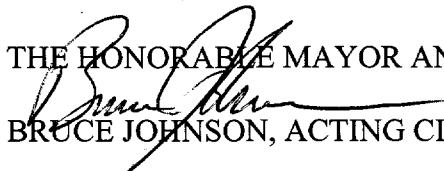


City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 6, 2011
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM:  BRUCE JOHNSON, ACTING CITY MANAGER
SUBJECT: ORDINANCE TO AMEND SECTIONS 5-7-31, 5-7-33.1, AND 5-7-35 TO CLARIFY THE DEFINITION OF A DOG RUNNING AT LARGE IN THE CITY'S LEASH ORDINANCE

ISSUE: To provide Animal Control Officers with a clear definition of a dog running at large in order to aid in the enforcement of the City's leash ordinance, and to exclude the use by owners of electronic collars or any other such devices as a means of physically restraining their dogs when off the owners' property.

RECOMMENDATION: The City Council introduce the attached ordinance amending Sections 5-7-31, 5-7-33.1, and 5-7-35 clarifying the definition of a dog running at large in the City's leash ordinance, pass it on first reading, and schedule it for public hearing, second and final passage on Saturday, November 12, 2011.

DISCUSSION: Some confusion has arisen concerning the definition in the Alexandria City code of a dog running at large, leading to difficulties in the enforcement of the City's ordinance prohibiting dogs and other animals from running at large and requiring dogs to be on a leash in the City. Some dog owners using remote electronic collars who are issued citations for violating the leash ordinance have attempted to contest the citations, claiming that such electronic collars are a valid form of physical restraint even though the owner was not in close proximity to the dog and did not have physical control over the dog. The attached ordinance amends Sections 5-7-31, 5-7-33.1, and 5-7-35 to clarify the definition of running at large, and to exclude electronic collars or any other such devices as a means of physically restraining dogs, in order to aid in the enforcement of the City's leash ordinance.

FISCAL IMPACT: Increased revenue from civil penalties associated with violations of the City's leash ordinance. The increased revenue from such fines cannot be determined at this time, but is likely to be negligible.

STAFF:
Jeremy McPike, Director, Department of General Services
Timothy E. Wanamaker, Deputy Director, Department of General Services
Mary Beth Mount, Director, Animal Control
Joy Wilson, Chief Animal Control Officer
Heather R. Skeeles-Shiner, Assistant City Attorney
Meghan S. Roberts, Assistant City Attorney

1	Introduction and first reading:	10/11/2011
2	Public hearing:	11/12/2011
3	Second reading and enactment:	11/12/2011

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

Michele Evans, Deputy City Manager
 Timothy Wanamaker, Deputy Director, General Services/Administration
 Joy Wilson, 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

(4) for other good cause as determined by the court. No dog shall be found to be a

1 dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged
2 with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog
3 handling event.

4
5 (d) *Dog*. The word "dog" shall include both the male and female sex of the species.

6
7 (e) *Commercial dog handler*. Any person who boards, keeps, handles or walks dogs
8 owned by another person for compensation.

9
10 (f) *Dwelling unit*. A group of one or more rooms designed or intended for use as a
11 residence, including a single-family home, a townhouse, a duplex, a condominium and an
12 apartment.

13
14 (g) *Hearing dog*. Any dog specially trained to alert its owner by touch to sounds of
15 danger or other sounds to which the owner should respond.

16
17 (h) *Law enforcement officer*. Any employee of the Alexandria Police Department who is
18 responsible for the prevention and detection of crime and the enforcement of the penal, traffic or
19 highway laws of the Commonwealth.

20
21 (i) *Owner*. A person having a right of property in a dog or cat, and any person who
22 keeps or harbors a dog or cat or has it in his care or control, or who acts as its custodian,
23 including, but not limited to, a commercial dog handler and any person who permits a dog or cat
24 to remain on or about any premises occupied by him.

25
26 (j) *Run or running at large*. Roaming or running off the premises of its owner not under
27 the control of its owner or a responsible person capable of physically restraining the dog and not
28 secured by a leash, lead or other means of physical restraint, which leash, lead or other means of
29 physical restraint is not harmful or injurious to the dog, and which is held by a responsible
30 person capable of physically restraining the dog. An electronic collar or other similar electronic
31 device does not qualify as a leash, lead or other means of physical restraint.

32
33 (k) *Seeing-eye dog*. Any dog that is specially trained to serve as a guide for a blind
34 person.

35
36 (l) *Service dog*. Any dog that is specially trained to accompany its owner for the purpose
37 of carrying items, retrieving objects, pulling a wheelchair or performing other activities of
38 service or support.

39
40 (m) *Vicious dog*. Any canine or canine crossbreed that has

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42 (1) killed a person;

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

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

4
5 (n) *Adequate space*. Sufficient space to allow each animal to:

6
7 (1) easily stand, sit, lie, turn about, and make all other normal body movements in a
8 comfortable, normal position for the animal; and

9
10 (2) interact safely with other animals in the enclosure. When an animal is tethered,
11 "adequate space" means a tether that permits the above actions and is appropriate to the age and
12 size of the animal; is attached to the animal by a properly applied collar, halter or harness,
13 configured so as to protect the animal from injury and prevent the animal or tether from
14 becoming entangled with other objects or animals, or from extending over an object or edge that
15 could result in the strangulation or injury of the animal; and is at least three times the length of
16 the animal, as measured from the tip of its nose to the base of its tail, except when the animal is
17 being walked on a leash or is attached by a tether to a lead line. When freedom of movement
18 would endanger the animal, temporarily and appropriately restricting movement of the animal
19 according to professionally accepted standards for the species is considered provision of
20 adequate space.

21
22 (o) *Adequate shelter*. Provision of and access to shelter that is suitable for the species,
23 age, condition, size, and type of each animal; provides adequate space for each animal; is safe
24 and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects
25 of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly
26 cleaned; enables each animal to be clean and dry, except when detrimental to the species; and,
27 for dogs and cats, provides a solid surface (resting platform, pad, floor mat, or similar device)
28 that is large enough for the animal to lie on in a normal manner and can be maintained in a
29 sanitary manner. Under this section, shelters whose wire, grid, or slat floors:

30
31 (1) permit the animals' feet to pass through the openings;

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33 (2) sag under the animals' weight; or

34
35 (3) otherwise do not protect the animals' feet or toes from injury, are not adequate
36 shelter.

37
38 Sec. 5-7-33.1 Running at large prohibited in public parks or playgrounds; owners not to let dogs
39 run at large in public parks or playgrounds; keeping dogs under physical restraint in public parks
40 or playgrounds.

41
42 (a) No dog shall run at large within any public park or playground at any time.

43
44 (b) It shall be unlawful for the owner of any dog to permit his dog to run at large in any
45 public park or playground at any time.

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

10 (d) In addition to the officers identified in section 5-7-46, any city employee who is (1)
11 specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification
12 may enforce the provisions of this section in accordance with the procedures set forth in section
13 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on which is
14 permanently displayed and visible the seal of the city together with the name of the employee's
15 department, office or agency, and "identification" shall mean a card or badge issued by the city
16 to identify the employee by name and photograph, or badge number, and indicate that the
17 employee is an authorized enforcement officer.
18

19 Sec. 5-7-35 Keeping dogs under physical restraint.
20

21 (a) Except as provided below, it shall be unlawful for the owner of any dog to permit the
22 dog to be off the premises of its owner unless it is under the control of its owner or a responsible
23 person capable of physically restraining the dog and ~~it is~~ kept secured by a leash, lead or other
24 means of physical restraint, which leash, lead or other means of physical restraint is not harmful
25 or injurious to the dog. An electronic collar or other similar electronic device does not qualify as
26 a leash, lead or other means of physical restraint.
27

28 (b) The leash, lead or other means of physical restraint may be removed from a dog in a
29 designated and posted dog exercise area, as provided in section 6-1-2.2 of this code.
30

31 (c) The leash, lead or other means of physical restraint may be removed from a dog on
32 private property, other than the property of the owner; provided that the owner or person in
33 control of such private property has permitted such dog to be present without a leash, lead or
34 other means of physical restraint.
35

36 Section 2. That this ordinance shall become effective upon the date and at the time of its
37 final passage.
38

39 WILLIAM D. EUILLE
40 Mayor
41

42 Introduction: 10/11/2011
43 First Reading: 10/11/2011
44 Publication:
45 Public Hearing:
46 Second Reading:
47 Final Passage: