

ORDINANCE NO. 17-4()

AN ORDINANCE TO AMEND CHAPTER 4 ANIMALS AND FOWL, ARTICLE II, DOGS, DIVISION 4, DANGEROUS AND VICIOUS DOGS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Animals and Fowl, Article II, Dogs, Division 4, Dangerous and Vicious Dogs, is hereby amended as follows:

By Amending:

Sec. 4-218 Dangerous Dogs

CHAPTER 4

ARTICLE II. DOGS

DIVISION 4. DANGEROUS AND VICIOUS DOGS

4-218 Dangerous dogs.

A. As used in this section, ~~“D~~dangerous dog” means:

(1) ~~a~~A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a ~~person or~~ companion animal that is a dog or cat or killed a companion animal that is a dog or cat. When a dog attacks, bites, or inflicts injury on a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous if, upon investigation, a law enforcement officer or animal control officer finds that:

(i)~~(a)~~ (a) 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;

~~(ii)(b)~~ (b) both animals are owned by the same person; or

~~(iii)(c)~~ (c) such attack ~~occurs~~ occurred on the property of the attacking or biting dog’s owner or custodian;

~~(iv)~~ for other good cause as determined by the court.

(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.

B. 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, or for other good cause, that the dog is not dangerous or a threat to the community.

~~C. B.~~ Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within its jurisdiction is a dangerous dog ~~shall~~ may 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. The animal control officer shall confine the animal until such time as evidence shall be 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 the 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, 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. The court, upon finding the animal to be a dangerous or vicious 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 appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.* The Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. G No canine or crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

E. 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 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, 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.

F. 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.

G. F. The owner of any animal found to be a dangerous dog shall, within ~~forty-five (45)~~ thirty (30) days of such finding, obtain a dangerous dog registration certificate from the county for a fee of one hundred and fifty dollars (\$150.00), in addition to other fees that may be authorized by law. The county 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 subsection shall be updated and renewed for a fee of eighty-five dollars (\$85.00) and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dogs Registry.

F. H. 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 of:

- (i) 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 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).

GI. 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 according to section 4-105. 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.

HJ. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry as established under Virginia Code § 3.2-6542, within forty-five (45) days of such a finding by any appropriate court. The owner shall also cause the local animal control officer to be promptly notified of: (i) the names, address, and telephone numbers of all owners; (ii) all 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; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

IK. 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 been moved and the new address to which the animal has been moved.

JL. Any owner or custodian of a canine or canine crossbreed or other animal:

1) shall be guilty of a 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; or

2) shall be guilty of a 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; or

3) shall be subject to prosecution pursuant to Virginia Code § 3.2-6540 if the owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animals 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~~M. 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. 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 disposed of by the county pursuant to Virginia Code § 3.2-6562 or (ii) grant the owner up to forty-five (45) 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 disposed of by a local governing body pursuant to Virginia Code § 3.2-6562. 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~~N. All fees collected pursuant to this section, less the costs incurred by the county 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 of the county for the purpose of paying the expenses of any training course required under Virginia Code § 3.2-6556.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09; Ord. 13-4(1), 7-3-13)

State law reference—Va. Code § 3.2-6540.

This ordinance shall be effective on and after July 1, 2017.

I, Claudette K. Borgersen, 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 June 7, 2017.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____