

AN ORDINANCE No. 4-33

To amend Chapter 4, Animals and Fowls, Article I, Sections 4-1, Definitions, defining both “adequate space” and “adequate shelter”, which recommended amendments to Section 4-1 are reflected in Virginia Code Section 3.2-6500 amendments to the terms “adequate space” and “adequate shelter”; and to amend Chapter 4, Animals and Fowls Article II, Section 4-21, Running at Large – Generally, to amend exempt dogs used for lawful hunting in designated areas of the County within a designated hunting (or open) season, and the proposed amendments to County Code Section 4-21 reflect those amendments, with designated areas and hunting/open seasons interpreted as being pursuant to current Virginia Department of Game and Inland Fisheries regulations, which are reflected in the amendment to Virginia Code Section 3.2-6538. Another amendment to Virginia Code Section 3.2-6538 is the requirement of localities with “running at large” ordinances to include a civil penalty provision that the owner or custodian of any dog found running at large in a pack shall be subject to a civil penalty in an amount not to exceed \$100 for every dog so found. As such, another proposed amendment to County Code Section 4-21 reflects that change.

PUBLIC HEARING: December 10, 2019

WHEREAS, staff has reviewed the code amendments and recommends approval as stated in the executive summary dated December 10, 2019; and

WHEREAS, the Spotsylvania Board of Supervisors held a public hearing, duly advertised in a local newspaper for a period of two weeks, on November 25, 2019 and December 2, 2019, and interested citizens were offered an opportunity to be heard; and

WHEREAS, the general welfare is served by approval of the code amendments.

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

§ 1. That Chapter 4, Article I, Section 4-1 be and is hereby **amended and re-ordained** as follows:

Sec. 4-1. - Definitions.

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

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

*Board of Supervisors of Spotsylvania County
Adopted December 10, 2019*

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

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

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

Adequate space means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means that the tether to which the animal is attached permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness that is configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; is at least ten (10) feet in length or three (3) times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line; does not by its material, size, or weight or any other characteristic, cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and does not have weights or other heavy objects attached to it. The walking of an animal on a leash by its owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.

Adequate water means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by

naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Ambient temperature means the temperature surrounding the animal.

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

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

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

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

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

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

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

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

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

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

Pet means any animal kept for pleasure rather than utility.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing facilities. As an example, if the sound source were a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

Poultry includes all domestic fowl and game birds raised in captivity.

Running at Large in a pack *means* (1) a dog that is unlawfully running at large pursuant to Section 4-21 of this ordinance, and (2) while doing so said dog is in the company of one or more other dogs.

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

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

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

(Code 1980, § 4-1; Ord. No. 4-2, 6-1-93; Ord. No. 4-26, 10-13-09; Ord. No. 4-28, 2-12-13; Ord. No. 4-31, § 1, 10-10-17; Ord No. 4-33, 12-10-19)

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

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

§ 2. That Chapter 4, Article II, Section 4-21, be and is hereby **amended and ordained** as follows:

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

- (a) No dog, other than those listed in subsection (c) below, shall run at large in the county. Any person who is the owner or custodian of a dog found running at large in the county shall be in violation of this section.
- (b) For the purposes of this section, a dog shall be deemed to be "running at large" while roaming, running off the property or premises of its owner or custodian and not under the immediate control of the owner or custodian or his agent. "Property or premises of its owner or custodian" for purposes of this section, shall not mean residential or commercial common areas.
- (c) This section shall not apply to the owner or custodian of a dog engaged in: (1) law enforcement or search and rescue activity; (2) a supervised, formal obedience training class or show; (3) formally organized and sanctioned field trials conducted pursuant to the applicable regulations and seasons set forth by the Virginia Department of Game and Inland Fisheries (DGIF); (4) lawful hunting pursuant to the regulations and seasons set forth by DGIF; or (5) during hunting, training, or field trial dog training conducted pursuant to applicable DGIF regulations.

- (d) It shall be unlawful for the owner of a dog to place such dog or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of such dog.
- (e) A violation of this section shall constitute a Class 4 misdemeanor for the first offense; provided, however, if the dog is a dangerous or vicious dog, a violation of this section shall constitute a Class 1 misdemeanor.
- (f) A second violation of this section within one (1) year of a conviction of the first violation shall constitute a Class 2 misdemeanor; provided, however, if the dog is a dangerous or vicious dog, a violation of this section shall constitute a Class 1 misdemeanor.
- (g) A third or subsequent violation of this section within two (2) years of conviction of the second or subsequent violation shall constitute a Class 1 misdemeanor.
- (h) The owner or custodian of any dog found running at large in a pack, as defined in Section 4-1 of this ordinance, shall be assessed a civil penalty not to exceed \$100.00 per dog so found. Any civil penalty collected pursuant to this ordinance shall be deposited by the County's Treasurer pursuant to the provisions of § 3.2-6534.

(Code 1980, § 4-10; Ord. No. 4-2, 6-1-93; Ord. No. 4-13, 8-11-98; Ord. No. 4-14, 8-11-98; Ord. No. 4-15, 9-28-99; Ord. No. 4-22, 5-10-05; Ord. No. 4-31, § 1, 10-10-17; Ord. No. 4-33; 12-10-19.)

State Law reference— Authority for above section, Code of Virginia, §§ 3.2-6538.

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