

Chapter 4

ANIMALS AND FOWL*

* **Editors Note:** An ordinance of December 21, 1987, repealed former Art. III, §§ 4-71--4-77, in its entirety. Former Art. III, damage stamp for hunting bear or deer, derived from the Code of 1977; and ordinance of April 20, 1981; and an ordinance of August 18, 1983. The effective date shall be February 1, 1988, with claims to be received until the fund expires.

Cross References: Applicability of traffic regulations to persons riding or driving animals, § 13-6; exemption of livestock and poultry from taxation, § 23-4.

State Law References: Comprehensive animal laws, Code of Virginia, §§ 29-213.36--29-213.100; authority of county to adopt ordinances paralleling animal laws, § 29-213.64; offenses involving animals, §§ 18.2-403.1--18.2-403.3.

Article I. In General

Sec. 4-1. Animal control officer generally.

Sec. 4-2. Lawful fences as to livestock.

Sec. 4-3. Livestock or fowl straying or trespassing.

Sec. 4-4. Maintenance of premises where animals and fowl kept.

Sec. 4-5. Dangerous animals at large.

Sec. 4-6. Cruelty to animals generally.

Sec. 4-7. Abandoning domesticated animal in public place or on property of another.

Sec. 4-7.1. Seizure of certain animals; surety bond for board.

Sec. 4-8. Leaving maimed, diseased, etc., animal or fowl in road or public place.

Sec. 4-9. Burial or cremation of dead animals and fowl generally.

Sec. 4-10. Casting dead animal or fowl into road or permitting it to remain unburied.

Secs. 4-11--4-25. Reserved.

Article II. Dogs

Division 1. Generally

Sec. 4-26. Definitions.

Sec. 4-27. Violations of article.

Sec. 4-28. Running at large generally.

Sec. 4-28.1. Running at large in certain designated areas.

Sec. 4-29. Females in season running at large.

Sec. 4-30. Confinement and disposition of certain dogs.

Sec. 4-31. Dog killing, injuring or chasing livestock or poultry.

Sec. 4-32. Reserved.

Sec. 4-33. Requirement for rabies inoculation of dogs or cats.

Secs. 4-34--4-40. Reserved.

Division 1.1. Dangerous Dogs and Vicious Dogs

Sec. 4-34. Penalties and procedures.

Sec. 4-34.1. Licensure of dangerous dogs.

Sec. 4-34.2. Keeping dangerous dogs; conditions.

Sec. 4-34.3. Violations.

Sec. 4-34.4. Exceptions.

Division 2. License

Sec. 4-41. Required.

Sec. 4-42. License year.

Sec. 4-43. Applications.

Sec. 4-44. Tax imposed.

Sec. 4-45. Where and when tax due and payable.

Sec. 4-46. Failure to pay tax when due.

Sec. 4-47. Concealing dog on which tax not paid.

Sec. 4-48. Issuance, composition and contents.

Sec. 4-49. Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.

Sec. 4-50. Unlawful removal of tag.

Sec. 4-51. Duplicate tags.

Sec. 4-52. Special provisions as to kennel dogs.

Sec. 4-53. Establishment of substations and appointment of agents for collection of tax and issuance of licenses.

ARTICLE I.

IN GENERAL

Sec. 4-1. Animal control officer generally.

(a) The board of supervisors shall appoint an officer to be known as the animal control officer, who shall have the power to enforce this chapter and other ordinances and state laws relating to dogs and other domestic animals. The board may appoint one or more deputy animal control officers to assist in the enforcement of the provisions of this chapter and such other ordinances and state laws.

(b) The animal control officer shall be deemed to be the county's animal warden for the purposes of section 29-213.73 of the Code of Virginia and other applicable provisions of state law.

Sec. 4-2. Lawful fences as to livestock.

(a) Pursuant to the provisions of section 55-310 of the Code of Virginia, the board of supervisors hereby declares that all fences and the boundary line of each lot or tract of land on each side of each public road in the county shall be lawful fences as to any livestock domesticated by man.

(b) It shall be unlawful and a Class 4 misdemeanor for the owner or person having the care and custody of any livestock domesticated by man to permit any such animal, as to which the fences or boundaries of lots or tracts of land are made lawful fences by this section, to run at large beyond the limits of his own land within the county.

(Code 1977, § 4-1)

Cross References: Penalty for Class 4 misdemeanor, § 1-11.

State Law References: Authority for subsection (a) above, Code of Virginia, § 55-310; provisions similar to subsection (b), § 55-316.

Sec. 4-3. Livestock or fowl straying or trespassing.

(a) It shall be unlawful for any person to allow or permit any fowl or livestock of any description owned or kept by him to stray to any highway or public property or private premises of another, and all fowl and livestock shall be sufficiently confined or fenced by the owner or keeper, so as to prevent such fowl or livestock from trespassing or straying.

(b) A violation of this section shall constitute a Class 4 misdemeanor.

(Code 1977, § 4-2)

Cross References: Penalty for Class 4 misdemeanor, § 1-11.

State Law References: Authority of county to prevent animals and fowl from running at large or trespassing, Code of Virginia, § 15.2-1218.

Sec. 4-4. Maintenance of premises where animals and fowl kept.

(a) Each stable, pen, coop or other place where any animal or fowl is kept shall be maintained at all times in a safe and sanitary condition. Solid and liquid waste matter shall be removed as frequently as may be necessary to prevent offensive odors or to prevent accumulations constituting a hazard to the health or safety of any person.

(b) Any owner or other person in charge or control of any premises who violates this section shall be guilty of a Class 4 misdemeanor.

(Code 1977, § 4-3)

Cross References: Penalty for Class 4 misdemeanor, § 1-11; stables, animal pens, etc., as nuisances, § 14-3(7).

Sec. 4-5. Dangerous animals at large.

(a) No person shall suffer or permit any animal belonging to him or under his control, and known to be dangerous or reasonably suspected of being dangerous, to go at large within the county. If the owner or such person having control fails to take it into custody forthwith, and its running at large creates a danger to the public or to any person or property, the animal shall be killed forthwith by order of the animal control officer or sheriff, when deemed necessary for public safety.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1977, § 4-4)

Cross References: Penalty for Class 1 misdemeanor, § 1-11; participation by vicious animals in parades or demonstrations, § 8-5.

Sec. 4-6. Cruelty to animals generally.

(a) Any person who does any of the following shall be guilty of a Class 1 misdemeanor:

(1) Overrides, overdrives, overloads, tortures, ill treats, abandons (except as provided in section 4-7), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another, or deprives any animal of necessary sustenance, food or drink or shelter.

(2) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal.

(3) Carries or causes to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering.

(4) Causes any of the above things or, being the owner of such animal, permits such acts to be done by another.

(b) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(c) As used in this section, the word "animal" shall be construed to include birds and fowl.
(Code 1977, § 4-5)

Cross References: Penalty for Class 1 misdemeanor, § 1-11.

State Law References: Similar provisions, Code of Virginia, § 29-213.91; authority of county to adopt above section, § 15.1-29.1:1.

Sec. 4-7. Abandoning domesticated animal in public place or on property of another.

Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public road, street or highway, or on the property of another shall be guilty of a Class 3 misdemeanor.

(Code 1977, § 4-16)

Cross References: Penalty for Class 3 misdemeanor, § 1-11.

State Law References: Similar provisions, Code of Virginia, § 29-213.91; abandonment of animals generally, § 29-213.33.

Sec. 4-7.1. Seizure of certain animals; surety bond for board.

(a) Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter, or of Chapter 27.4 of Title 3.1 (the Comprehensive Animal Laws) of the Code of Virginia, that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health.

(b) If any animal seized pursuant to subsection (a) is held for more than thirty (30) days, the owner may be required by the court to post either a cash bond or a bond with approved corporate surety for the estimated cost of boarding the animal until the date of trial, or until such other date deemed appropriate by the court. In no event, however, shall a bond be required to cover a period of time exceeding nine (9) months and no such bond shall be forfeited if the owner is found to be not guilty of a violation.

(Res. No. 07-01-07, 1-23-07)

Sec. 4-8. Leaving maimed, diseased, etc., animal or fowl in road or public place.

If any person having the custody of any maimed, diseased, disabled or infirm animal or fowl leaves it to lie or be in any street, road or public place, he shall be guilty of a Class 3 misdemeanor.

(Code 1977, § 4-6)

Cross References: Penalty for Class 3 misdemeanor, § 1-11.

State Law References: Similar provisions, Code of Virginia, § 18.2-323.

Sec. 4-9. Burial or cremation of dead animals and fowl generally.

(a) When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, and if he fails to do so, any judge of the general district court, after notice to the owner, if he can be ascertained, shall cause such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of such cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried the actual cost of such cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(b) This section shall not be deemed to require the burial or cremation of the whole or any portion of any animal or fowl which is to be used for food or in any commercial manner.

(c) A violation of this section shall constitute a Class 4 misdemeanor.
(Code 1977, § 4-7)

Cross References: Penalty for Class 4 misdemeanor, § 1-11.

State Law References: Similar provisions applicable to counties upon adoption by governing body, Code of Virginia, § 18.2-510.

Sec. 4-10. Casting dead animal or fowl into road or permitting it to remain unburied.

If any person casts any dead animal or fowl into a road or knowingly permits any dead animal or fowl to remain unburied upon his property when offensive to the public, he shall be guilty of a Class 3 misdemeanor.
(Code 1977, § 4-6)

Cross References: Penalty for Class 3 misdemeanor, § 1-11; deposit of animal bodies at county landfill, § 20-63.

State Law References: Similar provisions, Code of Virginia, § 18.2-323.

Secs. 4-11--4-25. Reserved.

ARTICLE II.

DOGS

DIVISION 1.

GENERALLY

Sec. 4-26. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless clearly indicated to the contrary:

Cat: Any member of the animal species *felix catus*.

Dog: Any member of the animal species *canis familiaris*, or an animal which is a cross-breed of any animal and a member of the *canis familiaris* species.

Dog, dangerous: means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, 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 as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Dog, vicious: Any dog which:

- (1) Kills a person;
- (2) Inflicts serious wounds to a person, including multiple bites, or serious disfigurement, serious impairment of health, or serious impairment of any bodily function;
- (3) Continues to exhibit the behavior which resulted in a previous finding by an animal control officer or a court that it is a dangerous dog provided that its owner has been given notice of that finding; or
- (4) Which has been found vicious by a general district court or circuit court of this commonwealth.

Other officer: Any person employed by the county or elected by the people of the county whose duty it is to preserve the peace, to make arrests or to enforce the law.

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

Running at large: A dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control, except when engaged in lawful hunting in open season or when being trained or exercised and accompanied by its owner or custodian or under the immediate control of its owner or custodian.

(Code 1977, §§ 4-13, 4-14; Ord. of 8-15-88; Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Cross References: Definitions and rules of construction generally, § 1-2.

State Law References: Similar provisions, Code of Virginia, §§ 29-213.36, 29-213.63.

Sec. 4-27. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 4 misdemeanor.

Cross References: Penalty for Class 4 misdemeanor, § 1-11; arrest procedures, § 1-12.

Sec. 4-28. Running at large generally.

Upon complaint by any person to the animal control officer or other officer that a dog is running at large in the county, the animal control officer or other officer shall notify the owner that such dog is running at large, and it shall be unlawful for the owner to thereafter continue to permit his dog to run at large within a period of one (1) year from receiving such notice.

(Code 1977, § 4-14)

State Law References: Authority of county to prohibit dogs running at large, Code of Virginia, § 29-213.63.

Sec. 4-28.1. Running at large in certain designated areas.

(a) Notwithstanding the provisions of section 4-28, it shall be unlawful for dogs to run at large within certain designated subdivisions, towns, villages, or other defined areas which are on file in the office of

the county administrator.

(b) A majority of the property owners in any subdivision, town, village or other defined area within Botetourt County may petition the board of supervisors requesting the board to conduct an official poll of property owners to determine the wishes of the majority. Upon receipt of such petition in a format supplied by the county containing a majority of landowners signatures, the board shall direct the county administrator to send a written ballot by mail to the property owners of record based on the county landbook. The ballot shall indicate the issue to be decided and provide a place for the owner to mark the ballot yes or no for preference of whether the area in question shall be designated as an area within which it is unlawful for dogs to run at large. After thirty (30) days from the date of mailing, the administrator shall open the returned ballots and report to the board on the results of the mailed-in ballots; whereupon, the board shall vote whether to designate the area in question as an area within which it is unlawful for dogs to run at large. For the board to find that a majority of landowners have voted in the affirmative, at least fifty-one (51) percent of the property owners in question must have mailed back an affirmative response to the question. Where there are multiple owners for a parcel of property, the ballot will be mailed to the address of the owner of record for tax billing purposes and the single ballot will reflect the response of the owner of record and count as one owner and one vote. In the calculation of a majority, the group of owners for a single parcel shall count as one owner for both the numerator and the denominator. Following a vote by the board of supervisors, further petitions for the area in question will not be considered within one (1) year from the date of the board of supervisors vote.

(c) The county administrator or the animal control officer shall supply a list of those subdivisions, towns, villages, or other defined areas within which it is unlawful for dogs to run at large, to any person requesting same.

(Ord. of 7-15-85; Res. No. 90-07-18, 7-16-90)

Sec. 4-29. Females in season running at large.

It shall be unlawful for the owner of a female dog which is in season to permit such dog to run at large in the county.

(Code 1977, § 4-14)

State Law References: Authority of county to prohibit dogs running at large, Code of Virginia, § 29-213.63.

Sec. 4-30. Confinement and disposition of certain dogs.

(a) It shall be the duty of the animal control officer to cause any dog found running at large in violation of any provisions of this article to be caught and confined in the county animal shelter. Any dog so confined must be kept for a period of not less than five (5) days, such period to commence on the day after the day the dog is initially confined, unless sooner claimed by its rightful owner.

(b) The animal control officer shall ascertain if a confined dog has a license or tattooed identification. If such identification is found, the animal control officer shall attempt to notify the rightful owner within forty-eight (48) hours of the dog's confinement. Any such identified dog so confined must be kept for a period of not less than ten (10) days, unless sooner claimed by its rightful owner.

(c) Any dog not claimed pursuant to subsection (a) hereof may be euthanized by a method approved by the state veterinarian; disposed of by sale or gift to a federal agency, a state supported institution, an agency of the commonwealth, an agency of another state, a licensed federal dealer having its principal place of business

within the commonwealth, provided such institution, agency or dealer agrees to confine the dogs for an additional period of not less than five (5) days; disposed of by delivery to any approved humane society or shelter; disposed of by adoption by any resident of Botetourt County who will pay the required license fee; or disposed of by relinquishment to a custodian or finder in compliance with subsection (e) hereof.

(d) Any dog not claimed pursuant to subsection (b) hereof may be euthanized by a method approved by the state veterinarian; disposed of by adoption by any resident of Botetourt County who will pay the required license fee; or disposed of by relinquishment to a custodian or finder in compliance with subsection (e) hereof.

(e) Either the custodian of a dog or an individual who has found a dog may claim the dog by expressing his desire to do so in writing and by payment of the required license fee. At the expiration of the five-day period in the case of an unidentified dog, or at the expiration of the ten-day period in the case of an identified dog, the animal control officer shall relinquish possession of the dog to the custodian or finder. If thereafter the rightful owner claims the dog, the custodian or finder shall relinquish possession thereof to the rightful owner.

(f) A rightful owner claiming a dog under this section must display a current dog tag and current rabies inoculation proof, in addition to such other proof of ownership as the animal control officer deems appropriate. No dog shall be released to any person claiming ownership unless such tag and proof are displayed.

(g) This section does not prohibit the destruction of a critically injured or critically ill animal for humane purposes, nor does it prohibit the destruction, for humane purposes, of any animal not weaned, whether or not the animal is critically injured or critically ill.

(h) The board of supervisors may by resolution establish a pick-up fee to be paid by the owners of dogs caught and confined hereunder. The fee amount may be graduated so as to increase for successive pick-ups of the same dog.

(Code 1977, § 4-15; Res. No. 92-03-10, 3-16-92; Res. No. 03-05-12, 5-20-03)

State Law References: Duty of county to maintain animal shelter and impound dogs running at large in violation of ordinance, Code of Virginia, § 29-213.66.

Sec. 4-31. Dog killing, injuring or chasing livestock or poultry.

It shall be the duty of any animal control officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order an animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer.

Any animal control officer who has reason to believe that any dog is killing livestock or poultry is empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any animal control officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate, who shall issue a warrant requiring the owner or custodian, if known, to appear before the General District Court at a time therein, at which time evidence shall be heard. If it shall

appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the court shall order that the dog be killed immediately by the animal control officer or by such other officer designated by the court.

(Ord. of 12-15-86)

Sec. 4-32. Reserved.

Editors Note: Formerly, § 4-32 pertained to dogs killing domestic animals other than livestock or poultry. Such section, derived from an ordinance adopted Dec. 15, 1986, was repealed by Res. No. 94-03-02, adopted Mar. 21, 1994.

Sec. 4-33. Requirement for rabies inoculation of dogs and cats.

It shall be unlawful for any person to own or keep in the county any dog or cat four (4) months old or older unless such dog or cat shall have received a current rabies inoculation.

(Ord. of 12-15-86; Ord. of 8-15-88)

DIVISION 1.1.

DANGEROUS DOGS AND VICIOUS DOGS

Sec. 4-34. Penalties; procedures.

(a) *Determination that dog is dangerous dog.* An animal control officer may determine, after investigation, that a dog is a dangerous dog, as defined by section 4-26. Upon making such determination, the animal control officer shall serve the owner of such dog with a notice of determination of dangerous dog, and order the owner to comply with the conditions established in section 4-34.2. If the dog's owner disagrees with the animal control officer's determination, he may, within ten (10) days of service of the notice, appeal the determination to the Botetourt County General District Court for a trial on the merits.

(b) *Dangerous dog.* It shall be unlawful and a Class 1 misdemeanor to own, keep, harbor, act as custodian of or permit to remain on or about any premises any dangerous dog, as defined by section 4-26, except in strict compliance with section 4-34.2 of this Code. If any owner willfully fails to comply with section 4-34.2 regarding his dangerous dog and such dog thereafter causes a wound to any person, such owner shall be guilty of a Class 1 misdemeanor.

(c) *Procedures.* When a warrant has been obtained or a summons issued pursuant to this section, the animal control officer and/or police officer may, in his discretion, confine the dog until such time as evidence shall be heard and a verdict rendered. The court may, through its contempt power, compel the owner of any dog to produce it for the animal control officer and/or police officer. In the event any dog is found to be a dangerous dog or vicious dog, the owner of such dog shall be responsible for payment to the county of any expenses of impounding and keeping the dog pending disposition of the case at the rate prescribed by the Botetourt County Board of Supervisors.

(Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Sec. 4-34.1. Licensure of dangerous dogs.

The owner of any dog found by the animal control officer or by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog license from the treasurer by paying the fee

required by section 4-44 of the Code. The treasurer shall provide the owner with a uniformly designed tag which identifies the dog as a dangerous dog. The owner shall affix the tag to the dog's collar and ensure that the dog wears the collar and tag at all times. All licenses issued pursuant to this section shall be renewed annually as required by section 4-44 of this Code. The owner of a dangerous dog must be eighteen (18) years old or older.

(Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Sec. 4-34.2. Keeping dangerous dogs; conditions.

It shall be unlawful for any owner of any dangerous dog to own, keep, or harbor any such dog within the county except in compliance with each of the following conditions and specifications:

- (1) Any dangerous dog shall be securely confined indoors or, if kept outdoors, shall be kept in a securely enclosed and locked pen or structure adequate to confine the dog and located upon the premises of the owner of the dog. Any such pen or structure shall have secure sides and a secure top and, if it has no bottom secured to the sides, the sides shall be imbedded into the ground. Such pen or structure shall provide any such dog with adequate space and protection from the elements and shall be kept in a clean and sanitary condition.
- (2) The owner of any dangerous dog shall display two (2) signs on his property stating: "Dangerous Dog on Premises." One sign shall be posted at the front of the property, and the second sign shall be posted at the rear of the property. Each sign shall be capable of being read from a distance of fifty (50) feet.
- (3) The owner of any dangerous dog shall have such dog permanently identified by means of a tattoo on an inside thigh, or by electronic implantation, and the owner of any dangerous dog shall provide the animal control officer with a color photograph of the dog taken within the last twelve (12) months, suitable for use in identifying the dog.
- (4) The owner of any dangerous dog shall have liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00), that covers animal bites.
- (5) The owner of any dangerous dog shall notify the animal control officer within twenty-four (24) hours if such dog is loose or missing; if such dog has attacked or wounded a human being or another animal; or if such dog has been sold, leased, given away, died, or custody has been transferred to another person for more than forty-eight (48) hours. If such dog has been sold, leased, given away, or custody has been so transferred, the owner shall provide the animal control officer with the name, address, and telephone number of the new owner, lessee, or custodian who shall be required to comply with the conditions of this section if the dog is kept within the county. If the owner of a dangerous dog moves such a dog to a different address, such owner shall notify the animal control officer of such fact and the new address within twenty-four (24) hours.
- (6) In addition to the conditions and specifications established by this section with respect to dangerous dogs, the owner of any dangerous dog shall meet all other requirements established by this article for keeping any dog.

- (7) The animal control officer and/or police officer shall have the right to seize and impound the dog if any of the conditions and specifications established by this section for the keeping of a dangerous dog are not being met.

(Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Sec. 4-34.3. Violations.

It shall be a Class 1 misdemeanor for the owner of any dog which has caused a wound to any person to conceal or cause to be concealed such dog from any animal control officer or police officer. It shall be a Class 1 misdemeanor for any willful violation of the requirements of this division by any owner of a dangerous dog.

(Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Sec. 4-34.4. Exceptions.

(a) No dog shall be deemed or declared to be a dangerous dog or vicious dog if the threat, wound, injury or damage was caused by any person who, at the time, was:

- (1) Assaulting the owner of the dog;
- (2) Committing a willful trespass or other crime or tort upon the premises of the owner of the dog; or
- (3) Provoking, abusing, or assaulting the dog or can be shown to have repeatedly provoked, tormented, or abused the dog at other times.

(b) 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 vicious dog.

(c) The section shall have no application to any dog owned by a federal, state, or local law enforcement agency.

(d) No dog shall be found to be a dangerous dog or a vicious dog solely because it is a particular breed.

(Res. No. 94-03-02, 3-21-94; Ord. No. 05-01-05, 1-25-05)

Secs. 4-35--4-40. Reserved.

DIVISION 2.

LICENSE*

* **State Law References:** Licensing of dogs, Code of Virginia, § 29-213.55 et seq.

Sec. 4-41. Required.

It shall be unlawful for any person to own a dog four (4) months old or over in this county, unless such dog is currently licensed pursuant to the provisions of this division.

(Code 1977, § 4-23; Ord. of 8-15-88)

State Law References: Similar provisions, Code of Virginia, § 29-213.55.

Sec. 4-42. License year.

Dog licenses shall run by the calendar year, namely from January first to December thirty-first. The county treasurer may offer a three (3) year license which shall run for three (3) consecutive calendar years.

(Code 1977, § 4-23; Res. No. 03-09-10, 9-15-03)

Sec. 4-43. Applications.

(a) Any person may obtain a dog license by making application to the county treasurer. Each applicant must:

- (1) Be a resident of Botetourt County.
- (2) Pay the license tax required by section 4-44.
- (3) Provide evidence of vaccination or inoculation as required by section 4-48.
- (4) If the application is for a kennel license, provide the certificate of approval issued pursuant to section 4-52.

(b) It shall be unlawful for any person to make a false statement in, or present any false evidence with, an application submitted under this section, in order to secure a dog license to which he is not entitled.

(Code 1977, §§ 4-17, 4-18; Ord. of 4-18-88)

State Law References: Similar provisions, Code of Virginia, §§ 29-213.56, 29-213.99.

Sec. 4-44. Tax imposed.

(a) An annual license tax is hereby imposed on the ownership of dogs required to be licensed pursuant to this division as follows, beginning in license year 2004:

- (1) For all unsexed dogs, five dollars (\$5.00) annually; ten dollars (\$10.00) three-year.
- (2) For all sexed dogs, ten dollars (\$10.00) annually; twenty-five dollars (\$25.00) three-year.
- (3) For a kennel of twenty (20) dogs or fewer, thirty-five dollars (\$35.00).
- (4) For a kennel of more than twenty (20) dogs but fewer than fifty (50) dogs, fifty dollars (\$50.00).
- (5) For a dangerous dog, as declared by a general district court or circuit court of this commonwealth, fifty dollars (\$50.00), in addition to the other applicable fees herein.

(b) No license tax shall be levied under this section on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person or that is trained as a service dog for a mobility-impaired person. As used in this subsection, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support. This exemption from the license tax shall not be deemed to release the owner of such a dog from the remaining requirements of this division. The county treasurer shall issue a gratis tag to the owner of such a dog upon compliance with the remaining provisions of this division.

(c) No refunds shall be given if the applicant's ownership of the dog ceases, or is terminated, prior to the expiration of the license year.
(Code 1977, § 4-23; Ord. of 3-17-86; Res. No. 03-09-10, 9-15-03)

State Law References: Duty of county to impose dog license tax, limit on the amount thereof and provisions similar to subsection (b) above, Code of Virginia, § 29-213.57.

Sec. 4-45. Where and when tax due and payable.

The license tax on dogs shall be due and payable, at the office of the county treasurer, as follows:

- (1) On or before January first and not later than January thirty-first of each year, the owner of any dog four (4) months old or older shall pay such tax.
- (2) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person in this county between January first and October thirty-first of any year, the license tax for the current calendar year shall be paid forthwith by the owner.
- (3) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person in this county between November first and December thirty-first of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect the dog from the date of such payment.

(Code 1977, §§ 4-23, 4-24; Res. No. 92-03-10, 3-16-92)

State Law References: Similar provisions, Code of Virginia, § 29-213.58.

Sec. 4-46. Failure to pay tax when due.

(a) It shall be unlawful for any dog owner to fail to pay the license tax required by this article when the same is due. In addition to any fine imposed for the violation of this section, the court may order confiscation and proper disposition of the dog.

(b) Payment of the dog license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve the owner from the penalties provided for such failure.
(Code 1977, §§ 4-17, 4-25)

State Law References: Similar provisions, Code of Virginia, §§ 29-213.72, 29-213.99.

Sec. 4-47. Concealing dog on which tax not paid.

It shall be unlawful for any person to conceal or harbor any dog on which the license tax has not been paid.

State Law References: Similar provisions, Code of Virginia, § 29-213.99.

Sec. 4-48. Issuance, composition and contents.

(a) Upon receipt of a proper application and the prescribed license tax, the county treasurer shall issue a dog license; provided, that no license shall be issued for any dog unless there is presented to the treasurer, at the time application for a license is made, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

(b) Each dog license shall consist of a license receipt and a metal tag. Such receipt shall have recorded thereon the amount of tax paid, the name and address of the owner or custodian of the dog, the date of payment, the year for which issued, the serial number of the tag and whether the license is for a male, unsexed female or female dog or for a kennel. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county, the sex of the dog and the calendar year for which issued and shall bear a serial number.

(Code 1977, §§ 4-18, 4-19)

State Law References: Similar provisions, Code of Virginia, §§ 29-213.56, 29-213.60, 29-213.67.

Sec. 4-49. Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.

(a) A dog license receipt shall be carefully preserved by the permit [person] to whom issued and exhibited promptly on request for inspection by the animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog, and it shall be unlawful for the owner to permit any licensed dog four (4) months old or over to run or roam at large at any time without a license tag; provided, that the owner of a 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.

(b) Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and, in any proceedings under this article, the burden of proof of the fact that such dog has been licensed or is otherwise not required to bear a tag at such time shall be on the owner of the dog.

(Code 1977, §§ 4-20, 4-22; Res. No. 92-03-10, 3-16-92)

State Law References: Similar provisions, Code of Virginia, §§ 29-213.59, 29-213.62.

Sec. 4-50. Unlawful removal of tag.

It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian.

State Law References: Similar provisions, Code of Virginia, § 29-213.99.

Sec. 4-51. Duplicate tags.

If a dog license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the county treasurer for a duplicate tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag shall be one dollar (\$1.00).

(Code 1977, § 4-21)

State Law References: Similar provisions, Code of Virginia, § 29-213.61.

Sec. 4-52. Special provisions as to kennel dogs.

(a) All kennels shall consist of an enclosure with fixed partitions such as a fence or walls. The enclosed area must be large enough to permit each dog to stand, turn freely and sit or lie in a comfortable position. The construction of the kennel must be such as to prevent the dogs from escaping, and to prevent their injury.

(b) Each dog maintained in a kennel shall have clean water available at all times. The kennel shall also have sheltered bedding for each dog.

(c) No kennel shall be located within one hundred (100) feet from any residence other than that of the kennel owner. Solid waste must be removed on a regular basis and offensive odors and excessive flies are not permitted.

(d) The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding or participating in a field trial or show.

(e) Kennels shall be inspected annually by the animal control officer who shall issue a certificate of approval therefor if all requirements of this section have been met. This certificate of approval may thereafter be revoked if the kennel owner violates any of the requirements of this section.

(Code 1977, § 4-17.1; Ord. of 4-18-88)

Sec. 4-53. Establishment of substations and appointment of agents for collection of tax and issuance of licenses.

The county treasurer may establish substations in convenient locations in the county and appoint agents for the collection of dog license taxes and the issuance of dog licenses.

(Code 1977, § 4-18)

State Law References: Similar provisions, Code of Virginia, § 29-213.57.