, or any person having knowledge of any dog or domesticated cat which has so exposed a person to rabies shall immediately notify the animal control officer, the sheriff's department, or the director of the health department. The animal control officer or director of the health department shall immediately examine such animal, and in his discretion:
 - (1) Confine the dog or cat in a strong enclosure on the owner's premises, and isolated from all other animals and persons, for a period of ten (10) days, unless the dog or cat develops active symptoms of rabies; or
 - (2) Impound or board the dog or cat, at the owner's expense, with a licensed kennel or veterinarian hospital, for a period of ten (10) days, unless the dog or cat develops active symptoms of rabies; or
 - (3) Impound the dog or cat in the county animal pound, at the owner's expense, for a period of ten (10) days, unless the dog or cat develops active symptoms of rabies; or

- (4) Confine the dog or cat under competent observation for ten (10) days, unless the animal develops active symptoms of rabies or expires before that time.
- (b) At the end of the period of confinement under this section, if the dog or cat has not developed active symptoms of rabies, it may be released to its owner. If the dog or cat was confined at the animal pound, the owner shall pay the impoundment fee, transport fee and daily charges authorized by this ordinance. If the dog or cat was confined in a kennel or veterinarian hospital, the owner shall pay the standard boarding fee charged by such kennel or hospital. Should a dog or cat confined under this section die prior to expiration of the ten-day confinement period, the owner shall still be required to pay confinement costs to the date of death of the dog or cat.
- (c) Any dog or cat confined under this section and not claimed by its owner as herein provided for may be disposed of as provided in section 4-22.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-6, 10-11-94; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.983.2-6522.

Sec. 4-65. - Procedure when animal other than a dog or domesticated cat exposes person or another animal other than a dog or cat to rabies.

- (a) When any potentially rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of the animal control officer or director of the health department in a manner approved by the state health department or humanely euthanized. The head of a euthanized animal shall be kept and evaluated by the health department, or sent to the division of consolidated laboratory services of the Virginia Department of General Services for evaluation.
- (b) When any animal, other than a dog or cat, believed to be afflicted with rabies, exposes another animal, other than a dog or cat, to rabies through a bite or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that newly exposed animal shall be confined at the discretion of the animal control officer or health director in a manner approved by the health department or humanely euthanized.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No 4-31, 10-10-17)

State Law reference— Similar provisions, Code of Virginia, § 3-1-796.983.2-6522.

Sec. 4-66. - Report of existence of rabid animal.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the animal control officer or the county health department the existence

of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; [Ord. No 4-31, 10-10-17](#))

State Law reference— Similar provisions, Code of Virginia, § [3-1-796.983.2-6522](#).

Sec. 4-67. - Confinement or destruction of dogs or cats showing signs of or suspected of having rabies.

Any dog or cat found within the county showing active signs of rabies or suspected of having rabies shall be forthwith taken into custody by the animal control officer or other officer and confined under competent observation for such time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods approved by the state veterinarian as provided by the Virginia Code, and the head shall be delivered to the health department for examination.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; [Ord. No 4-31, 10-10-17](#))

State Law reference— Similar provisions, Code of Virginia, § [3-1-796.983.2-6522](#).

Sec. 4-68. - Destruction or confinement of dog or cat exposed to rabies.

- (a) Any dog or cat for which no proof of current rabies vaccination is available and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane by an animal believed to be affected with rabies shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six (6) months, at the expense of the owner of such dog or cat; however, if this is not feasible, the dog or cat shall be euthanized. A rabies vaccination shall be administered four (4) weeks prior to release from confinement. Inactivated rabies vaccine may be administered at the beginning of confinement.
- (b) Any dog or cat which has proof of a valid rabies vaccination, and which has been bitten or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, shall be revaccinated immediately and confined to the premises of its owner or other site as may be approved by the health department, for a period of forty-five (45) days.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-21, 8-10-04; [Ord. No 4-31, 10-10-17](#))

State Law reference— Similar provisions, Code of Virginia, § [3-1-796.983.2-6522](#).

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

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____