

ORDINANCE NO. 3191

AN ORDINANCE to amend Section 5-7-31 by adding a new subsection (b) and renumbering subsections (1), (2), (3), (4), (5) and (6) as subsections (a), (c), (d), (e), (f) and (g), respectively; to amend and reordain subsection (h) of Section 5-7-31 and Sections 5-7-36, 5-7-37, 5-7-42, 5-7-43, 5-7-44 and 5-7-46, all of Article C; and to amend Article C, Chapter 7 by adding new Sections 5-7-36.1 and 5-7-36.2; all of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended; which Title 5 relates to TRANSPORTATION AND ENVIRONMENTAL SERVICES, which Chapter 7 relates to ANIMALS AND FOWL, which Article C relates to DOGS AND OTHER ANIMALS, which Section 5-7-46 relates to PENALTIES, which Section 5-7-44 relates to APPOINTMENT AND POWERS OF DOG WARDEN AND DEPUTY DOG WARDENS, which Section 5-7-43 relates to POWERS OF OPERATORS OF ANIMAL SHELTERS GENERALLY, which Section 5-7-42 relates to DOGS NOT URINATING OR DEFECATING ON PUBLIC PROPERTY, which new Section 5-7-36.2 relates to DANGEROUS DOG PERMITS, which Section 5-7-36.1 relates to COMPLAINTS OF VICIOUS AND DANGEROUS DOGS; PROCESSING OF COMPLAINTS, which Section 5-7-36 relates to VICIOUS OR DANGEROUS DOGS GENERALLY, which Section 5-7-31 relates to DEFINITIONS, which subsection (h) relates to DEFINITION OF VICIOUS OR DANGEROUS DOG and which new subsection (b) relates to DANGEROUS DOG.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-7-31, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by renumbering subsections (1), (2), (3), (4), (5) and (6) as subsections (a), (c), (d), (e), (f) and (g), respectively, and by adding a new subsection (b) to read as follows:

(b) **Dangerous dog.** Any dog which is capable of inflicting death or serious injury on a person or another animal and which:

(1) has, without provocation, attacked or bitten a person engaged in a lawful activity;

(2) has, while off the property of its owner and without provocation, killed or seriously injured another animal;

(3) has, without provocation, chased, confronted or approached a person on a street, sidewalk or other public property in a menacing fashion such as would put an average person in fear of attack;

(4) has exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation; or

(5) has acted in a manner that causes or should cause its owner to know that it is potentially vicious.

Section 2. That subsection (7), Section 5-7-31, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(h) **Vicious dog.** Any dog which:

(1) has caused death or serious injury to a person engaged in a lawful activity;

(2) has, on two (2) or more occasions within a 12-month period, attacked or bitten without provocation a person engaged in a lawful activity;

(3) has, on two (2) or more occasions within a 12-month period, while off the property of its owner and without provocation, killed or seriously injured another animal; or

(4) has been trained for dog fighting or is owned or kept for the purpose of dog fighting.

Section 3. That Section 5-7-36, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 5-7-36. Vicious and dangerous dogs generally.

(a) It shall be unlawful for any person to keep within the city any vicious dog. Upon finding that a dog is vicious, a court of competent jurisdiction may order the dog to be impounded and destroyed or to be removed from the city.

(b) It shall be unlawful for any person to keep within the city any dangerous dog, except in compliance with a permit issued by the city manager under section 5-7-36.2.

(c) Each day during which a person keeps a vicious dog in the city following the removal date set out in a notice from the city dog warden under section 5-7-36.1(c) shall constitute a separate offense for purposes of section 5-7-46. Each day during which a person keeps a dangerous dog in the city either without a permit issued by the city manager under section 5-7-36.1 or in violation of one (1) or more of the conditions imposed by such a permit shall constitute a separate offense for purposes of section 5-7-46.

Section 4. That Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Section 5-7-36.1 to read as follows:

Sec. 5-7-36.1. Complaints of vicious and dangerous dogs;
processing of complaints.

(a) Any person may make a verbal or written complaint to the city dog warden of a dog which the complainant believes to be vicious or dangerous. The complaint shall include sufficient information to enable the dog warden to ascertain the location and owner of the dog and shall also include the reasons why the complainant believes the dog to be vicious or dangerous. In the case of a verbal complaint, the complaint shall be put in writing by the dog warden. A copy of the complaint shall then be mailed by the dog warden to the owner of the dog at the owner's last known address.

(b) Within ten (10) days of the making of the complaint, the dog warden shall undertake an investigation to determine whether the dog identified in the complaint is vicious or dangerous. Such investigation shall include an opportunity for the owner of the dog to present evidence to the warden pertinent to the viciousness or dangerousness of the dog, and may include interviews with the complainant and other persons having personal knowledge regarding the dog, and observations of the dog in its normal habitat.

(c) Upon completion of the investigation, the dog warden shall determine whether the dog identified in the complaint is vicious or dangerous.

(1) If the warden determines that the dog is neither vicious nor dangerous, he/she shall inform the complainant and the owner of the determination, and no further action shall be taken on the complaint.

(2) If the warden determines that the dog is vicious, he/she shall put the determination in writing, as well as the reasons supporting it. The warden shall then forward this written determination to the complainant and the owner and, in addition, shall notify the the owner that the dog must be destroyed or removed from the city within seven (7) days. If the owner fails to destroy or remove the dog within such period, the dog shall be impounded, and the warden shall recommend to the city manager that the city seek an order from a court of competent jurisdiction requiring that the dog be destroyed or removed from the city. Nothing in this section shall be construed as impairing or affecting in any way the authority of the dog warden under section 5-7-37 to issue a summons or warrant against the owner of a vicious dog and immediately to impound the dog.

(3) If the dog warden determines that the dog is dangerous, he/she shall notify the city manager of the determination and of the requirements which should be included in the permit to be issued by the manager under section 5-7-36.2.

Section 5. That Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be amended by adding a new section 5-7-36.2 to read as follows:

Sec. 5-7-36.2. Dangerous dog permit.

(a) Upon receipt of a determination by the city dog warden under section 5-7-36.1(c) that a dog is dangerous, the city manager shall immediately issue to the owner of such dog a dangerous dog permit. This permit shall authorize the continued keeping of the dog within the city only so long as the owner complies with the requirements set forth in the permit. Such requirements shall include those recommended to the manager by the dog warden under section 5-7-36.1(c) and such others as the manager determines necessary to ensure that no person or animal is injured by the dog. Permit requirements may include but are not limited to the following:

(1) that the dog wear a special and conspicuous form of identification (such as a blaze orange collar);

(2) that the owner immediately notify the dog warden in the event the dog is loose and unconfined, has attacked or injured a human being or another animal, has been sold or given to another person, or has died;

(3) that the dog, while on the property of the owner, be confined indoors or in a securely enclosed and locked structure, suitable to prevent the entry of children and designed to prevent the dog from escaping;

(4) that the owner display one or more signs on his/her property which provide a clear warning to children of all ages and adults that a dangerous dog is present on the property;

(5) that, while off the owner's property, the dog be muzzled and/or restrained in a particular manner and be under the control of an adult;

(6) that the owner attend one or more educational classes on the responsible keeping of dangerous dogs; and

(7) that, upon request of the city manager, the owner make the dog available for inspection by the dog warden;

(b) (1) Within ten (10) days of receipt of a permit issued under subsection (a), the owner of the dog may request in writing the city manager to reconsider the determination that the dog is dangerous and/or some or all of the requirements set forth in the permit. Upon receipt of such a request, the manager shall offer the owner an opportunity to present at an informal hearing evidence pertinent to the dangerousness of the dog and to the requirements identified in the request for reconsideration. Written notice of the date, time and place of such hearing, as

well as of the person designated by the manager to serve as the hearing officer, shall be sent to the owner and the complainant at least seven (7) days prior to the hearing. At the hearing, in addition to receiving evidence from the owner and the complainant, the hearing officer may receive evidence from the dog warden, a veterinarian, a licensed animal trainer, a humane society agent and any person having personal knowledge of the dog's condition.

(2) Within ten (10) days of the hearing, the hearing officer shall notify in writing the owner and the complainant of his/her decision whether to confirm the determination that the dog is dangerous and the requirements set out in the permit. If the officer determines the dog not to be dangerous, the permit issued under subsection (a) shall be revoked and no further action shall be taken on the complaint. If the officer confirms that the dog is dangerous but decides that certain requirements set out in the permit issued under subsection (a) are not necessary for the protection of the public and other animals, he/she shall delete or modify those requirements but otherwise confirm both the permit, as modified, and the owner's obligation to comply with it. If the officer confirms the permit and the requirements set out in it, he/she shall also confirm the owner's obligation to comply with it.

(c) In the event an owner of a dangerous dog fails to comply with any of the requirements imposed by a permit issued under this section, the city dog warden shall notify the owner of his/her failure, and the owner shall have ten (10) days following receipt of the notice in which to come into compliance with the permit. If the owner fails to do so, the city manager is authorized to seek an order from a court of competent jurisdiction requiring that the dog be removed from the city.

(d) An owner of a dangerous dog who believes that the dog is no longer dangerous within the meaning of section 5-7-31(b) or that certain requirements set out in the dog's permit are no longer necessary for the protection of the public and other animals may request the dog warden to rescind the determination that the dog is a dangerous dog or to delete or modify those permit requirements; provided, that no such request may be made within the first 12 months following the initial determination that the dog is dangerous. Such a request must be accompanied by the fee required by subsection (e). In reviewing such a request, the warden may require the owner to produce the dog for inspection, to allow the warden to observe the dog in its natural habitat and to submit information pertinent to the dangerousness of the dog. In the event the warden determines that the dog is no longer dangerous, the permit issued under this section shall be revoked. In the event the warden determines that the dog still constitutes a dangerous dog but that certain requirements contained in the permit are no longer necessary, he/she may delete those conditions from the permit or modify them.

(e) The owner of any dog subject to a permit issued under this section shall pay to the dog warden, within 10 days of the issuance of the permit or, if applicable, of a hearing officer's confirmation of the permit under subsection (b)(2), a fee of \$10. Any owner requesting the rescission or modification of a permit under subsection (d) shall pay a fee of \$10 at the time he/she makes the request.

Section 6. That Section 5-7-37, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Section 5-7-37. Impounding of vicious dog; confinement of dog which has committed an attack.

(a) Whenever a summons or warrant is sworn out against the owner of a dog charging maintenance of a vicious dog, the dog in question shall be impounded and kept at the animal shelter, at the owner's expense, pending a final disposition of the case, provided such animal is not destroyed as provided by section 5-7-39.

(b) Whenever a report is made, as provided by section 5-7-40, of a person being bitten by a dog or a notice is received by the police department, health department, dog warden or a deputy dog warden or the operators of the animal shelter of a dog having bitten a person or another animal, but no summons or warrant is sworn out charging maintenance of a vicious dog, the dog warden or a deputy dog warden shall forthwith issue an order to the owner of the dog directing that the dog be confined under quarantine and kept under observation on the premises of the owner or a private kennel for a period of 10 days at the expense of the owner, during which time the dog shall never leave the premises, and the order shall be served upon the owner by the dog warden or a deputy dog warden in the manner provided by section 8.01-296, Code of Virginia. If no summons or warrant is forthcoming and an authorized representative of the director of public health or a licensed veterinarian reports that the dog shows no symptoms of rabies within the 10 days, the dog shall be released. If a report of rabies is made or if a summons or warrant is sworn out before the expiration of the 10-day period, the dog shall be immediately removed to the animal shelter pending a final disposition of the case; and costs thereby incurred shall be charged to the owner of the dog.

(c) If any owner does not comply with the provisions of this section within 24 hours from the time he/she is served with an order issued pursuant to the provisions of this section, the dog in question shall be impounded at the animal shelter and kept under observation at the owner's expense for a period of 10 days and the owner shall be charged with a violation of this section.

Section 7. That subsection (3), Section 5-7-42, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(3) Knowingly or willfully allow his dog to urinate or defecate on public property; provided, that urination by a dog on curbs of streets and in alleys, streets or areas posted by the city manager as dog exercise areas shall not constitute a violation of this section; and provided further, that defecation by a dog on public property out of doors shall not constitute a violation of this section if the owner of the dog immediately removes the material defecated and disposes of it in a manner not inconsistent with the provisions of this section.

Section 8. That Section 5-7-43, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 5-7-43. Powers of operators of animal shelter generally.

The operators of the animal shelter shall have the following powers:

(a) to destroy unredeemed dogs, as provided in section 5-7-34;

(b) to destroy vicious dogs upon an order from the court, as provided in section 5-7-36;

(c) to receive and investigate complaints of and to make determinations regarding vicious and dangerous dogs, as provided in section 5-7-36.1;

(d) to receive, investigate and act upon requests to rescind or modify dangerous dog permits, as provided in section 5-7-36.2;

(e) to impound and release dogs and to issue orders, as provided in section 5-7-37; and

(f) to destroy rabid dogs as provided in section 5-7-39.

Section 9. That Section 5-7-44, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same here is amended and reordained to read as follows:

Sec. 5-7-44. Appointment and powers of dog warden and deputy dog wardens.

A dog warden shall be appointed by the city manager and may be removed by the city manager as provided by law. The city manager may also appoint one (1) or more deputy dog wardens and remove

them as provided by law. The dog warden and the deputy dog wardens shall, within the city and subject to any limitations imposed by the city manager, have the powers of an animal warden as conferred by the Code of Virginia and the powers of a state game warden as conferred by the city charter in the enforcement of the dog laws of the city. The dog warden and deputy dog wardens shall, within the city and subject to any limitations imposed by the city manager, have the power to enforce the provisions of this article of this chapter.

Section 10. That Section 5-7-46, Article C, Chapter 7, Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 5-7-46. Penalties.

Any person violating any provision of this article shall be punished upon his first conviction by a fine of not more than \$50 for each offense for which he is convicted. Upon a second or subsequent conviction for the same type of offense, the person shall be punished by a fine not to exceed \$100 for each such offense for which he is convicted.

Section 11. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

JAMES P. MORAN, JR.
Mayor

Final Passage: March 24, 1987