


City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 6, 2012

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: RASHAD M. YOUNG, CITY MANAGER 

SUBJECT: CONSIDERATION OF A REVISED ORDINANCE TO AMEND THE DEFINITION OF WHAT CONSTITUTES KEEPING DOGS RUNNING AT LARGE UNDER PHYSICAL RESTRAINT TO EXCLUDE THE USE OF ELECTRONIC DOG COLLARS AS A MEANS OF PHYSICAL RESTRAINT

ISSUE: Consideration of a revised ordinance that amends the definition of a dog running at large by excluding electronic dog collars or any such device as a means of physically restraining dogs.

RECOMMENDATION: That City Council pass the ordinance on the first reading on Wednesday, June 13 and set it for public hearing, second reading and final passage on Saturday, June 16.

DISCUSSION: During the December 17, 2011 Public Hearing, Council rescinded the ordinance it passed on November 12 that amended the definition of a dog running at large to exclude electronic collars or any such device as a means of physically restraining dogs. Council asked staff to reconsider possible amendments, such as an allowance for professional dog training schools to use electronic collars. Council also asked staff, the Animal Welfare League, and interested citizens to get together, talk about changes to the ordinance, and bring it back to Council.

The language in the proposed revised ordinance would not apply to any person while engaged in a supervised, formal obedience training class or show, or during formally sanctioned field trials or field trial dog training or while accompanying a dog within the confines of a dog park designated by the Department of Recreation, Parks and Cultural Activities. The ordinance also makes it unlawful for the owner of a dog to place such dog or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of the dog.

Since January, City and Animal Welfare League staff have met in person with interested citizens three times and exchanged numerous other communications. A consensus was reached early in the discussions to allow the use of electronic dog collars by dog trainers. There is no consensus,

however, on whether electronic dog collars should be allowed as a means of physical restraint by citizens who own dogs outside of dog parks.

During the meetings, the proponents of electronic collars offered several proposals to allow their use by those who are not dog trainers.

- One proposal would require owner training and certification before electronic collars could be used as done in Rockville, Maryland. Animal Shelter staff, however, indicated that they do not have the staff resources to implement this kind of training and certification. They also expressed concern about how difficult it would be to administer such a program since electronic collars can be purchased at pet supply stores by anyone. When the dog owners suggested that citizens run the training and certification program, the City Attorney's Office staff raised serious questions about enforcement and major City liability. This proposal was dropped by all at that point.
- Another dog owner suggested that City parks be closed to citizens at a certain time during the early morning hours (until 10:00 a.m.) so that the dogs could be on electronic collars without citizens in the parks. City staff did not think that this suggestion was practical or feasible.
- There was also a suggestion that the City staff review the Blacksburg, Virginia ordinance which allows the use of electronic collars without restriction as long as it does not harm the dog. Staff reviewed the ordinance, and decided that the Blacksburg ordinance would not work in a densely populated urban area like Alexandria. Blacksburg has a population of 42,620 and a land area of 19.89 square miles.

At the request of the proponents of electronic collars for facts and/or statistics that would define the problem the ordinance change seeks to address, the Animal Shelter and City Attorney staff provided the group with the following statistics for 18 months through February 2012:

- dogs running at large (853 complaints)
- dog bites (823 complaints)
- 17 dangerous dog cases

Although the group requested information on how many of these complaints involved electronic collars, staff were not able to provide that information, as it was not captured in the reports (information is now being reported). Since mid-March, staff has recorded four complaints involving dogs wearing electronic collars.

City Staff believes that excluding electronic collars as a means of physical restraint is a best practice because of their range (up to ½ mile) and concerns about the safety of all citizens. Animal Welfare League staff concurs in this recommendation. I recommend that Council approve the amendment to the City Code.

FISCAL IMPACT: None

ATTACHMENT: Ordinance to Amend the Definition of What Constitutes Keeping Dogs
Running at Large Under Physical Restraint

STAFF:

Rose Williams Boyd, Special Assistant to the City Manager

Mary Beth Mount, Acting Executive Director, Alexandria Animal Shelter

Meghan Roberts, Assistant City Attorney

Alfred Coleman, Deputy Director, General Services

Al Tierney, Captain, Alexandria Police Department

Introduction and first reading: 6/13/12
Public hearing: 6/16/12
Second reading and enactment: 6/16/12

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Sections 5-7-31 (DEFINITIONS), 5-7-33.1 (RUNNING AT LARGE PROHIBITED IN PUBLIC PARKS OR PLAYGROUNDS; OWNERS NOT TO LET DOGS RUN AT LARGE IN PUBLIC PARKS OR PLAYGROUNDS KEEPING DOGS UNDER PHYSICAL RESTRAINT IN PUBLIC PARKS OR PLAYGROUNDS), and 5-7-35 (KEEPING DOGS UNDER PHYSICAL RESTRAINT) of Article C (DOGS AND OTHER ANIMALS) of Chapter 7 (ANIMALS AND FOWL), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance modifies Sections 5-7-31, 5-7-33.1, and 5-7-35 of Article C, Chapter 7 of Title 5 to clarify the definition of a dog or other animal running at large.

Sponsor

None

Staff

- Rose Boyd, Special Assistant to the City Manager
- Jeremy McPike, Director of General Services
- Joy Wilson, Chief Animal Control Manager
- Heather R. Skeeles-Shiner, Assistant City Attorney
- Meghan S. Roberts, Assistant City Attorney

Authority

- § 2.04(p), Alexandria City Charter
- § 3.2-6538, Code of Virginia (1950), as amended
- § 3.2-6539, Code of Virginia (1950), as amended

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Sections 5-7-31 (DEFINITIONS), 5-7-33.1 (RUNNING AT LARGE PROHIBITED IN PUBLIC PARKS OR PLAYGROUNDS; OWNERS NOT TO LET DOGS RUN AT LARGE IN PUBLIC PARKS OR PLAYGROUNDS, KEEPING DOGS UNDER PHYSICAL RESTRAINT IN PUBLIC PARKS OR PLAYGROUNDS); and 5-7-35 (KEEPING DOGS UNDER PHYSICAL RESTRAINT) of Article C (DOGS AND OTHER ANIMALS) of Chapter 7 (ANIMALS AND FOWL), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Sections 5-7-31, 5-7-33.1, and 5-7-35 of Article C of 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:

ARTICLE C

Dogs and Other Animals

Sec. 5-7-31 Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this article, have the following meanings:

(a) *Animal control officer*. Any person appointed as the chief animal control officer or a deputy animal control officer under section 5-7-44 of this code.

(b) *Animal shelter*. The facility designated by the city manager for the detention of animals.

(c) *Dangerous dog*. Any canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous:

(1) if 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,

(2) if both animals are owned by the same person,

(3) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or

1 (4) for other good cause as determined by the court. No dog shall be found to be a
2 dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged
3 with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog
4 handling event.

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6 (d) *Dog*. The word "dog" shall include both the male and female sex of the species.

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8 (e) *Commercial dog handler*. Any person who boards, keeps, handles or walks dogs
9 owned by another person for compensation.

10
11 (f) *Dwelling unit*. A group of one or more rooms designed or intended for use as a
12 residence, including a single-family home, a townhouse, a duplex, a condominium and an
13 apartment.

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15 (g) *Hearing dog*. Any dog specially trained to alert its owner by touch to sounds of
16 danger or other sounds to which the owner should respond.

17
18 (h) *Law enforcement officer*. Any employee of the Alexandria Police Department who is
19 responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
20 highway laws of the Commonwealth.

21
22 (i) *Owner*. A person having a right of property in a dog or cat, and any person who
23 keeps or harbors a dog or cat or has it in his care or control, or who acts as its custodian,
24 including, but not limited to, a commercial dog handler and any person who permits a dog or cat
25 to remain on or about any premises occupied by him.

26
27 (j) *Run or running at large*. Roaming or running off the premises of its owner not under
28 the control of its owner or a responsible person capable of physically restraining the dog and not
29 secured by a leash, lead or other means of physical restraint, which leash, lead or other means of
30 physical restraint is not harmful or injurious to the dog, and which is held by a responsible
31 person capable of physically restraining the dog. An electronic collar or other similar electronic
32 device does not qualify as a leash, lead or other means of physical restraint.

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34 (k) *Seeing-eye dog*. Any dog that is specially trained to serve as a guide for a blind
35 person.

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37 (l) *Service dog*. Any dog that is specially trained to accompany its owner for the purpose
38 of carrying items, retrieving objects, pulling a wheelchair or performing other activities of
39 service or support.

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41 (m) *Vicious dog*. Any canine or canine crossbreed that has

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43 (1) killed a person;

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45 (2) inflicted serious injury to a person, including multiple bites, serious disfigurement,
46 serious impairment of health, or serious impairment of a bodily function; or

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2 (3) continued to exhibit the behavior that resulted in a previous finding by July 1, 2006,
3 by the chief animal control officer or city manager as authorized by prior law, that it is a
4 dangerous dog, provided that its owner has been given notice of that finding.
5

6 (n) *Adequate space.* Sufficient space to allow each animal to:
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8 (1) easily stand, sit, lie, turn about, and make all other normal body movements in a
9 comfortable, normal position for the animal; and

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11 (2) interact safely with other animals in the enclosure. When an animal is tethered,
12 "adequate space" means a tether that permits the above actions and is appropriate to the age and
13 size of the animal; is attached to the animal by a properly applied collar, halter or harness,
14 configured so as to protect the animal from injury and prevent the animal or tether from
15 becoming entangled with other objects or animals, or from extending over an object or edge that
16 could result in the strangulation or injury of the animal; and is at least three times the length of
17 the animal, as measured from the tip of its nose to the base of its tail, except when the animal is
18 being walked on a leash or is attached by a tether to a lead line. When freedom of movement
19 would endanger the animal, temporarily and appropriately restricting movement of the animal
20 according to professionally accepted standards for the species is considered provision of
21 adequate space.
22

23 (o) *Adequate shelter.* Provision of and access to shelter that is suitable for the species,
24 age, condition, size, and type of each animal; provides adequate space for each animal; is safe
25 and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects
26 of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly
27 cleaned; enables each animal to be clean and dry, except when detrimental to the species; and,
28 for dogs and cats, provides a solid surface (resting platform, pad, floor mat, or similar device)
29 that is large enough for the animal to lie on in a normal manner and can be maintained in a
30 sanitary manner. Under this section, shelters whose wire, grid, or slat floors:
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32 (1) permit the animals' feet to pass through the openings;
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34 (2) sag under the animals' weight; or
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36 (3) otherwise do not protect the animals' feet or toes from injury, are not adequate
37 shelter.
38

39 Sec. 5-7-33.1 Running at large prohibited in public parks or playgrounds; owners not to let dogs
40 run at large in public parks or playgrounds; keeping dogs under physical restraint in public parks
41 or playgrounds.
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43 (a) No dog shall run at large within any public park or playground at any time.
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45 (b) It shall be unlawful for the owner of any dog to permit his dog to run at large in any
46 public park or playground at any time.

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2 (c) It shall be unlawful for the owner of any dog to permit the dog to be in a public park
3 or playground unless it is under the control of its owner or a responsible person capable of
4 physically restraining the dog and kept secured by a leash, lead or other means of physical
5 restraint, which leash, lead or other means of physical restraint is not harmful or injurious to the
6 dog and which is held by a responsible person capable of physically restraining the dog, or it is
7 in a designated and posted dog exercise area, as provided in section 6-1-2.2 of this code. An
8 electronic collar or other similar electronic device does not qualify as a leash, lead or other
9 means of physical restraint.

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11 (d) This section shall not apply to any person while engaged in a supervised, formal
12 obedience training class or show, or during formally sanctioned field trials or field trial dog
13 training, or while accompanying a dog within the confines of a dog park designated by the City
14 of Alexandria Department of Recreation, Parks, and Cultural Activities and complying with all
15 regulations governing the use of such dog park. It shall be unlawful for the owner of a dog to
16 place such dog or allow it to be placed in the custody of any other person not physically capable
17 of maintaining effective control of such dog.

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19 (d)(e) In addition to the officers identified in section 5-7-46, any city employee who is
20 (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying
21 identification may enforce the provisions of this section in accordance with the procedures set
22 forth in section 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on
23 which is permanently displayed and visible the seal of the city together with the name of the
24 employee's department, office or agency, and "identification" shall mean a card or badge issued
25 by the city to identify the employee by name and photograph, or badge number, and indicate that
26 the employee is an authorized enforcement officer.

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28 Sec. 5-7-35 Keeping dogs under physical restraint.

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30 (a) Except as provided below, it shall be unlawful for the owner of any dog to permit the
31 dog to be off the premises of its owner unless it is under the control of its owner or a responsible
32 person capable of physically restraining the dog and it is kept secured by a leash, lead or other
33 means of physical restraint, which leash, lead or other means of physical restraint is not harmful
34 or injurious to the dog. An electronic collar or other similar electronic device does not qualify as
35 a leash, lead or other means of physical restraint.

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37 (b) The leash, lead or other means of physical restraint may be removed from a dog in a
38 designated and posted dog exercise area, as provided in section 6-1-2.2 of this code.

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40 (c) The leash, lead or other means of physical restraint may be removed from a dog on
41 private property, other than the property of the owner; provided that the owner or person in
42 control of such private property has permitted such dog to be present without a leash, lead or
43 other means of physical restraint.

44
45 (d) This section shall not apply to any person while engaged in a supervised, formal
46 obedience training class or show, or during formally sanctioned field trials or field trial dog

1 training, or while accompanying a dog within the confines of a dog park designated by the City
2 of Alexandria Department of Recreation, Parks, and Cultural Activities and complying with all
3 regulations governing the use of such dog park. It shall be unlawful for the owner of a dog to
4 place such dog or allow it to be placed in the custody of any other person not physically capable
5 of maintaining effective control of such dog.

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7 Section 2. That this ordinance shall become effective upon the date and at the time of its
8 final passage.

9
10 WILLIAM D. EUILLE
11 Mayor

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13 Introduction: 6/13/12
14 First Reading: 6/13/12
15 Publication:
16 Public Hearing:
17 Second Reading:
18 Final Passage: