

ORDINANCE NO. 11 - 11

AN ORDINANCE AMENDING THE HANOVER COUNTY CODE, CHAPTER 4, "ANIMALS," ARTICLE II, "ANIMAL CONTROL," DIVISION 4, "GENERAL PROVISIONS," BY THE ADDITION OF SECTION 4-78 TO REGULATE ANIMALS THAT ARE PUBLIC NUISANCES.

WHEREAS Virginia Code Section 15.2-1200 authorizes the County to adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants; and

WHEREAS the General Assembly of the Commonwealth of Virginia has authorized localities to regulate animals pursuant to Virginia Code Sections 3.2-6538, 3.2-6539, 3.2-6540, 3.2-6543, and 3.2-6544, and public nuisances pursuant to Virginia Code Section 15.2-900; and

WHEREAS the 2006 Session of the General Assembly passed House Joint Resolution No. 124 which encourages the Virginia Association of Counties and the Virginia Municipal League to advise and advocate to their respective member localities the adoption of public nuisance animal ordinances; and

WHEREAS complaints about aggressive, threatening and destructive animals or animals that otherwise constitute a public nuisance are among the most frequent complaints received by Hanover County Animal Control; and

WHEREAS current provisions of the Hanover County Code do not always adequately address such situations, nor are such situations addressed by state law,

NOW, THEREFORE, BE IT ORDAINED by the Hanover County Board of Supervisors that the Hanover County Code, Chapter 4, "Animals," Article II, "Animal Control," Division 4, "General Provisions" is hereby revised to add Section 4-78, which shall read in its entirety as follows:

ARTICLE II. ANIMAL CONTROL

DIVISION 4. GENERAL PROVISIONS

Section 4-78. Nuisance Animals.

(a) All animal owners shall exercise proper care and control of their domestic, companion, wild or exotic animals to prevent them from becoming a public nuisance. Acts deemed public nuisances shall include, but are not limited to, the following:

(1) Chasing, threatening or harassing vehicles, bicycles or pedestrians on any public right of way or private right of way not owned or controlled by the owner of the alleged nuisance animal on two (2) or more separate occasions.

(2) Chasing, threatening, harassing or otherwise acting in an aggressive manner toward persons on any property not owned or controlled by the owner of the alleged nuisance animal on two (2) or more separate occasions.

(3) Biting a person so as to cause physical injury on two (2) or more separate occasions without substantiated provocation, unless in response to an actual threat to the person or property of owner or of the owner's family.

(4) Chasing, threatening, harassing or injuring livestock, poultry or other domestic, companion, wild or exotic animals on two (2) or more separate occasions, unless such livestock, poultry or other domestic, companion, wild or exotic animal is trespassing upon the property of the owner of the alleged nuisance animal.

(5) Trespassing upon school grounds or public parks or playgrounds on two (2) or more separate occasions.

(6) Damaging real or personal property of a person other than the owner on two (2) or more separate occasions.

(7) Overturning trash containers and scattering trash on any property not owned or controlled by the owner of the alleged nuisance animal on three (3) or more separate occasions.

(8) Habitually running at large. "Habitually running at large" shall refer to any animal whose owner has been convicted of allowing his animal to run at large, pursuant to Hanover County Code Section 4-74, three (3) or more times within a twelve-month period.

(9) Producing conditions offensive or dangerous to the public safety or welfare by virtue of the number and living conditions of such animals. For the purposes of this section, "conditions offensive or dangerous to the public safety or welfare" include, but are not limited to, conditions which attract insects and rodents, large numbers of animals kept in poor living conditions, unvaccinated animals and odors emanating beyond the property owned or controlled by the owner of the alleged nuisance animal(s), which conditions have not been corrected after receiving a warning from Animal Control. This subsection shall not apply to livestock or poultry.

(b) Any person owning or having in his possession or under his control any domestic, companion, wild or exotic animal suspected of constituting a nuisance may be summoned before the Hanover County General District Court to determine whether such domestic, companion, wild or exotic animal constitutes a public nuisance and, if so, whether such animal should be confined or the nuisance otherwise abated. When a violation of this section is committed in the presence of an animal control officer, or when, upon investigation, an animal control officer finds evidence to suggest that such a violation has occurred, the officer may proceed to issue a summons and take other action as set forth in this section.

(c) When a summons is issued, if the animal control officer deems confinement in the pound necessary during the pendency of the case to prevent a reoccurrence of the nuisance, then the owner or custodian shall be responsible for the impound fees. If the animal control officer determines that confinement in the pound is unnecessary, the animal shall be confined at the home of the owner during the pendency of the case.

(d) Upon proof that the domestic, companion, wild or exotic animal constitutes a public nuisance, the domestic, companion, wild or exotic animal shall, by order of the judge of the general district court, be confined or the nuisance shall be otherwise abated, as such judge may determine to be appropriate. The court may also impose a civil penalty of up to \$250.00 to be paid by the owner or custodian of such animal. It shall be unlawful and shall constitute contempt of court for any person to harbor or conceal any animal which has been deemed to be a nuisance by the general district court or to fail to confine or restrain an animal when such an order has been entered by the court. For the purposes of this section, "confine" shall mean to place within a secure enclosure, such as a kennel or adequately fenced yard, or to keep indoors, and not to chain or tether the animal.

(e) This section shall not apply to any person while engaged in law enforcement or search and rescue activity, in a supervised formal obedience training class or show, during formally sanctioned field trials, while engaged in lawful hunting with a dog or dogs during open season, or during bona fide hunting or field trial dog training.

(f) No canine or canine crossbreed shall be found to be a nuisance animal solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

(g) Any person who owns any animal that has been adjudged a nuisance pursuant to this section by the general district court and who appeals that decision to the circuit court shall be responsible for the fees connected with the impounding of the animal by the animal control officer, if the animal control officer deems impoundment to be necessary. If deemed necessary, the animal control officer or owner shall confine such animal during pendency of the appeal to prevent a reoccurrence of the nuisance. If on appeal the circuit court determines that the animal is not a nuisance, no such fees for the impounding of the animal shall be imposed.

BE IT FURTHER ORDAINED that this ordinance shall be effective September 1, 2011.

On motion of Mr. Gordon, seconded by Mr. Stanley, the members of the Board of Supervisors voted to approve Ordinance No. 11-11, as follows:

Vote:

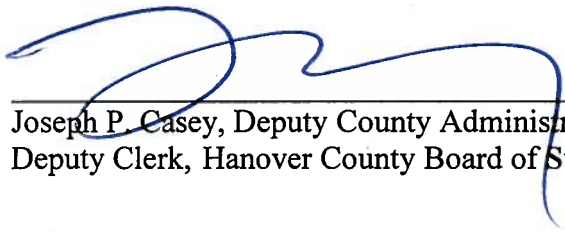
Deborah B. Winans	Absent
Aubrey M. Stanley	Aye
John E. Gordon, Jr.	Aye
Charles D. McGhee	Absent
Robert R. Setliff	Aye
G. E. "Ed" Via, III	Aye
Elton J. Wade, Sr.	Aye

This is to certify that the above is a true copy of Ordinance 11-11 adopted by the Hanover County Board of Supervisors on July 27, 2011.

Public Hearing: July 27, 2011

Adopted: July 27, 2011

Dated: August 4, 2011



Joseph P. Casey, Deputy County Administrator
Deputy Clerk, Hanover County Board of Supervisors