


**ACTION ITEM
BOARD OF SUPERVISORS**

DATE: February 6, 2007

TO: Board of Supervisors

FROM: Charles E. Jett 
Sheriff

ISSUE: Amend Sections 5-56 and 5-57 of the County Code Regarding Dangerous and Vicious Dogs

RECOMMENDATION: Approval

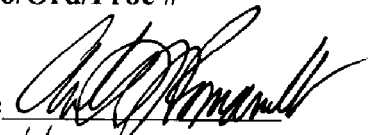
BUDGET IMPACT: N/A

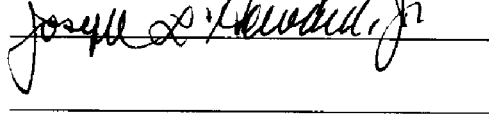
ATTACHMENTS: (2)

[1] Background Report [2] Reso/Ord/Proc # 007-04

[] [] Reso/Ord/Proc #

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REVIEW: [X] County Administrator's Office 

[X] Legal 

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[] **Consent Agenda**
[] **Discussion Item**
[] **New Business**

[] **Other Business**
[] **Presentation**

[X] **Public Hearing**
[] **Unfinished Business**

PRESENTATION BY: Michael Null
Animal Control Officer

ELECTION DISTRICT: N/A

BACKGROUND REPORT

State Laws regulating the keeping of dangerous and/or vicious dogs have been amended, necessitating amendments to Sections 5-56 and 5-57 of the Stafford County Code. A summary of the changes made to Virginia Code Section 3.1-796.93:1 are as follows:

1. Definition of dangerous dog has changed. The dog has to bite, attack, injure, or kill a companion animal that is a dog or cat. If the dog attacks the dog or cat on its own property, it cannot be declared dangerous.
2. A dog can no longer be administratively declared dangerous. The animal control officer (ACO) must apply to a magistrate for issuance of a summons. Any law enforcement officer can also apply to a magistrate for issuance of a summons to declare a dog dangerous or vicious; however, he/she must notify the local ACO of the action and facts of the incident.
3. If the court declares the dog vicious, the owner has the right to appeal and have a trial by jury.
4. Ownership of a particular breed cannot be prohibited.
5. Along with the reasons why a dog cannot be declared dangerous, an addition was made if the dog was protecting a person or a custodian's property.
6. The ACO must provide a copy of the dangerous dog certificate and verification of compliance to the State Veterinarian.
7. The owner must have liability insurance, covering animal bites, of at least \$100,000 or a surety bond of at least \$100,000.
8. The owner of a dangerous dog must register the dog within 45 days of such a finding by a court, with the Commonwealth of Virginia Dangerous Dog Registry as established under Code of Virginia (1950), as amended, Section 3.1-796.93:3.
9. The owner must notify the local ACO of (1) the names, addresses, and telephone numbers of all owners, (2) all of the means necessary to locate the owner and the dog at any time, (3) any complaints of any attacks by the dog, (4) any claims made or lawsuits brought as a result of an attack by the dog, (5) tattoo or chip identification information, or (6) the death of the dog.

10. If the owner of a dangerous dog moves, the owner must provide written notice to the appropriate local ACO of the new address within ten (10) days.
11. The owner is guilty of a Class 2 Misdemeanor if a dog, previously declared dangerous from a separate incident, injures or kills a dog or cat.
12. The owner is guilty of a Class 1 Misdemeanor if a dog, previously declared dangerous from a separate incident, bites a person.

Staff recommends amending County Code Sections 5-56 and 5-57 to come into compliance with Code of Virginia (1950), as amended, 3.1-796.93:1.

Staff recommends adoption of proposed Ordinance O07-04

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 6th day of February, 2007:

MEMBERS:

Jack R. Cavalier, Chairman
Mark Dudenhefer, Vice Chairman
M. S. "Joe" Brito
Peter J. Fields
Robert C. Gibbons
Paul V. Milde III
George H. Schwartz

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN SECTION 5-56, DEFINITIONS; AND SECTION 5-57, CONTROL OF DANGEROUS OR VICIOUS DOGS; PENALTIES, OF THE STAFFORD COUNTY CODE

WHEREAS, Section 3.1-796.93:1 of the Code of Virginia (1950), as amended, has changed its definition of dangerous and vicious dogs; and

WHEREAS, Section 3.1-796.93:1 of the Code of Virginia (1950), as amended, has changed regarding the enforcement process and the penalties regarding dangerous and vicious dogs; and

WHEREAS, the Board desires to amend the County Code to bring it up to state standards to address dangerous and vicious dogs;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 6th day of February, 2007, that Section 5-56 and Section 5-57 of the Stafford County Code be and they hereby are amended and reordained to read as follows:

ARTICLE IV. DANGEROUS AND VICIOUS DOGS

Sec. 5-56. Definitions.

For the purposes of this article and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Dangerous dog means 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. ~~However, when a dog attacks or bites another dog a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous~~ (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the ~~other dog or cat~~ as a result of the attack or bite or (ii) both ~~dogs~~ animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on ~~another 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.

Vicious dog means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by local ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

Sec. 5-57. ~~Dangerous dogs; vicious dogs.~~ Control of dangerous or vicious dogs; penalties

(a) Any law-enforcement officer or The animal control officer upon reasonable belief who has reason to believe that a canine or canine crossbreed within the county his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear in 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 or vicious. The animal control officer or owner 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. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1 796.119, Code of Virginia. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of the Chapter 15 of the Title 19.2. The County shall be required to prove its case beyond a reasonable doubt.

~~(b) — Notwithstanding the provisions of subsection (a), the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this article. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court.~~

~~(e)(b)~~ No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious 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 ~~or other tort~~ 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 which 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 or a vicious dog. No animal ~~which~~ that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, ~~or its owner,~~ or its owner's or owner's custodian's property, shall be found to be a dangerous dog or a vicious dog.

~~(c)~~ 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.

(d) The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of fifty dollars (\$50.00), in addition to other fees that

may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which 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. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

(e) 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 (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed, 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; ~~(iii) that the dog is spayed or neutered; and (iv) that the owner or guardian of the dog has at least one hundred thousand dollars (\$100,000.00) of liability insurance to cover animal bites.~~ 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 a tattoo on the inside thigh or by 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 \$100,000, 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 \$100,000.

(f) While on the property of its owners, 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. The structure shall be designed to provide the animal with shelter from the elements of nature. 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.

(g) ~~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.~~ The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established

under § 3.1-796.93:3, within forty-five (45) days of such a finding by a court of competent jurisdiction.

(h) The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of 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) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(h) (i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies; ~~or (iv) has been moved to a different address.~~ Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. 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. 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.

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) The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of the article shall be guilty of a class 1 misdemeanor.

⊕ (1) All fees collected pursuant to this article, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this article, shall be paid into a special dedicated fund for the purpose of paying the expenses of any training course required under § 3.1-796.104:1, Code of Virginia.

(Ord. No. O05-31, 6-21-05)

Secs. 5-58—5-64. Reserved.

JLH,Jr:GGR:ce
