

ORDINANCE O-2019-07

AN ORDINANCE AMENDING THE CODE OF THE COUNTY OF POWHATAN, VIRGINIA, CHAPTER 10 (ANIMALS), ARTICLE II (ANIMAL CONTROL), DIVISION 1 (GENERALLY), SECTION 10-31 TO DEFINE POULTRY; AND CREATING SECTION 10-171 WITHIN THE CODE OF THE COUNTY OF POWHATAN VIRGINIA, CHAPTER 10 (ANIMALS), ARTICLE II (ANIMAL CONTROL), DIVISION 7 (NO FENCE LAW) TO MAKE IT UNLAWFUL, IN CERTAIN INSTANCES, TO ALLOW POULTRY TO STRAY ONTO ANY HIGHWAY, PRIVATE PROPERTY OR PUBLIC PROPERTY.

WHEREAS, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend and codify ordinances or portions thereof; and

WHEREAS, Section 3.2-6544 of the Code of Virginia, 1950, as amended, enables a local governing body, for the preservation of public health, to regulate by ordinance the keeping of animals or fowl, and provide that all or certain animals or fowl shall not be kept within certain areas; and

WHEREAS, poultry that leave their owner's property or are out of their owner's control pose a risk to public health through communicable diseases; and

WHEREAS, in order to encourage owners to properly control and contain their poultry, the Board of Supervisors wishes to regulate the control of poultry; and

WHEREAS, the full text of this amendment was available for public inspection in the Powhatan County Administrator's Office, 3834 Old Buckingham Road, Suite A, Powhatan, VA 23139; and

WHEREAS, on January 28, 2019 a public hearing was held on this matter, and all of those wishing to speak on this topic were heard;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF POWHATAN, that Chapter 10, Article II of the Code of the County of Powhatan, Virginia is hereby amended as follows:

Chapter 10. Animals
Article II. Animal Control
Division 1. Generally

Sec. 10-31. - 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:

Animal control officer means a person appointed as an animal control officer or deputy animal control officer as provided in Code of Virginia, § 3.2-6555.

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. 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.

Hearing dog means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

Kennel means 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.

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.

[*Poultry* means all domestic fowl and game birds raised in captivity.]

Private animal shelter means a facility that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

Public animal shelter means a facility operated by the commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

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.

Service dog means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

Chapter 10. Animals

Article 2. Animal Control

Division 7. No-Fence Law

- A. It shall be unlawful, in any area zoned residential, for any person to allow or permit any poultry owned by him or her or under his or her control to stray from the residentially zoned

property where the poultry is kept to any highway, public property, or private premises of another.

B. A person shall be guilty of a Class 4 misdemeanor if, after violating the provisions of subsection A:

(1) the person receives actual notice, in writing or otherwise, of a request to cease violation; and the request comes from:

(a) a person who owns, leases, occupies, or has any propriety interest in private property on which the poultry has strayed; or

(b) a law enforcement officer, including any animal control officer, with jurisdiction in this County; and

(2) the person subsequently violates the provisions of Subsection A.

C. Each violation of Subsection B shall constitute a separate offense.

BE IT FURTHER ORDAINED THAT the Board of Supervisors authorizes the County Administrator or his designee to correct any grammatical, spelling, punctuation, formatting, and organizational mistakes in the document that do not change the substance of the text approved by the Board of Supervisors prior to printing the document and posting it on the official Powhatan County website.

ADOPTED BY THE POWHATAN COUNTY BOARD OF SUPERVISORS ON
_____, 2019.

Carson L. Tucker, Chairman
Powhatan County Board of Supervisors

ATTEST:

Theodore L. Voorhees, Clerk
Powhatan County Board of Supervisors

Recorded Vote:

David T. Williams _____

Larry J. Nordvig _____

Angela Y. Cabell _____

William E. Melton _____

Carson L. Tucker _____