

Town Council: Ray Burger, Thelma Gillespie, Cynthia Holdren, Joy Marino, Sarah Nock and Maphis Oswald
Mayor: Fletcher Fosque | **Town Manager:** Matt Spuck

Town of Onancock

Town Council Meeting

April 11, 2022, at 7:00 p.m.

Agenda

1. Call to order and roll call
2. Pledge of Allegiance
3. Public Business:
 - a. Public Hearing – Dogs ordinance
 - b. Public Hearing – Zoning - Utilities
4. Council Workshop
 - a. Budget –budget workshop
5. Adjourn

PART II - CODE OF ORDINANCES
Chapter 4 - ANIMALS
ARTICLE III. DOGS

ARTICLE III. DOGS

DIVISION 1. GENERALLY

Sec. 4-59. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dog means every dog, regardless of sex or age.

Owner means any person having a right of property in a dog and who keeps or harbors a dog, or has it in his care, or who acts as its custodian, and any person who permits a dog to remain on or about any premises occupied by him.

To run at large or running at large means to roam, run or self-hunt off the property of its owner or custodian and not under its owner's or custodian's immediate control. For the purpose of this definition, the term "not under immediate control" means being unconfined, unrestricted or not penned up, physically carried or held by a leash by a person thoroughly capable, both physically and mentally, of controlling the dog.

(Code 1989, § 3-15; Amd. of 3-14-1983, § 1)

Sec. 4-60. Running at large; ~~leash-leash~~ required in public buildings or businesses; penalty.

- (a) It shall be unlawful for the owner of any dog to allow such dog to run at large, at any time, within the town limits, even though the dog is both lawfully licensed and vaccinated.
- (b) It shall be unlawful for the owner of any dog to allow, cause or permit such dog to enter any public building, office or store during the time that such business establishments are open for public business, unless the dog is on a leash or otherwise under the immediate control of such owner.
- (c) Any person who permits his dog to do anything prohibited by this section shall be deemed to have violated this section and, on the first offense, the owner shall receive a letter from the town police department notifying the owner of the violation. For the second and any subsequent violation, a summons will be issued and, upon conviction thereof, shall be fined not less than \$250.00. ~~For a third or subsequent violation, another summons will be issued and, upon a conviction thereof, shall be fined not less than \$75.00 nor more than \$100.00 for each violation.~~

(Code 1989, § 3-16)

State law reference(s)—Authority of town to prohibit running at large of dogs, Code of Virginia, § 3.2-6543.

Sec. 4-61. Confiscation, confinement and disposition.

Any dog running at large shall be confiscated by the animal warden or other authorities and, if not claimed within five days, shall be disposed of pursuant to Code of Virginia, § 3.2-6546. In the event that any dog confined

pursuant to this section is claimed by its rightful owner, such owner shall be charged with the actual expense incurred in keeping the dog impounded. Before the dog is released, the owner shall execute an affidavit of ownership, present the proper dog license and pay all the expenses incurred in keeping the dog confined.

(Code 1989, § 3-17)

Sec. 4-62. Keeping of dogs.

It shall be unlawful for any owner or other person to keep more than three adult dogs within the town or for more than three adult dogs to be kept on any property within the town regardless of the number of persons residing on said property. The term "adult dog" means any dog over the age of ten weeks. No more than two dogs shall be kept on any property that normally spend significant time outside the main building on any such property. No dogs shall be kept within the town for any business or other commercial purposes.

(Code 1989, § 3-19; Amd. of 8-9-1993)

Sec. 4-63 Nuisance animals general

No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance. Molesting a passerby, attacking without injuring any person without provocation on two (2) or more occasions, chasing vehicles, habitually attacking but not seriously injuring other domestic animals, running at large on public property, or trespassing upon private property in such manner as to damage property shall be deemed a nuisance. Two (2) or more violations of Town Code sections 4-60 or (BARKING DOGS) in any twelve-month period shall also be deemed a nuisance.

Any person owning or having in his possession or under his control any animal constituting a nuisance shall be summoned before the general district to show cause why such animal should not be confined, disposed of or removed or the nuisance otherwise abated and, upon proof that the animal constitutes a public nuisance, the animal in question shall, by order of the general district court, either be confined, removed from the town, or the nuisance activity otherwise abated as such court shall order. It shall be unlawful and shall constitute contempt of court for any person to harbor or conceal any animal which has been ordered disposed of or removed by the general district court, or to fail to confine or restrain an animal when such an order has been entered by the court.

Any person who owns any dog 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.

A police officer may issue a summons to any person he finds in violation of this section. Penalty upon conviction of this violation shall be \$250.00 for each offense.

Sec. 4-64 Barking dogs.

It shall be unlawful for any person between the hours of 8pm and 8am, to keep a dog without exercising proper care and control of such dog to prevent it from disturbing the peace of others by barking, whining, howling, or crying without provocation in a loud, continuous or untimely manner. Any person,

whether as owner, tenant, occupant, lessee or otherwise, in charge or control of the property where such dog is kept, or the owner of such dog, shall be responsible for exercising control of such dog under this section.

A police officer may issue a summons to any person he finds in violation of this section. Penalty upon conviction of this violation shall be \$25.00 for the first offense, \$250.00 for conviction of a second offense and subsequent, within a twelve (12) period month.

Secs. 4-~~6365~~—4-82. Reserved.

DIVISION 2. DANGEROUS DOGS¹

Sec. 4-83. Dangerous dog defined.

As used in this article, the term "dangerous dog" means:

- (1) A canine or canine crossbreed that has bitten, attacked or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that:
 - 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;
 - b. Both animals are owned by the same person; or
 - c. Such attack occurred on the property of the attacking or biting dog's owner or custodian.
- (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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540A.

Sec. 4-84. Exception.

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 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540B.

Sec. 4-85. Application; judgment; confinement.

Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog may apply to a magistrate serving 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

¹State law reference(s)—Dangerous dog, Code of Virginia, § 3.2-6540.

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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540C.

Sec. 4-86. Compliance; restitution.

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 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540D.

Sec. 4-87. Deferment.

If, after hearing the evidence, the court decides to defer further proceedings without entering an adjudication that the animal is a dangerous dog, it may do so, notwithstanding any other provision of this section. A court that defers further proceedings shall place specific conditions upon the owner of the dog. If the owner violates any of the conditions, the court may enter an adjudication that the animal is a dangerous dog and proceed as otherwise provided in this section. Upon fulfillment of the conditions, the court shall dismiss the proceedings against the animal and the owner without an adjudication that the animal is a dangerous dog.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540E.

Sec. 4-88. Appeal.

The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia, § 19.2-260 et seq. The state shall be required to prove its case beyond a reasonable doubt.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540F.

Sec. 4-89. Dangerous dog not to be determined based solely on breed.

No canine or canine 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540G.

Sec. 4-90. Trespass; provocation.

- (a) No animal shall be found to be a dangerous dog if the threat, injury, or damage was sustained by a person who was:

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- (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.
- (b) 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540H.

Sec. 4-91. Dangerous dog owned by a minor.

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 article.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540I.

Sec. 4-92. Registration certificate.

The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee in the amount as provided for in the fee schedule on file in the town clerk's office, in addition to other fees that may be authorized by law. The local animal control officer or treasurer 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 section shall be updated and renewed for a fee in the amount as provided for in the fee schedule on file in the town clerk's office and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the state dangerous dog registry.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540F.

Sec. 4-93. Registration certificate requirements.

- (a) All dangerous dog registration certificates or renewals thereof required to be obtained under this article shall only be issued to persons 18 years of age or older who present satisfactory evidence:
- (1) Of the animal's current rabies vaccination, if applicable;
 - (2) That the animal has been neutered or spayed; and
 - (3) 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.
- (b) In addition, owners who apply for certificates or renewals thereof under this article shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:
- (1) 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
 - (2) The animal has been permanently identified by means of electronic implantation.

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- (c) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000.00, 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 \$100,000.00.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540K.

Sec. 4-94. Confinement; restraint.

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 Code of Virginia, § 3.2-6503. 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540L.

Sec. 4-95. Notification of animal control officer.

- (a) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of the same, cause the town animal control officer to be promptly notified 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 or incidents of attack by the dog upon any person or cat or dog;
 - (4) Any claims made or lawsuits brought as a result of any attack;
 - (5) Chip identification information;
 - (6) Proof of insurance or surety bond; and
 - (7) The death of the dog.
- (b) The animal's owner shall immediately cause the town animal control authority to be notified if the animal:
- (1) Is loose or unconfined;
 - (2) Bites a person or attacks another animal; or
 - (3) Is sold, is given away, or dies.
- (c) Any owner of a dangerous dog who relocates to a new address shall, within ten 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540M.

Sec. 4-96. Violations.

- (a) 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 article, 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;

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- (2) Class 1 misdemeanor, if the canine or canine crossbreed previously declared a dangerous dog pursuant to this article, 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) Class 6 felony, if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed or other animal 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.
- (b) The provisions of this section 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540(1—3).

Sec. 4-97. Failure to comply with requirements.

The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this article is guilty of a Class 1 misdemeanor.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540P.

Sec. 4-98. Notification of animal control officer.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this article, 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540P.

Sec. 4-99. Penalties.

- (a) Upon conviction, the court may:
- (1) Order the dangerous dog to be disposed of by the town council pursuant to Code of Virginia, § 3.2-6562; or
 - (2) Grant the owner up to 30 days to comply with the requirements of this article, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified.
- (b) 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 the town council pursuant to Code of Virginia, § 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540P.

Sec. 4-100. Fees to be paid into special dedicated fund.

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 and fees due to the state veterinarian for

maintenance of the state dangerous dog registry, shall be paid into a special dedicated fund in the treasury of the town for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6556.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540Q.

Secs. 4-101—4-123. Reserved.

PART II - CODE OF ORDINANCES
Chapter 38 - ZONING
ARTICLE II. DISTRICTS

ARTICLE II. DISTRICTS

Sec. 38-43. Enumeration of districts.

For the purpose of this chapter, the incorporated area of the town, is hereby divided into the following districts:

- (1) Single-Family Residential District (R-1).
 - a. Large lot: Single-Family Residential District (R-1A).
 - b. Small lot: Single-Family Residential Districts (R-1B, R-1C).
- (2) Multifamily Residential District (R-2).
- (3) Business, Downtown, District (B-1).
- (4) Business, Highway, District (B-2).
- (5) Business-Waterfront District (B-W).
- (6) Parks and Open Spaces District (POS). Location of these districts can be found on Map 1, which map is on file in the town clerk's office.
- (7) Historic District Overlay District (HD-O). Location of this district can be found on Map 2, which map is on file in the town clerk's office.
- (8) Chesapeake Bay Preservation Area Overlay District (CBPA-O). Location of this district can be found on Map 3, which map is on file in the town clerk's office.

(9) Industrial, Utilities (I-U)

(Code 1989, § 24-13; Ord. eff. 6-5-1962; Ord. of 3-24-1997; Ord. of 7-14-1997)

Secs. 38-44—38-74. Reserved.