



**Amherst County Board of Supervisors
County Ordinance No. 2017-0008**

AN ORDINANCE, NO. 2017-0008

Amending §§ 3-1 through 3-75 of Chapter 3 of the Amherst County Code to update the provisions of Chapter 3 -- Animals of the County Code in order to make terminology more consistent and conform to the latest changes in State Code .

Approved as to form and legality by the County Attorney

FIRST READING: Board of Supervisors, November 7, 2017

PUBLIC HEARING: Board of Supervisors, December 19, 2017

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Sections 3-1 through 3-75 of Chapter 3 of the Code of the County of Amherst be and hereby are amended, as follows:

Sec. 3-1. - Where animals kept generally.

- (a) Pursuant to Code of Virginia, § ~~3-1-796-94:1~~ 3.2-6544, it shall be unlawful in Amherst County, Virginia, to keep or maintain any stable, hog pen, chicken house or other animal shelter, except for dogs and cats unless such stable, pen or shelter is kept or maintained at least two hundred (200) feet from any well, spring, or structure used for human habitation, occupancy or assembly. ~~This section shall not apply to any resident of this county who~~ However, any person may keeps a stable, hog pen or animal shelter on his own the premises when on which he resides not less than within one hundred (100) feet ~~of from~~ any well, spring or other structure located on his premises and used for human habitation, occupancy or assembly. In the event of any conflict between this section and the provisions of the zoning ordinance, the more restrictive provision shall apply.

- (b) Any violation of this section shall be a class 1 misdemeanor.

Sec. 3-2. - Prevention of animals running at large and trespassing.

~~(a) Definitions.~~

~~Livestock is any domestic animal, other than domestic cats or dogs (except as regulated by article II of this chapter and the Code of Virginia, 1950, as amended).~~

~~Negligence is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances of the situation, or doing what such person under the existing circumstances would not have done.~~

~~Willful is a legal term which means deliberate or intentional.~~

- (a) *Prohibited.* It shall be unlawful for any person to willfully or negligently allow any fowl, poultry or livestock under their control in any manner to stray upon or fly over; or to remain, flock or roost upon any public highway or public or private property of another.
- (b) *Penalty.* For each violation the offender shall be subject to a fine of not more than one hundred dollars (\$100.00) for the first offense and two hundred fifty dollars (\$250.00) for subsequent violations.

Sec. 3-3. - Animal warden control officer.

~~The board of supervisors~~ Board of Supervisors shall, upon nomination of the sheriff, appoint a special sheriff's deputy, to be known as the animal ~~warden control officer~~ for the ~~county~~ County, and ~~may appoint~~ deputy animal ~~wardens control officers~~ whose terms of office shall be at the pleasure of the sheriff, and it shall be the special duty of the animal ~~warden control officer~~ and deputy animal ~~wardens control officers~~, subject to the supervision and control of the sheriff's office, to enforce this chapter and the statutes of the ~~commonwealth~~ Commonwealth relating to animals, particularly the provisions with respect to dogs contained in Code of Virginia, Tit. 3.1 2, Ch. ~~27-4~~ 65. To enable them to discharge their duties, the animal ~~warden control officer~~ and deputy animal ~~wardens control officers~~ shall have the power, perform the duties and be subject to the penalties that are by law prescribed. When in uniform or upon displaying a badge or other credentials of office, the animal ~~warden control officer~~ and the deputy animal ~~wardens control officers~~ shall have the power to issue a summons or obtain a felony warrant as necessary, providing the execution of such warrant shall be carried out by any law enforcement officer as defined in Code of Virginia, § 9.1-101, to any person found in the act of violating any animal protection and control laws of the ~~commonwealth~~ Commonwealth or any animal protection and control ordinances of the ~~county~~ County.

Secs. 3-4—3-15. - Reserved.

ARTICLE II. - DOGS

DIVISION 1. - GENERALLY

Sec. 3-16. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care for a period of five consecutive days.

Adequate confinement means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a

humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid is determined to be a dangerous dog pursuant to section 3-28 of the County Code, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine and (ii) provide a minimum of one hundred (100) square feet of floor space for each adult animal. Tethering a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

Adequate feed means the provision, at suitable intervals, at least once daily, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each dog.

Adequate shelter means shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

Adequate water means constant access to a supply of clear fresh potable water provided in a sanitary manner or provided at suitable intervals, and in a suitable manner for the species at least once daily at any interval.

Certificate of compliance means a certificate which is issued after it has been demonstrated that adequate food, water and shelter can, will be or has been provided.

Confinement means the placing of a dog in a pen or cage or on a chain or in a fully enclosed yard, lot or other enclosure which would restrict the dog to the property of the owner.

Confinement period means a period of time set by resolution of the ~~board of supervisors~~ Board of Supervisors in which all dogs shall be confined.

Dangerous dog means:

(1) ~~a~~ A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; ~~that is a dog or a cat. however~~ However, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite; ~~or~~ (ii) both dogs are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or. ~~No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.~~

(2) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

Dog means for license purposes, every dog or canine, canine crossbreed or canine

hybrid, regardless of age.

Dog license shall consist of a metal tag and a license receipt. The tag shall be stamped with the license number, the sex of the dog, the calendar year for which issued and bear a serial number.

Dog-pet dealer means any person engaging in the ordinary course of business in the sale to the public or other pet dealers any type of dog.

~~*Dog warden* means that county official charged with enforcing the dog laws in the county.~~

Dump means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right of way of any public highway, road, or street or on the property of another.

Euthanasia means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

Hybrid canine means any animal or its offspring which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal control officer, official of the department of health or the compliance officer who is under the direction of the state veterinarian.

~~*Kennel* means a primary enclosure where raising, grooming, caring for or boarding of dogs is carried on. This excludes veterinary hospitals operated by doctors of veterinary medicine any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.~~

Livestock is any domestic animal, other than domestic cats or dogs (except as regulated by article II of this chapter and the Code of Virginia, 1950, as amended).

Menacing means lunging, growling, snarling, or otherwise behaving in a manner that would cause a reasonable person to fear for his safety.

Necessities of life means:

- (1) Adequate feed and water;
- (2) Adequate shelter;
- (3) Adequate space in the primary enclosure for the particular type of animal depending upon its age and weight;
- (4) Veterinary care when needed and to prevent suffering;
- (5) Humane care and treatment.

Negligence is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances of the situation, or doing what such person under the existing circumstances would not have done.

Other officer means that person charged with enforcing the laws of the ~~county~~ County or any person employed or elected by the people of Amherst County whose duty it is to insure the peace, to make arrests or enforce the law.

Owner means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

Primary enclosure means any structure used to immediately restrict a dog to a limited amount of space such as a room, pen, cage, compartment or lot.

Responsible ownership means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

Run at large means to roam, or run or self hunt off the property of its owner or custodian not under its owner's or custodian's immediate control.

Serious injury means an injury having 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.

Treasurer means the treasurer and his assistants or other officers designated by law to collect taxes in the ~~county~~ County.

Vicious dog means any dog, canine, canine crossbreed or canine hybrid 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 animal control officer that it is a dangerous dog, ~~provided that its owner has been given notice of that finding; or (4) which has been found vicious by any general district court or circuit court of this Commonwealth.~~

Willful means deliberate or intentional.

Sec. 3-17. - Dogs deemed personal property.

All dogs shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass.

Sec. 3-18. - Abandonment of animals.

No person shall abandon or dump any animal. ~~Abandonment for the purpose of this section is defined as deserting, forsaking or intending to absolutely give up an animal without securing another owner, or without providing the necessities of life. Violation of this shall be punishable~~

as a class 1 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a public or private animal shelter or other releasing agency.

Sec. 3-19. - Penalty for violation.

Unless otherwise stated herein, the penalty for violations of sections 3-17 through 3-19, and sections 3-21 through 3-26 shall be a class 1 misdemeanor. It is the express intent of the ~~board~~ Board hereby to adopt animal control ordinances that are more stringent than comparable state code sections, as permitted by Code of Virginia, § ~~3-1-796.94(A)~~ 3.2-6543. It is the express desire of the ~~board of supervisors~~ Board of Supervisors that the judge, in fixing punishment, consider all mitigating and aggravating circumstances, including but not limited to the defendant's record, if any, for prior violations of the animal control provisions of the Amherst County or Virginia Codes; whether or not any injury or property damage resulted from the violation; and whether the violation appears to have occurred as a result of inadvertence and oversight, or the willful and deliberate actions or failure to act of the defendant.

Sec. 3-19.1. - Civil penalty for certain violations.

~~Effective April 1, 2004, except for the proposed amendments to subsection 3-26(5) (Dogs running at large in certain areas and at certain time), which are to become effective May 1, 2004, unless~~ Unless otherwise stated herein, a violation of ~~any section of the ordinance from which this section derives (sections 3-17, 3-19, 3-22, 3-25, 3-26 and 3-36, et seq.)~~ of this ordinance may be punishable by a civil penalty in the amount of one hundred fifty dollars (\$150.00). The animal control officer or law enforcement officer's designation of a particular violation for a civil penalty shall be in lieu of criminal sanctions and preclude prosecution of such violation as a criminal misdemeanor. Imposition of a civil penalty shall not preclude an action for injunctive, declaratory or other equitable ~~relieve~~ relief. Monies raised pursuant to this subsection shall be placed in the ~~county's~~ County's general fund. An animal control officer or law enforcement officer may issue a summons for a violation. Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the ~~county~~ County treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charge.

Sec. 3-20. - License taxes.

- (a) The annual license tax for male and female dogs shall be seven dollars (\$7.00). The annual license tax for neutered and spayed dogs shall be five dollars (\$5.00).
- (b) The tax shall be paid not later than January 31 of each year by the owner of any dog aged four (4) months or older.
- (c) The treasurer may pursuant to written agreements under the authority of Virginia Code § 3.2-6527 establish substations in convenient locations in the ~~county~~ County and appoint agents at those substations who will accept the license tax and issue dogs tags on the treasurer's behalf. A list of any such substations and agents shall be posted at the treasurer's office and included on the treasurer's webpage. To ensure compliance with the requirements of Virginia Code § 3.2-6529, the treasurer shall require that the agents on the first business day of each calendar month: (i) report the number of dogs vaccinated for rabies, the number of ~~county~~ County licenses issued, and the total amount of license tax collected, and (ii) supply copies of all rabies vaccination certificates. The treasurer shall

establish such other requirements for reporting by the appointed agents as may be deemed necessary.

- (d) The proceeds of this license tax shall be paid into the general fund of the ~~county~~ County treasury.

Sec. 3-21. - Reserved.

Sec. 3-22. - Penalty for failure to obtain a license.

Any person convicted of failure to pay the dog license tax imposed by the ~~county~~ County code as required for all dogs over the age of four (4) months and owned by him shall be guilty of a class 1 misdemeanor and be required to obtain a license for such dog forthwith. Unless such fine and license tax is immediately paid, the trial court shall order the dog impounded and/or disposed of as is customarily done with stray dogs but the confinement or disposal of such dog shall not relieve the owner of such dog of the payment of the fine and license tax already due.

Sec. 3-23. - Effect of dog not wearing collar with license as evidence.

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 proceeding under this Code 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.

Sec. 3-24. - Dogs to wear tags.

Dog license tags shall be securely attached to a substantial collar by the owner or custodian and be worn by such dog. It shall be unlawful for the owner to permit any dog over the age of four (4) months to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when:

- (1) The dog is engaged in lawful hunting.
- (2) When competing in a dog show.
- (3) When the dog has a skin condition which would be aggravated by the wearing of a collar.
- (4) When the dog is confined.
- (5) When the dog is in the immediate control of the owner.

Sec. 3-25. - Unauthorized removal of collars or tags.

It shall be unlawful for any person except the owner or his custodian to remove a collar or a legally acquired license tag for a dog. Violation of this section shall be a class 1 misdemeanor.

Sec. 3-26. - Dogs running at large in certain areas and at certain times.

It shall be unlawful for the owner of any dog to permit such dog to run at large at any time, unless lawfully hunting or in the immediate control of the owner or custodian within the

following areas and times of the ~~county~~ County:

(1) *Female dogs running at large in certain areas and at certain times.*

- a. Pursuant to the Code of Virginia § ~~3.1-796.94~~ 3.2-6538 it shall be unlawful for the owner or custodian of any female dog, during the time period when such dog is in a period of estrus, to allow such dog to run at large, or remain unconfined, unrestricted or not penned up so that other dogs may have access to such female dog during the period of time such female dog is in estrus.
- b. Upon receipt of a complaint of a violation of this section, the ~~dog warden~~ animal control officer of the ~~county~~ County shall proceed to investigate the complaint, and if he be satisfied of the truth of the complaint, shall issue a warning, in writing to the owner or custodian of the above-defined female dog that any future violation of this section, or the failure of the owner or custodian, to immediately take into custody the above-defined female dog and to confine, restrict or pen up such female dog so that other dogs may not have access to it shall be punished as set forth in this section.
- c. Any violation of this section by any owner or custodian of the above-defined female dog after having received a warning from the ~~dog warden~~ animal control officer of the ~~county~~ County, shall be punished as a class 1 misdemeanor. For the purposes of this section, the owner or custodian of the above-described female dog may be the recipient of the warning, and only one (1) warning will be granted to such owner or custodian of a female dog or the dog then under complaint and for any other dogs which the owner or custodian may have in his custody. Further, such owner or custodian of the above-described type of female dog shall be entitled to only one (1) warning of violation; the failure to confine, restrain, or pen up the offending female dog during that period in which it is in estrus after receiving the complaint and the failure to confine any female dog which the owner or custodian of such female dog has in its custody during such time periods as above defined without a subsequent warning as above said shall be a violation of this section.

(2) *Confinement period.* It shall be unlawful for the owner of any dog in the geographical boundaries of Amherst County to allow such dog to run at large unless lawfully hunting or in the immediate control of the owner or his custodian during the period of April 1 to May 30 each year. Violation of this section shall be a class 1 misdemeanor.

(3) *Certain breeds prohibited from running at large.* Within the geographical boundaries of the County of Amherst, it shall be unlawful to permit the following breeds of dogs to run at large unless lawfully hunting or under the immediate control of the owner or custodian:

- a. Pit bulls;
- b. Rottweilers;
- c. Dobermans;
- d. German Shepherds;
- e. Hybrid canines.

Violation of this section shall be a class 1 misdemeanor.

- (4) *Diseased dogs.* It shall be unlawful for the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
- (5) *Specific areas.* It shall be unlawful to allow dogs to run at large in the following areas at any time:

Beginning at the John Lynch Bridge extending northwest to the Norfolk Southern Railroad then north to where the road intersects U.S. 29, then south along U.S. 29 to the intersection of U.S. 29 and 657 then east to 604, then north to Rt. 671 then south on Rt. 671 to Rt. 677 then south on Rt. 677 to Rt. 622 then south on Rt. 622 to Rt. 672 then south on Rt. 672 to James River then west back to the John Lynch Bridge. This section includes an area extending across all roads listed as boundaries for a distance of three hundred (300) feet.

It shall be unlawful to allow dogs to run at large on school property during school hours and during school sponsored events.

It shall be unlawful to allow dogs to run at large in any area of the ~~county~~ County having a zoning classification of R-1, R-2 or R-3.

The ~~board~~ Board shall develop a policy and procedure for determining which other portions of the ~~county~~ County may be included in this subsection. Such portions could then only be included after a public hearing and the amending of this section.

- (6) 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 of its owner or custodian and not under its owner's or custodian's immediate control.

Sec. 3-27. - Dogs killing or injuring livestock or poultry.

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 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 a 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 the 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 poultry killer, and any dog killing livestock or 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 dog.

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 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 of the ~~county~~ County who shall issue a warrant requiring the owner or custodian, if known, to appear before a district court at a time and place named therein, at which time evidence shall be heard, and if it shall appear that such a dog is a livestock or poultry killer, or has committed any of the depredations mentioned in this section, the dog shall be ~~ordered killed immediately, which the~~

animal control officer, or other officer designated by the judge of the district court to act, shall do, or shall be removed to another state which does not border the commonwealth and prohibited from returning to the commonwealth and (i) killed or euthanized immediately by the animal control officer or other officer designated by the court or (ii) removed to another state that does not border the Commonwealth and prohibited from returning to the Commonwealth. any Any dog ordered removed from the ~~commonwealth~~ Commonwealth which is later found in the ~~commonwealth~~ Commonwealth shall be ordered by a court to be killed or euthanized immediately.

Sec. 3-28. - Dangerous dogs; ~~vicious dog~~; penalties; procedures.

(a) ~~*Dangerous dog.*~~ It shall be unlawful and a class 1 misdemeanor to own, keep, harbor, act as custodian of or permit to remain on or about any premises any dog that the owner knew or reasonably should have known to be a dangerous dog, as defined by section 3-16, except in strict compliance with sections 3-26 and 3-29 (if applicable) of this Code. If after hearing evidence, the court finds any dog to be a dangerous dog, the court shall, in addition to any other penalties imposed, order the dog's owner to comply with the provisions of section 3-26 and/or 3-29 (if applicable). If any owner knew or reasonably should have known any dog to be a dangerous dog and such dog thereafter causes a wound to any person, such owner shall be guilty of a class 1 misdemeanor.

(b) ~~*Vicious dog.*~~ It shall be unlawful and a class 1 misdemeanor to own, keep, harbor, act as custodian of or permit to remain on or about any premises any dog that the owner knew or reasonably should have known to be a vicious dog, as defined by section 3-16. If, after hearing evidence, the court finds any dog to be a vicious dog, the court shall, in addition to any other penalties imposed, order the animal control officer to euthanize the dog. If any owner knew or reasonably should have known any dog to be a vicious dog and such dog thereafter causes a wound to any person, such owner shall be guilty of a class 1 misdemeanor.

(c) ~~*Procedures.*~~

(~~±~~ a) Any animal control officer or law-enforcement officer who has reason to believe that a canine or canine crossbreed within the ~~county~~ County is a dangerous dog ~~or vicious dog~~ shall may apply to a magistrate within the ~~county~~ County for the issuance of a summons or warrant requiring the owner or custodian, if known, to appear before the ~~county~~ County general district court at a specified time. The summons or warrant shall advise the owner or custodian of the nature of the proceeding and the matters at issue. When a warrant has been obtained or a summons issued pursuant to this section, the animal control officer and/or police officer may, in his discretion, confine the dog until such time as evidence shall be heard and a verdict rendered. Otherwise, the owner or custodian shall confine the dog until the evidence shall be heard and a verdict rendered. If a law-enforcement officer successfully makes application for issuance of a summons, he shall contact the animal control officer and inform him 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 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 may, through its contempt power, compel the owner, custodian or harbinger of any dog to produce it for the animal control officer and/or police law-enforcement officer. In the event any dog is found to be a dangerous dog or a vicious dog, the owner or custodian of such dog shall be responsible for payment to the

county of any expenses of impounding and keeping the dog pending disposition of the case at the rate prescribed by the county board of supervisors. 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 was injured or killed by the animal. The court, in its discretion, may also 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 as the animal is disposed of or returned to the owner. The procedure for trial and appeal shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 of Chapter 15 of Title 19.2 of the Code of Virginia, 1950. The County or Commonwealth 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 or canine crossbreed prohibited.
- (c) 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, 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.
 - (2) In the alternative, any animal control officer, after due investigation and written notice to the owner or custodian of a dog, may determine whether a dog is a dangerous dog. If the animal control officer so determines a dog to be a dangerous dog, he shall order the animal's owner or custodian to comply with the provisions of section 3-26 and/or 3-29 (if applicable) of this Code. If the animal's owner or custodian disagrees with the animal control officer's determination, he may appeal the determination to the county general district court for a trial on the merits.
- (d) If the owner or custodian 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 chapter.
- (e) The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a dangerous dog registration certificate from the animal control officer or treasurer for a fee of \$150, in addition to other fees that may be authorized by law. The 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 dog'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 updated and renewed for a fee of \$85 and in the same manner that the original certificate was obtained. The animal control officer shall post registration information to the Virginia Dangerous Dog Registry.
- (f) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 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 (a) 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 (b) 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 \$100,000, 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 \$100,000.

- (g) 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 adequately. 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.
- (h) The owner shall 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 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.
- (i) 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; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 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.
- (j) 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;
 - 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.

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.

- (k) 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 euthanized by the animal control officer 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 euthanized by the animal control officer. 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.

- (e l) All fees collected pursuant to this section, less the costs incurred by the ~~county~~ County in producing and distributing the licenses and tags required by ordinance, shall be paid into a special dedicated fund for the purpose of paying the expenses of any training courses required by animal control officers under Code of Virginia, § ~~3-1-796.105~~ or its successor 3.2-6556.

Sec. 3-28.1. – Vicious dogs.

- (a) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the County is a vicious dog shall apply to a magistrate serving the County for 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 shall contact the animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall 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 vicious dog, the court shall order the animal euthanized. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. 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. 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 of Chapter 15 of Title 19.2 of Code of Virginia, 1950, as amended. The County or the Commonwealth shall be required to prove its case beyond a reasonable doubt.

- (b) 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 attacking 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.

Sec. 3-29. - Hybrid canines.

- ~~(a) As used in this section:~~

~~*Adequate confinement* means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid is determined to be a dangerous dog pursuant to section 3-28 of the County Code, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine and (ii) provide a minimum of one hundred (100) square feet of floor space for each adult animal. Tethering a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.~~

~~——— *Hybrid canine* means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law enforcement officer, animal control officer, humane investigator, official of the department of health, or state veterinarian's representative.~~

~~——— *Responsible ownership* means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.~~

- ~~(b a)~~ It shall be unlawful for any person to own or possess a hybrid canine four (4) months or older in the ~~county~~ County unless the hybrid canine is licensed as required by the provisions of this section.
- ~~(1)~~ Any person owning or possessing a hybrid canine four (4) months or older in the ~~county~~ County shall obtain an annual permit from the animal control officer no later than January 31 of each year. The permit shall not be transferable, shall expire on December 31 of each year and must be renewed by January 31 of each succeeding year. The cost of the permit shall be fifty dollars (\$50.00) per year and shall not be prorated.
 - ~~(2)~~ No person other than the operator of a pet store or dealer in companion animals shall own or possess more than two (2) hybrid canines.

- (3) Each hybrid canine shall be permanently identified by means of a tattoo on the inside thigh or by electronic implantation. The animal control officer shall provide the owner or custodian with a uniformly designed tag which identifies the animal as a hybrid canine and the owner or custodian shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times.
- (4) The application for a permit shall include the sex, color, height, age, vaccination records, length, identifying marks, the location where the hybrid canine will normally be kept and such additional information as the animal control officer determines is necessary.
- (5) A hybrid canine shall at all times be confined in a proper enclosure or structure of such sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The owner's or custodian's property shall be posted with clearly visible signs warning both minors and adults of the presence of a hybrid canine.
- (6) When off of its owner's or custodian's property a hybrid canine 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.
- (c) A first violation of this section shall be punished as a class 3 misdemeanor and any subsequent violation shall be punished as a class 1 misdemeanor. In addition any owner or custodian of a hybrid canine that fails or refuses to comply with the terms of this section may be ordered by a court of competent jurisdiction to dispose of their animal. The court may order the owner or custodian of a hybrid canine to surrender the animal for euthanasia in accordance with the provisions of Code of Virginia, § ~~3-1-796.119~~ 3.2-6562.
- (d) It shall be the duty of every veterinarian that practices in the ~~county~~ County to notify the animal control officer of the existence of a hybrid canine within the ~~county~~ County.

Sec. 3-30. - 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) Biting a person;
 - (2) Chasing vehicles, or chasing or menacing a person upon premises other than that occupied exclusively by the owner or custodian of the dog;
 - (3) Damaging or destroying property belonging to person(s) other than the owner or custodian of the dog;
 - (4) Scattering, or causing to be scattered, garbage upon premises other than that occupied exclusively by the owner or custodian of the dog; or
 - (5) Injuring or killing a companion animal as defined in Code of Virginia, § ~~3-1-796.66~~ 3.2-6500.
- (b) Any person violating this section shall be subject to a fine of not more than one hundred fifty dollars (\$150.00) for a first offense, and shall be guilty of a class 1 misdemeanor for a second or subsequent offense.
- (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; during bona fide hunting or field trial dog training; while controlling or protecting livestock or engaged in other agricultural activities; or when the dog in question is contained within a vehicle.

~~(d) As used in this section:~~

~~Menacing means lunging, growling, snarling, or otherwise behaving in a manner that would cause a reasonable person to fear for his safety.~~

~~Owner shall mean any person who has a right of property in the dog in question; keeps or harbors the dog in question; has the dog in question in his care; or acts as custodian of the dog in question.~~

Secs. 3-31—3-35. - Reserved.

DIVISION 2. - RABIES VACCINATIONS

Sec. 3-36. - Vaccination required.

It shall be unlawful for any person to own, keep, hold or harbor any dog or cat, over the age of four (4) months, within the ~~county~~ County unless the dog or cat shall have been vaccinated by a licensed veterinarian or licensed veterinary technician under the direct supervision of a licensed veterinarian with a modified chick embryo live virus (Flurry strain) rabies vaccine, approved by the state department of health, within a period of thirty five (35) months U.S. Department of Agriculture.

Sec. 3-37. - Time to conform.

Any person transporting a dog or cat into the ~~county~~ County from another jurisdiction shall be required to conform to this division within thirty (30) days.

Sec. 3-38. - Proof of vaccination; impoundment; disposition.

- (a) At the time of vaccination, ~~a suitable and distinctive collar tag and a certificate of inoculation setting forth the type of vaccine used shall be issued to the dog or cat owner by the veterinarian. The collar tag shall be affixed to the dog's collar and must be worn at all times when the dog is not on the owner's property or in the immediate control of a responsible person. A copy of the vaccination certificate shall be retained by the vaccinating veterinarian and a copy shall be sent at once to the ~~county~~ County health department and kept on file when duplicate copies may be obtained by the dog owner upon payment of a fee of twenty five cents (\$0.25).~~
- (b) Any dog or cat found in the ~~county~~ County not vaccinated and identified as described in the above provisions shall be impounded by the ~~dog warden and his deputies~~ animal control officer and such dog or cat shall be held for a period of five (5) days. The dog or cat may be returned to its owner upon proof of ownership, vaccination ~~of the dog~~, and payment of the cost of ~~impounding the dog~~ impoundment.
- (c) At the expiration of the five-day period, any dog or cat not so claimed by its owner may be

disposed of by giving it into the possession of any person willing to pay the cost of impounding, vaccination and license, or, if not so disposed of, it ~~shall be killed in a humane manner~~ may be euthanized by the impounding officer or other designated official.

Sec. 3-39. - Vaccination certificate.

In order to effectuate this division, any person making application for a dog license shall be required to present to the official who issues such licenses a certificate of rabies vaccination properly executed and signed by a licensed veterinarian certifying that the dog has been vaccinated in accordance with the provisions set forth in section 3-36. The certificate must show the date of inoculation, rabies collar tag number, a brief description of the dog, sex and breed and the owner thereof. The certificate must be presented before the license is issued and must certify that the dog has been properly vaccinated ~~within thirty-six (36) months of the modified live virus chick embryo (Flurry strain) rabies vaccine has been used.~~

Sec. 3-40. - Quarantine.

When in the judgment of the ~~county~~ County health officer an emergency shall be deemed to exist in the ~~county~~ County or any section hereof, due to a widespread rabies epidemic, for the protection of the public health, on the direction of the ~~county board of supervisors~~ County Board of Supervisors, the health officer may declare a quarantine in the ~~county~~ County or such section thereof as may be affected, and restrict all dogs to the owner's premises and/or to the immediate custody of a responsible person for the duration of such emergency as it is set forth.

Sec. 3-41. - Enforcement.

The provisions of this division shall be enforced by the animal ~~warden~~ control officer and his deputies, all police officers of the ~~county~~ County, the sheriff and his deputies and the ~~county~~ County sanitarian.

Sec. 3-42. - Violations.

Violation of any of the provisions of this division or presentation of a certificate of vaccination for a dog or cat other than that for which it was issued shall be punishable as a class 1 misdemeanor.

Secs. 3-43—3-55. - Reserved.

DIVISION 3. - KENNELS

Sec. 3-56. - Title.

This division shall be known as the Kennel Control Ordinance.

Sec. 3-57. - Purpose.

In order to protect the public health, safety and welfare and to assure the humane treatment of animals within the ~~county~~ County limits, it is necessary and proper to provide for the licensing

of kennels and for establishing requirements for governing the operation thereof.

Sec. 3-58. - Enforcement.

- (a) This division shall be the primary enforcement responsibility of the ~~dog-warden~~ animal control officer and the general responsibility of all the law enforcement personnel who have authority to enforce such laws under the law of Virginia.
- (b) Should the ~~dog-warden~~ animal control officer determine that a kennel is operating without a license or has failed to comply with the requirements of section 3-59, he shall make a written report of these findings and then, should he deem it advisable, issue such summons or warrant setting forth the charges constituting a violation of this division.
- (c) Any person found violating any provision of this division shall be guilty of a class 4 misdemeanor.

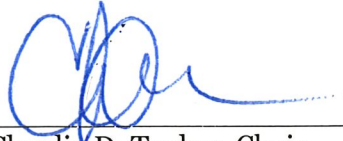
Sec. 3-59. - Licenses for kennels.

In order for a person to obtain a kennel license, the following requirements must be met:

- (1) Submit a site plan showing layout of the kennel to the ~~county dog-warden~~ animal control officer. The ~~dog-warden~~ animal control officer shall then inspect the facilities and issue a certificate of compliance. If as a result of the inspection, the ~~dog-warden~~ animal control officer is unable to issue a certificate of compliance, the applicant will be notified in writing of the reasons for denial. If the reasons for denial are corrected then the applicant may reapply;
- (2) Agree to allow the ~~dog-warden~~ animal control officer to inspect at any time and if it is found that the kennel is not being operated in a humane way and in violation of the certificate of compliance then he shall have the authority to revoke the kennel license;
- (3) Provide at any time to the ~~dog-warden~~ animal control officer proof that each dog in the kennel has a valid rabies certificate and its own individual license;
- (4) Obtain a kennel license from the treasurer by presenting an approved certificate of compliance issued by the ~~dog-warden~~ animal control officer;
- (5) The fee shall be twenty-five dollars (\$25.00) for each group of ten (10) dogs for which a license is obtained and an additional twenty-five dollars (\$25.00) for one (1) to nine (9) dogs not in a group of ten (10);
- (6) Shall not allow dogs without a collar with license and rabies certificate to run loose unless the dogs are legally hunting or being exercised under the strict supervision of their owner.

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

Adopted this 19th day of December, 2017.



Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays Ø

Abstentions Ø

ADOPTED

12 / 19 / 17