

## ORDINANCE NO. 11-4(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, ANIMALS AND FOWL, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, SECTION 4-100, DEFINITIONS.

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Animals and Fowl, is hereby amended and reordained by amending Article I, In General, Section 4-100, Definitions, as follows:

### CHAPTER 4. ANIMALS AND FOWL ARTICLE I. IN GENERAL

#### Sec. 4-100 Definitions.

The following words as used in this chapter shall have the following meanings:

(1) *Abandon*. The term "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 as set forth in Virginia Code § 3.2-6503 for a period of five (5) consecutive days.

(2) *Adequate care or care*. The term "adequate care" or "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.

(3) *Adequate exercise*. The term "adequate exercise" or "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.

(4) *Adequate feed*. The term "adequate feed" means access to and the provision of food which 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.

(5) *Adequate shelter*. The term "adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter. In addition, the following are also deemed to be inadequate shelters: (i) metal or plastic barrels, (ii) airline crates or carrying crates, (iii) dog houses with no floors.

(6) *Adequate space*. The term "adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least five times the length of the animal, as measured from the tip of its nose to the base of its tail, and

terminates at both ends with a swivel, and weighs no more than 1/8 of the animal's weight, and if multiple animals, each animal shall be on its own tether, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space. When an animal is on a pulley or running line, "adequate space" means a pulley or running line that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar and is at least fifteen feet in length and less than seven feet above the ground and configured so as to protect the animal from injury, and prevent the line from becoming entangled with other objects or animals or resulting in strangulation or injury of the animal, and if multiple animals, each animal shall be on its own tether.

(7) *Adequate water.* The term "adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve (12) hours, 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 which 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.

(8) *Adoption.* The term "adoption" means the transfer of ownership of a dog or cat, or any other companion animal, from a releasing agency to an individual.

(9) *Agricultural animals.* The term "agricultural animals" means all livestock and poultry.

(10) *Ambient temperature.* The term "ambient temperature" means the temperature surrounding the animal.

(11) *Animal.* The term "animal" means any nonhuman vertebrate species except fish. For the purposes of Article IV, Rabies Control, animal shall mean any species susceptible to rabies. For the purposes of section 4-109, animal shall mean any nonhuman vertebrate species including fish captured and killed or disposed of in a reasonable customary manner.

(12) *Animal control officer.* The term "animal control officer" means any person employed, contracted, or appointed by the Commonwealth or any political subdivision for the purpose of aiding in the enforcement of any other law or ordinance relating to the licensing of dogs, control of dogs and cats, cruelty to animals, or seizure and impoundment of companion animals and includes any state or county police officer, animal control officer, sheriff or other employee whose duties in whole or in part include assignments which involve seizure or taking into custody of any dog or other animal.

(13) *Animal shelter.* The term "animal shelter" means a facility, other than a private residential dwelling and its surrounding grounds, which is used to house or contain animals and which is owned, operated, or maintained by a non-governmental entity, duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

(14) *Boarding establishment.* The term "boarding establishment" means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

(15) *Clearly visible sign.* The term "clearly visible sign" means a sign that is (i) unobstructed from view, (ii) contains legible writing, and (iii) may be read by any person without assistance while standing ten feet away from the sign.

(16) *Collar.* The term "collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

(17) *Commercial dog breeder.* The term "commercial dog breeder" means any person who, during any twelve (12) month period, maintains thirty (30) or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

(18) *Companion animal*. The term "companion animal" means any domestic or feral dog, domestic or feral cat, non-human 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 which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

(19) *Emergency veterinary treatment*. The term "emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

(20) *Enclosure*. The term "enclosure" means a structure used to house or restrict animals from running at large.

(21) *Euthanasia*. The term "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 which causes painless loss of consciousness, and death during such loss of consciousness.

(22) *Foster care provider*. The term "foster care provider" means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

(23) *Hearing dog*. The term "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

(24) *Injury to a person*. The term "injury to a person" means any superficial cut, scratch, scrape, or minor tear to the skin, or any bruise to bone or skin area resulting from an unfriendly encounter. An injury shall be presumed to have occurred when a dog knocks a person to the ground or tears that person's clothing or any possession on his or her person.

(25) *Kennel*. The term "kennel" means any establishment in which five (5) or more canines, felines, or hybrids of either are kept for the purposes of breeding, hunting, training, renting, buying, boarding, selling, or showing.

(26) *Leash*. The term "leash" means any rope, strap, chain, or other material not exceeding four (4) feet in length, being held in the hand of a person capable of controlling the dog to which it is attached.

(27) *Livestock*. The term "livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia Code § 3.2-2600; 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.

(28) *Owner*. The term "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.

(29) *Person*. The term "person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(30) *Poultry*. The term "poultry" includes all domestic fowl and game birds raised in captivity.

(31) *Pound*. The term "pound" means a facility operated by the Commonwealth, or county for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

(32) *Primary enclosure.* The term "primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

(33) *Properly cleaned.* The term "properly cleaned" means that carcass, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

(34) *Releasing agency.* The term "releasing agency" means a pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

(35) *Serious injury to a person.* The term "serious injury to a person" means any bodily injury for which medical attention was sought and obtained, which involves a serious laceration requiring stitches to more than one puncture wound or which is serious in the opinion of a licensed physician.

(36) *Service dog.* The term "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

(37) *Sterilize or sterilization.* The term "sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

(38) *Treatment or adequate treatment.* The term "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. When any such animal is being transported in an open-bed truck or similar vehicle, such carrier shall be secured to the vehicle so as to be immovable, and shall permit normal postural movements of the animal. The following shall not be deemed "adequate treatment": (i) tethering of a dog six months old or younger; (ii) the tying up or tethering of a female dog in heat; (iii) transporting an animal in the back of an open-bed truck or similar vehicle in an unsecured carrier and/or tethered to a collar.

(39) *Veterinary treatment.* The term "veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

(Code 1967, § 4-4; 4-13-88; Code 1988, § 4-4; Ord. 98-A(1), 8-5-98; Ord. 09-4(1), 7-8-09; Ord. 11-4(1), 2-2-11)

**State law reference**—Va. Code §§ 3.2-6500, 6528.

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Boyd	_____	_____
Mr. Dorrier	_____	_____
Ms. Mallek	_____	_____
Mr. Rooker	_____	_____
Mr. Snow	_____	_____
Mr. Thomas	_____	_____