

Town of Windsor

Memorandum

June 14, 2016

TO: The Honorable Mayor and Town Council

FROM: Michael Stallings, Town Manager *MS*

SUBJECT: Town Code Update

In accordance with the Town Code update schedule, I have completed my review of sections 37, 39, and 40 of the Town Code. The sections are attached with the recommended changes in red. Additions are underlined and deletions are struck through.

My recommended changes are as follows:

Section 40 – Delete various sections due to outdated practices and the fact that the Isle of Wight County Code governs most animal control issues.

If Council is agreeable to these changes, we will add them to the previous batch for advertisement at a future date.

This is for Council's discussion and direction.

Chapter 37. ADVERTISING MATERIALS

§ 37-1. Posting and placing on poles, etc.

No person shall print, paint, stamp or stain any notice, sign, advertisement or any other matter on any electric light, telephone or telegraph pole or any other pole or supporting device on any of the streets in or property of the Town.

Chapter 39. ALARMS

Article I. False Alarms

§ 39-1. Purpose.

The purpose of this article is to minimize unnecessary use of the county and Town's emergency services by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

§ 39-2. Definitions.

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

ALARM SYSTEM

Any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response. The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

ALARM USER AND USER

The occupant of premises protected by an alarm system.

ANSWERING SERVICE

A telephone answering service that receives emergency signals from alarm systems and informs the Town and county Emergency Communications Center.

AUTOMATIC DIALING SERVICE

A device interconnected to a telephone line and programmed to indicate a need for emergency response.

FIRE CHIEF

Any one of the volunteer fire department fire chiefs or their designee.

COUNTY

Isle of Wight County, Virginia.

FALSE ALARM

Any alarm signal received by the Town and County Emergency Communications Center which is not in response to an actual or possible emergency. False alarms include negligently activated signals, signals due to faulty, malfunctioning or improperly installed or maintained equipment, and signals purposely activated to summon fire, rescue and/or law enforcement personnel in nonemergency situations. False alarms do not include signals activated by unusually severe weather conditions, utility conditions or other causes which the Fire Chief or the Chief of Police determines were beyond the user's control.

INDIRECT ALARM TRANSMITTAL

Any alarm system which causes a third party or answering service to notify the Town and County Emergency Communications Center of an alarm activation.

INSTALLER

Any person who installs, services, monitors, sells or leases any alarm system.

INTERCONNECT

To connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

NEGLIGENTLY ACTIVATED SIGNALS

Signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

NONEMERGENCY SITUATIONS

Situations where an immediate response by fire personnel is not necessary to protect life or property.

POLICE CHIEF

The Chief of Police of the Town's police department or his designee.

§ 39-3. Violations punishable as Class 1 misdemeanors.

Violations of §§ 39-4, 39-6 and 39-7 shall be punishable as a Class 1 misdemeanor.

§ 39-4. User data form.

Upon installing an alarm system, all users shall submit a county data form to the Town and County Emergency Communications Center and a copy to the Town's police department. Said data form shall include the following information: name and location of the alarmed premises; type of alarmed premises (residential or commercial); normal operating hours, if commercial; individuals designated by the user to respond when notified; manufacturer, model and type of alarm system; name, address and telephone number of the service company; zone of alarm, if applicable; and other applicable information. This requirement shall not be applicable to single-unit heat and smoke detectors four or less in number.

§ 39-5. Training of persons using system; maintenance of system.

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the appropriate county employees or agents. The user shall also be responsible for maintaining the alarm system in proper working order.

§ 39-6. Automatic dialing devices.

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used, within the Town, automatic dialing devices or systems which are set or programmed to directly contact the Town and County Emergency Communications Center without the prior approval of the Chief of Police.

§ 39-7. Deliberate false alarms.

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the Town and County Emergency Communications Center has been notified in advance.

§ 39-8. Service fee for false alarms.

A. Response by fire and/or rescue personnel. Fees in the following amount shall be assessed against commercial alarm system users for false alarms resulting in response by fire and/or rescue personnel and occurring during any period of 180 successive days, and against residential alarm system users during an period of 90 successive days. Alarm system users shall pay such service fee for false alarms within 30 days of billing.

- (1) First false alarm: No charge.
- (2) Second false alarm: No charge.
- (3) Third false alarm: \$100.
- (4) Fourth false alarm: \$265.
- (5) Fifth and subsequent false alarms: \$650.

B. Response by police department personnel. Fees in the following amounts shall be assessed against commercial alarm system users for false alarms resulting in response by the Town's police department personnel and occurring during any period of 180 successive days, and against residential alarm system users during any period of 90 successive days. Alarm system users shall pay such service fee for false alarms within 30 days of billing.

- (1) First false alarm: No charge.
- (2) Second false alarm: No charge.
- (3) Third false alarm: \$65.
- (4) Fourth false alarm: \$75.
- (5) Fifth and subsequent false alarms: \$165.

C. Exceptions. Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the Commonwealth of Virginia, political subdivisions of the Commonwealth of Virginia, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

D. Billing; interest on unpaid charges. The Fire Chief and the Police Chief shall notify the Town and County Emergency Communications Center of each false alarm to which they respond and

such information shall be retained and maintained by the Town and County Emergency Communications Center. At the end of each month, the Emergency Communications Manager shall notify the Treasurer of the Town of Windsor of service fee assessments for false alarms. The Emergency Communications Manager shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The Isle of Wight County Treasurer may bill the user for all false alarms responded to by fire and/or rescue personnel and notify the Emergency Communications Manager when any account is more than 30 days in arrears. The Treasurer of the Town of Windsor shall bill the user for all false alarms responded to by police department personnel and notify the Emergency Communications Manager when any account is more than 30 days in arrears. Any account more than 30 days in arrears shall be subject to interest at the legal rate provided by the Code of Virginia, commencing when the account is more than 30 days in arrears.

Chapter 40. ANIMALS

Article I. General Provisions

§ 40-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BOARD OF SUPERVISORS

The Board of Supervisors of Isle of Wight County.

COUNTY

The County of Isle of Wight.

LIVESTOCK

~~Includes cattle, horses, sheep, goats, swine and enclosed domesticated rabbits or hares.~~

OTHER OFFICER

Includes all other persons employed or elected by the people of Virginia, or by any municipality, county or incorporated town thereof, whose duty it is to preserve the peace, to make arrests or to enforce the law.

OWN and OWNER

Includes any person having a right of property in a dog, and any person 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 or about any premises occupied by him.

POULTRY

~~Includes all domestic fowl, and game birds raised in captivity.~~

TREASURER

~~Includes the Treasurer of Isle of Wight County and his assistants.~~

§ 40-2. Animal Control Officer.

In accordance with § 3.1-796.66, Code of Virginia, 1950, as amended, there is hereby created the position of Animal Control Officer. The duties of the Animal Control Officer shall be those provided for in §§ 3.1-796.104 through 3.1-796.121 of such code and such other duties as may be provided for by the Board of Supervisors. The Animal Control Officer may employ assistants as shall be provided for by the Board of Supervisors. The Animal Control Officer shall enforce the provisions of this chapter in the Town of Windsor.

§ 40-3. Cruelty to animals generally.

A. Any person who:

~~(1) Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with a 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, drink or shelter, or causes any of the above things, or, being the owner of such animal, permits such acts to be done by another;

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

(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, shall be deemed guilty of a Class 1 misdemeanor.

B. Nothing in this section shall be construed to prohibit the dehorning of cattle.

C. The word "animal," as used in this section, shall be construed to include birds and fowl.

§ 40-4. 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 highway, road or street, or on the property of another shall be guilty of a Class 3 misdemeanor.

Article II. Dogs in General

§ 40-5. Dogs deemed personal property.

All dogs shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of such dogs or injury thereto or unlawful detention or use thereof as in the case of other personal property. The owner of any dog which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. An animal control officer or other officer finding a stolen dog, or a dog held or detained contrary to the law, shall have the authority to seize and hold such dog pending action before a general district court or other court. If not such action is instituted within seven days, the Animal Control Officer or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the Animal Control Officer may take such dog in charge and notify its legal owner to remove him. The legal owner of the dog shall pay a reasonable charge as the Board of Supervisors by ordinance shall establish, for the keep of such dog while in the possession of the Animal Control Officer.

§ 40-6. Dogs killing or injuring livestock or poultry.

It shall be the duty of any Animal Control Officer or other 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, and any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight. Any dog killing livestock or poultry for the third time shall be considered a confirmed killer. The 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 of the county, city or town wherein such dog may be, to issue a warrant requiring the owner or custodian, if known, to appear before the Isle of Wight County General District Court. If the Court orders that the dog shall be killed immediately, the Animal Control Officer shall do so.

§ 40-7. Violations and penalties.

A. The following shall be unlawful acts and constitute Class 4 misdemeanors:

(1) License application. For any person to make a false statement in order to secure a dog license to which he is not entitled.

(2) License tax. For any dog owner to fail to pay the license tax required by this chapter before the first day of February for the year in which it is due. In addition, the Court may order confiscation and the proper disposition of the dog.

(3) Leash ordinance. For any dog owner to allow a dog to run at large in violation of this article.

(4) Rabies regulations. For any person to fail to comply with Article IV of this chapter.

(5) Dead dog. For any owner to fail to dispose of the body of his dog in compliance with § 3-1-796.121, Virginia Code.

(6) Diseased dogs. For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.

(7) Removing collar and tag. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog.

(8) Concealing a dog. For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a dangerous or vicious dog to keep the same from being killed.

(9) Others. Any other violation of this chapter for which a specific penalty is not provided.

B. Payment of the 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 such owner from the penalties provided.

~~C. It shall be a Class 1 misdemeanor for any person to present a false claim or to receive any money on a false claim under the provisions of § 3.1-796.118, as amended.~~

Article III. Licensing

§ 40-8. License required.

~~The licensing of dogs shall be as established under §§ 3.1-796.85 through 3.1-796.92, Code of Virginia.~~

Article IV. Running at Large

§ 40-9 3. "Running at large" defined.

For the purpose of this article, 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, either by leash, cord or chain.

§ 40-10 4. Running at large prohibited.

It shall be unlawful for any person who owns or is the custodian of any dog or dogs to allow such dog or dogs to run at large in the Town of Windsor.

§ 40-11 5. Duty to impound; reclaimable with proof of ownership and fee payment.

Any dog found running at large as defined in this article shall be apprehended and placed in the county dog pound for safekeeping and may be reclaimed by the owner or custodian upon showing satisfactory proof that he is the owner or custodian of such dog and upon payment of such impoundment board fees as may be established by the Board of Supervisors.

§ 40-12. Disposition if dog unclaimed.

~~If the dog is not reclaimed within 10 days, then the Animal Control Officer shall dispose of the dog in accordance with the provisions of § 40-13 for the disposal of unlicensed dogs.~~

§ 40-13. Disposition of unlicensed dogs running at large.

~~It shall be the duty of the Animal Control Officer to kill or cause to be killed, in such manner as may be prescribed by the Board of Supervisors, any dog of unknown ownership found running at large without a license tag, or on which the license tax has not been paid; provided that the killing of such dog shall not relieve the owner of the payment of the fine and license tax already due; provided that such dog shall not be killed until after the expiration of 10 days from the date of conviction, during which ten-day period the Animal Control Officer shall advertise in a newspaper having circulation in the County of Isle of Wight that any dog in his custody may be released and adopted as and upon the conditions hereinafter provided for in this section; and~~

~~provided that any such dog taken into custody by the Animal Control Officer may be delivered by the Animal Control Officer to any person in the County or the Town of Smithfield or Windsor to be adopted by the person, provided that the person pays the required license fee on such dog, with the understanding that should the legal owner of such dog thereafter claim such dog and prove his ownership of such dog, he may recover such dog by paying the person to whom it was delivered by the Animal Control Officer the amount of the license fee paid by him and such impoundment and board fees as may be established by the Board of Supervisors, plus the actual medical and veterinary expenses incurred by such person. Any person, animal control officer or other officer killing a dog under this section shall cremate, bury or otherwise lawfully dispose of the same; and the Animal Control Officer or other officer may kill, on sight, any dog which the Animal Control Officer or other officer determines from personal observation, or from information provided by the Health Department of Isle of Wight County, to have a contagious or infectious disease without complying with the provisions hereof relating to giving notice of the availability of dogs for release and adoption. The Animal Control Officer or other officer may kill, on sight, any dog of unknown ownership found running at large without a license tag, or on which the license tax has not been paid, and which the Animal Control Officer or other officer has been unable to take into custody, after the expiration of five days from the date such dog was first found so running at large by such animal control officer or other officer without complying with the provisions hereof relating to giving notice of the availability of dogs for release or adoption.~~

§ 40-14. Liability of owner subsequent to payment of impoundment fee.

~~The payment of the impoundment fee and board bill shall not relieve the owner or custodian of his liability for failing to comply with the terms of this article.~~

§ 40-15. Enforcement.

~~It shall be the duty of the Animal Control Officer and other law enforcement officers of the Town to enforce the provisions of this article.~~

Article V. Vicious or Destructive Dogs

§ 40-16. Vicious or destructive and other certain dogs running at large.

A. ~~It shall be unlawful and a Class 3 misdemeanor for any person to permit any vicious or destructive dog owned or kept by him, or any dog owned or kept by him which has not been inoculated or vaccinated against rabies, to run or be at large, whether such dog is licensed or not.~~

B. ~~Any dog found running at large in violation of this section shall be taken into custody of the Animal Control Officer and impounded at the county dog pound. A dog so impounded shall be disposed of in accord with the provisions of § 40-13.~~

§ 40-17. Owner to confine vicious dog and to notify authorities.

~~It shall be unlawful for the owner or custodian of any dog that has bitten any person to knowingly fail to immediately confine such dog in an enclosure deemed satisfactory by the Animal Control Officer or in the dog pound of the county, or to knowingly fail to immediately notify the Animal Control Officer of the fact of such biting and of the name and address of the person bitten, if known, and the place, if known, where such biting occurred and the place, if known, where such dog is confined and, if such dog escapes from the immediate control of its owner or custodian, to fail to immediately notify such animal control officer of such escape.~~

§ 40-18. Confinement for observation for rabies; release.

~~Any dog that has bitten any person shall be quarantined by confinement in the approved enclosure or county dog pound under the observation, supervision and control of the Health Officer of Isle of Wight County for not less than 10 days and for such further time as may be necessary to determine a diagnosis as to whether or not such dog has rabies, and any such dog found not to have rabies or not to be vicious or dangerous, as defined in this article, shall be released forthwith from such confinement.~~

§ 40-19. Confinement required if owner unknown.

~~Any dog that has bitten a person and any vicious or destructive dog found running, going or being at large and whose owner or custodian is unknown, or who cannot be readily located, shall be taken into custody by the Animal Control Officer and confined in the county dog pound; provided that any such vicious or destructive dog whose owner or custodian is unknown, or who cannot be readily located, shall be confined in the county dog pound for not less than five days.~~

§ 40-20. Release to owner upon payment of costs for care; destruction of dog in certain cases.

~~Any vicious or destructive dog confined under this article in the county dog pound that has not been destroyed pursuant to this chapter shall be released to the owner or custodian thereof upon the payment of the cost of the keep and care of such dog and the assurance by such owner or custodian that such dog will be confined to the premises of such owner or custodian; provided that the judge of the Isle of Wight County General District Court may, after hearing evidence, order destroyed any dog whose owner or custodian is unknown, or who cannot be readily located, or whose owner or custodian fails to repossess such dog and pay the costs of the keep and care thereof at the expiration of the aforesaid five-day period, which dog is confined in the dog pound and which the judge determines, in the public interest, to be vicious or destructive at the expiration of such five-day period.~~

§ 40-21. Recovery from owner of costs of care.

~~The county may recover, by warrant, action, motion or other legal proceedings, from the owner or custodian of any dog confined in the county dog pound under this article, such impoundment and fees as may be established by the Board of Supervisors, plus all sums expended by the county for the keep and care of such dog.~~

§ 40-22. Declaration of rabies emergencies; disposition of dogs suspected as rabid.

A. When there is sufficient reason to believe that a rabid animal is at large, and notwithstanding any other ordinance requiring restraint of animals by their owners and/or custodians, the Town Council shall have the power to pass an emergency ordinance which shall become effective immediately upon passage, requiring the owners of all dogs and cats herein to keep the same confined on their premises unless leased under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed 30 days unless renewed by the Town Council. The Town Council shall also have the power and authority to pass ordinances restricting the running at large of dogs which have not been inoculated or vaccinated against rabies and to provide penalties for the violation thereof.

B. Dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog shall be destroyed.

C. Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the Isle of Wight County Health Department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

D. Any dog or cat bitten by an animal believed to be afflicted with rabies shall be destroyed immediately or confined in a pound, kennel or enclosure approved by the Health Department for a period not to exceed six months at the expense of the owner; provided that if the bitten dog or cat has been vaccinated against rabies within one year, the dog or cat shall be revaccinated and confined to the premises of the owner for 30 days.

E. At the discretion of the Director of the Isle of Wight County Health Department, any animal which has bitten a person shall be confined under competent observation for 10 days, unless the animal develops active symptoms of rabies or expires before that time; provided that a seriously injured or sick animal may be humanely euthanized and its head sent to the Health Department for evaluation.

§ 40-23. Vaccination or inoculation of dogs and cats for rabies.

A. It shall be unlawful for an owner to keep, harbor or have in his care, custody, or control, any dog or cat four months old or older unless such dog or cat has been vaccinated or inoculated against rabies by a licensed veterinarian annually or triannually, depending upon the initial vaccine utilized as approved by the State Department of Health.

B. The vaccination or inoculation referred to in Subsection A above shall be by a vaccine approved by the State Department of Health and shall be certified to by a licensed veterinarian. Such certificate shall state that the dog or cat has been properly vaccinated or inoculated in accord with the provisions of this section, shall be dated as of the date of inoculation or vaccination, shall show the rabies tag number, the sex and breed of the dog or cat and the name of the owner thereof, and shall state whether the initial vaccine utilized was for a one-year or

~~three-year period, together with such information as may reasonably be required by the Director of Public Health or the veterinarian administering the vaccine.~~

~~C. Should any person who owns, keeps or harbors any dog or cat fail or refuse to comply with any of the provisions of this section or with any instructions given by the Animal Control Officer, a veterinarian, a health district representative or other appropriate official, pursuant to this section, the Animal Control Officer or any other animal control officer may immediately take such dog or cat into custody and confine it in the Isle of Wight county pound, and the person owning, keeping or harboring such dog or cat shall then be summoned forthwith by the Animal Control Officer or any other animal control officer to appear in the Isle of Wight County General District Court, where the matter shall be heard as all other matters are heard on criminal warrants. Upon finding that such person either owns, keeps or harbors a dog or cat and has failed or refused to comply with any provision of this section or with instructions properly given pursuant to this section, the judge, in addition to any sentence which he or she may impose for violation of this chapter, shall order the confinement of the animal appropriate under the circumstances and pursuant to this section, and shall order the convicted person to pay for any required vaccination, and confinement-related expenses.~~

~~D. Any person owning, keeping or harboring any dog or cat four months old or older shall have the required vaccination performed within 60 days of the passage of this chapter.~~

Article VI. Animal Waste

§ 40-24. Prohibited acts.

~~It shall be unlawful for any owner or person in control of any animal to allow any animal to defecate on the property of other persons without their consent or that of the authorized agent or persons having control of the premises, or on public property. Immediate removal and sanitary disposal of the defecated matter shall not constitute a violation of this section. The defecated matter shall be placed in a container and disposed of in a proper waste receptacle. A violation of this section shall constitute a Class 3 misdemeanor.~~