

Chapter 4
ANIMALS AND FOWL

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Chapter 4
ANIMALS AND FOWL

Article 1. In General.¹

Sec. 4-1-1. Fence law declared.

The boundary line of each lot or tract of land is hereby declared to be a lawful fence as to all of the animals mentioned in section 55-306 of the Code of Virginia. The foregoing declaration shall not apply within the limits of any incorporated town.

Sec. 4-1-2. Burial or cremation of animals or fowls which have died.²

When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, or request such service from an officer or other person designated for the purpose. If the owner fails to do so, any judge of the general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Except as otherwise expressly designated by the court, the County's animal control officer shall be the officer so designated. Such officer or other person shall be entitled to recover of the owner of every such animal or fowl that is cremated or buried the actual cost of the cremation or burial and a reasonable fee to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. As to any such cremation or burial performed by or at the direction of the animal control officer, the cost of such cremation or burial shall be recovered by the County. Any person violating the provisions of this section shall be punished as for a Class 4 misdemeanor.

Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner. (Ord. 2-20-02; Ord. 11-18-15)

Article 2. Dogs.³

¹ For state law as to cruelty to animals, see Code of Va., § 3.2-6570 et seq.; as to penalties for violation of offenses involving animals, see Code of Va., §§ 3.2-6587 and 18.2-403.1 et seq.

² For state law as to authority of county to regulate disposal of bodies of animals or fowl, see Code of Va., § 18.2-510.

³ For state law as to authority of local governing bodies and licensing of dogs, see Code of Va., § 3.2-6537 et seq.

Sec. 4-2-1. License -- Required; term; where license tax payable; amount of tax.⁴

It shall be unlawful for any person to own, keep, hold or harbor any dog over four months of age within the county unless such dog is licensed, as required by the provisions of this article. Dog licenses shall run by the calendar year, namely, from January 1 to December 31, inclusive. The license tax, which shall be the only license tax on dogs in this county, shall be payable at the office of the treasurer and shall be as follows:

For a male dog, eight dollars;

For an unsexed (successfully spayed or neutered) male or female dog, four dollars;

For a female dog, eight dollars;

For a kennel of not more than twenty dogs, forty dollars;

For a kennel of not more than fifty dogs, fifty dollars.

(Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4; Ord. 8-4-99; Ord. 2-16-00; Ord. 11-18-15)

Sec. 4-2-1.1. Same - - When license tax payable.

The license tax on dogs shall be due and payable as follows:

(A) On or before January 1 and not later than January 31 of each year, the owner or possessor of any dog four months old or older shall pay a license tax as prescribed in the preceding section.

(B) If a dog shall become four months of age or come into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid forthwith by the owner or possessor.

(C) If a dog shall become four months of age or come into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner or possessor and such license shall protect such dog from date of purchase.

(Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

⁴ For state law as to authority for licensing taxes and for Sections 4-2-1.1, 4-2-1.2, 4-2-1.3 of this chapter, see Code of Va., § 3.2-6528.

Sec. 4-2-1.2. Same - - Disposition of license taxes, etc.

All license taxes imposed by this article shall be paid to the county treasurer, and all fines collected for violations of this article shall be paid into the county treasury. (Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

Sec. 4-2-1.3. Same - - Relevant state law applicable.

All other provisions of the general law of the state pertaining to and regulating dog licenses, not specifically provided for in Sections 4-2-1 to 4-2-1.2 of this chapter and not inconsistent herewith; shall be applicable and in full force and effect as though set out herein. (Min. Bk. 2, p. 420; Min. Bk. 5, pp. 395, 425; Min. Bk. 6, pp. 187, 446; Comp. 1974, ch. 4)

Sec. 4-2-2. Running at large in Lake Monticello subdivision.⁵

The running at large of all dogs at any time is hereby prohibited within the confines of Lake Monticello subdivision, in the Cunningham magisterial district of the county.

For the purposes of this section a dog shall be deemed to run 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; provided, however, that no dog shall be deemed to be running at large in violation hereof if it shall be engaged in lawful hunting outside of such subdivision under the direction of its owner or custodian and shall thereafter stray into such subdivision; provided, that such owner or custodian shall place such dog under his immediate control within a reasonable time.

Any person who permits his dog to run at large shall be subject to a fine of not more than one hundred dollars.
(Comp. 1974, ch. 4; Ord. 8-4-86; Ord. 11-18-15)

Sec. 4-2-3. Control of dangerous or vicious dogs.

(A) As used in this Section:

Dangerous dog means 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 cat; however, when a dog attacks or bites a companion animal that is a dog or cat, the

⁵ For state law as to authority of county to prohibit dogs running at large, see Code of Va., § 3.2-6538.

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 dog or cat as a result of the attack or bite or (ii) both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. 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 that has bitten, attacked or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, 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; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, 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.

(B) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction 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 successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal he has reason to believe is dangerous or vicious until such time as evidence shall be heard and a verdict rendered. With respect to allegedly dangerous animals only, if the animal control officer determines that the owner or custodian can confine the animal the officer has reason to believe is dangerous in a manner that protects the public safety, the officer 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. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of section 3.2-6562 of the Code of Virginia. 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 (Sec. 19.2-260 et seq) of Chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(C) No canine or canine crossbreed shall be found to be a dangerous dog or vicious 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 or vicious 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 or other tort 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 or a vicious dog. No animal which, 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 or a vicious dog.

(D) 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.

(E) The owner of any animal found to be a dangerous dog shall, within forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$150 dollars 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 subdivision shall be updated and renewed annually for a fee of eighty-five dollars (\$85) 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.

(F) All dangerous dog 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 spayed or neutered, 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 \$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. The structure shall be designed to provide the animal with shelter from the elements of nature. 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 of 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, 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 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.

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 shall be 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.

(L) 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 and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under section 3.2-6556 of the Code of Virginia.

(Ord. 2-5-97; Ord. 10-15-03; Ord. 1-17-07; Ord. 11-18-15)

Sec. 4-2-4. Rabies inoculation of dogs and domesticated cats; availability of certificate; penalty for violation.⁶

The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed

⁶ For authority to adopt ordinances regarding regulation of animals and prevention of rabies, see Code of Va., §§ 3.2-6537, 3.2-6543, 3.2-6544, 3.2-6545 and 3.2-6525; for penalty for class 3 misdemeanor, see Code of Va., § 18.2-11.

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by the United States Department of Agriculture for use in that species.

Every such owner or custodian who shall fail to have such animals currently vaccinated as provided hereinabove shall be deemed to be in violation of this section and shall be punished by a fine of not more than \$500 for each such violation.
(Ord. 2-16-00; Ord. 11-18-15)