



**Amherst County Board of Supervisors
County Ordinance No. 2022-0003**

AN ORDINANCE, NO. 2022-0003

Amending and reenacting the Amherst County Code by amending Chapter 3, Animals, Article II, Dogs, Sections 3-16, Definitions and 3-28, Dangerous Dogs; Penalties; Procedures of the Amherst County Code.

Approved as to form and legality by the Amherst County Attorney

**FIRST READING: Board of Supervisors, April 5, 2022
PUBLIC HEARING: Board of Supervisors, April 19, 2022**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Sections 3-16 and 3-28 of the Code of Amherst County, 1987, as amended, is amended, reenacted, and recodified as follows:

WHEREAS, the Virginia General Assembly made significant revisions to the Virginia Code regarding the ways upon which an animal is to be deemed dangerous by a court of law; and

WHEREAS, as a result of such changes the Board of Supervisors of Amherst County, Virginia now deems it appropriate to make revisions to its dangerous dog ordinance provisions in order to comply with current state law;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Amherst County, Virginia, that Chapter 3, Animals, Article II, Dogs, Sections 3-16, Definitions and 3-28, Dangerous Dogs; Penalties; Procedures of the Amherst County Code be amended and reenacted as follows:

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 (5) 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 in which all dogs shall be confined.

Dangerous dog means:

- (1) ~~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, 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; (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~~
- (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 includes a hybrid canine, any animal that is or can be demonstrated to be a hybrid of the domestic dog or any other species of the Canidae family; that at any time has been permitted, registered, licensed, or advertised as such; or that any time has been described, represented, or reported as such by its owner to a licensed veterinarian, law-enforcement officer, animal control officer, humane investigator, official of the Virginia Department of Health, or Virginia State Veterinarian's representative.

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.

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 that is or can be demonstrated to be a hybrid of the domestic dog and any other species of the Canidae family; that at any time has been permitted, registered, licensed, or advertised as such; or that at any time has been described, represented, or reported as such by its owner to a 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 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 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 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.

Vicious dog means any dog, canine, canine crossbreed or canine hybrid which has (1) killed a person; (2) inflicted serious injury to a person; 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.

Willful means deliberate or intentional.

(Ord. of 7-15-03(1); Ord. of 7-20-04(2); Ord. No. 2017-0008 § 1, 12-19-17)

State law reference(s)—Definitions relating to comprehensive animal laws, Code of Virginia, § 31.796.66; unlicensed dogs prohibited, Code of Virginia, § 31-796.85; treasurer to collect and pay over taxes and levies, Code of Virginia, § 58.1-3127.

Sec. 3-28. Dangerous dogs; penalties; procedures.

- (a) Any animal control officer or law-enforcement officer who (i) has reason to believe that an animal ~~canine or canine crossbreed~~ within the County is a dangerous dog may apply to a magistrate within the County for the issuance of a summons or warrant requiring the owner ~~or custodian, if known,~~ to appear before the 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. 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~~ may confine the animal until ~~such time as the evidence shall be~~ is 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 law-enforcement officer. 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~~ animal 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~~ animal 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 ~~l~~ 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.
- (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 thirty (30) days of such finding, obtain a dangerous dog registration certificate from the 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 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 eighty-five dollars (\$85.00) 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 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 (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 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).
- (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 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.
- (j) Any owner or custodian of an canine or canine crossbreed or other animal found to be a dangerous dog is guilty of a:
- (1) Class 2 misdemeanor if the canine or canine crossbreed animal 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 animal 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 thirty (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.

- (l) All fees collected pursuant to this section, less the costs incurred by the 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, § 3.2-6556.

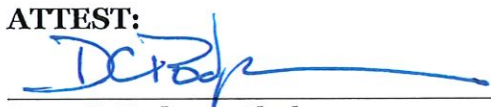
(Ord. of 7-15-03(1); Ord. of 3-16-04; Ord. No. 2017-0008 § 1, 12-19-17)

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

Adopted this 19th day of April 2022.


David W. Pugh, Jr., Chair
Amherst County Board of Supervisors

Member	Vote
David W. Pugh, Jr., Chair.....	<u>AYE</u>
Tom Martin, Vice-Chair.....	<u>AYE</u>
L. J. "Jimmy" Ayers, III.....	<u>AYE</u>
Claudia D. Tucker.....	<u>AYE</u>
Drew Wade.....	<u>AYE</u>

ATTEST:

Dean C. Rodgers, Clerk
Amherst County Board of Supervisors