

**AMENDMENT NO. 2 TO ORDINANCE NO. 91-5
ANIMAL AND FOWL ORDINANCE
OF
WYTHE COUNTY, VIRGINIA**

A public hearing was held on September 28, 1999, at 9:15 a.m. in the Board Room of the Wythe County Office Building, 275 South Fourth Street, Wytheville, Virginia, to consider amending and re-enacting Wythe County Ordinance No. 91-5, "Animal and Fowl Ordinance of Wythe County, Virginia", as follows:

Amend ARTICLE I as follows:

- 1.1 Title. This ordinance shall hereinafter be known as, and may be cited as the "Animal and Fowl Ordinance of Wythe County, Virginia", Ordinance Number 91-5.
- 1.2 Authority. This ordinance is adopted and amended and re-enacted under ~~pursuant to~~ the authority of Title 18.2-323 and 18.2-510; and granted by Acts of the General Assembly of Virginia as provided in Title 3.1, Sections 3.1-796.60 ~~66~~ and 3.1-796.129 ~~84~~, and Section 3.1-796.93:1, of the Code of Virginia of, 1950, and amendments thereto as amended.
- 1.3 Purpose. This ordinance is adopted to provide for the health, safety and general welfare of the citizens of Wythe County by establishing the position of Animal Warden, licensing and control of dogs, preventing rabies, disposition of dead animals, handling of damage caused by dogs, to regulate dangerous and vicious dogs, and providing to provide penalties for the violations thereof of this ordinance.

Amend ARTICLE III as follows:

ARTICLE III - Definitions

- 3.1 For the purpose of this ordinance, ~~the following words and phrases shall have the meaning respectively ascribed by this section~~ certain words and terms are defined as follows:

- 3.1-4-1 Dangerous Dog. Means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal.

3.1-16 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 that it is a dangerous dog, provided that its owner has been given notice of that finding.

3.1-17 Where terms are not defined in this ordinance and the context or practice requires definition, they shall have the meanings specified in the Code of Virginia, Title 3.1, Ch. 27.4, the *Comprehensive Animal Laws*, as now or hereafter adopted. In case of conflict, the statutes and regulations applicable to the particular requirement involved shall prevail over those in this ordinance.

Amend ARTICLE VII as follows:

7.3 Schedule of fees. The license tax shall be made payable at the office of the County Treasurer and shall be as follows:

7. Dangerous Dog. Dangerous dog licenses, fifty dollars (\$50.00).

7.9 Displaying receipts; dogs to wear tags. Dog license receipts shall be carefully preserved by the licenses and exhibited promptly on request for inspection by any animal warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog: It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section 1) when the dog is engaged in lawful hunting, 2) when the dog is competing in a dog show, 3) when the dog has a skin condition which would be exacerbated by the wearing of a collar, 4) when the dog is confined, or 5) when the dog is under the immediate control of its owner.

Dangerous dogs. Dog license tags for dangerous dogs shall be securely fastened to a substantial collar by the owner or custodian of such dog and must be worn by it at all times. Such tags shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

Amend ARTICLE XI as follows:

11.3 Control of Dangerous Dogs.

1. Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous 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 before a General District Court at a specified date and time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer or owner shall 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 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 ordinance. If, after hearing evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accord with the provisions of Section 3.1-796.119 and Section 10.1 of this ordinance. In addition, the court may require that the animal be neutered or spayed if the same should be deemed necessary by the court.
2. 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 it prohibited for a person to own a particular breed of canine or canine crossbreed. 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, 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, 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's property, shall be found to be a dangerous dog or a vicious dog.
3. 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 Treasurer's Office for a fee of fifty (\$50.00) dollars. The Treasurer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog.

4. All 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, and (ii) 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 can be constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued the same 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.
5. 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. 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.
6. If the owner of an animal found to be a dangerous dog be a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.
7. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the animal warden if the animal is (i) loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away or dies; or (iv) has been moved to a different address.

11.4 In addition to the requirements of Section 11.3 hereof, certificates or renewals thereof shall only be issued to persons eighteen years of age or older who present satisfactory evidence that the owner of the dangerous dog has liability insurance providing coverage for injuries, losses and damages occasioned by animal bites to the value of at least \$25,000.00.

Amend ARTICLE XV as follows:

15.1 Any person guilty of unlawful acts 1 through 9 of Article XIV shall be guilty of a Class 4 misdemeanor. Any person guilty of unlawful acts 10 or 11 of Article XIV

shall be guilty of a Class 1 misdemeanor. Any other violations of this ordinance for which a specific penalty is not provided shall be guilty of a Class 2 misdemeanor. ~~They shall be enforced by proceedings before a judge of the District Court in like manner and with the right of appeal.~~ All fines collected from any person for violating any provisions of this ordinance, upon conviction thereof, shall be paid to the County Treasurer who shall credit such ~~taxes~~ sums to the County General Fund, ~~and such taxes shall be to be deposited by the County Treasurer~~ him in the same manner as that prescribed for other County moneys.

15.2 All fees collected pursuant to the dangerous and vicious dog provisions of this ordinance, less any costs incurred by animal control authorities in producing and distributing certificates and tags required thereby, shall be paid into a special dedicated fund in the County Treasurer's Office for the purpose of paying the expenses of any training course required by Code Section 3.1-796.105.

This amendment was duly considered following a required public hearing held on September 28, 1999, and was adopted by the Board of Supervisors of Wythe County, Virginia, at its regular meeting held on September 28, 1999, the members voting as follows:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>
Wythe B. Sharitz	X		
Mark C. Munsey	X		
Charles S. Dix	X		
S. Clay Lawrence	X		
Danny C. McDaniel	X		
Howard W. Manley	X		
Harvey E. Atkinson, III	X		

This amendment shall become effective on and after 12:01 a.m. on the 29th day of September, 1999.

I certify this to be a true and correct copy taken from the September 28, 1999 minutes of the Wythe County Board of Supervisors meeting.

R. Cellell Dalton, Clerk