

WHEREAS, the Commonwealth of Virginia has requested that Cumberland Plateau Planning District Commission submit resolutions of support from the Cumberland Plateau Planning District Commission, the Russell County Board of Supervisors, the Virginia Coalfield Economic Development Authority, and the Russell County Industrial Development Authority; now

THEREFORE, be it resolved that the Russell County Board of Supervisors hereby supports the sale of land by the Cumberland Plateau Planning District Commission in the Cumberland Plateau Regional Industrial Park for the purposes stated above.

The vote was:

AYE: Ralph Maples, Danny Brown, Frank Horton, Robert Keene, Clarence Ball and Carter McGlothlin

NAY: None

ORDINANCE TO RESTRAIN DOGS

Motion made by Ralph Maples, second by Clarence Ball and duly approved by the Board of Supervisors to approve the following ordinance (entire text inclusive) effective July 6, 2000.

**AN ORDINANCE REQUIRING THAT DOGS WITHIN THE BOUNDARIES
OF RUSSELL COUNTY BE RESTRAINED OR UNDER THE
IMMEDIATE CONTROL OF THE OWNER OR CUSTODIAN PURSUANT
TO SECTIONS 15.2-1200 AND 3.1-796.93 OF THE
CODE OF VIRGINIA, OF 1950 AS AMENDED**

WHEREAS, numerous citizens of Russell County have complained to the Russell County Board of Supervisors of interference with the use and enjoyment of their private residences caused by domesticated dogs in their neighborhoods; and

WHEREAS, such citizens have testified before the Board of Supervisors that domesticated dogs not owned by the testifying individual have caused unreasonable annoyance by property damage, attacks upon persons and animals, excessive noise, defecation on property other than that of the animal's owner or custodian, and other similar behaviors; and

WHEREAS, regulation of domesticated dogs and prohibition of unreasonable offensive acts of such animals is expedient to secure and promote the health, safety and general welfare of the citizens of the citizens of Russell County and is consistent with the Comprehensive Animal Control Laws of the Commonwealth of Virginia, Section 3.1-799-66 et seq;

NOW, THEREFORE, be it ENACTED by the Board of Supervisors of Russell County, Virginia:

Sec. I. Definitions.

The words and phrases used in this ordinance shall have the meanings respectively ascribed to them in the Code of Virginia, Section 3.1-796.99 or as defined in this Section, unless otherwise defined in this Ordinance.

Animal Nuisance: Is created when any dog unreasonable annoys human, endangers the life or health of other animals or persons or substantially interferes with the rights of citizens, others than their owners, to the enjoyment of life or property. Harboring an excessive number of animals shall create a presumption of nuisance. Failure to keep a female domestic dog confined during the entire time the animal is in season such that the female dog cannot come into contact with a male dog not under control of the custodian is deemed a nuisance. Additionally, acts of nuisance shall include, but are limited to, the following acts of domestic animals:

- (1) Damages property other than that of the animal's owner;

- (2) Attacks or disturbs other animals, persons or vehicles by chasing, barking or biting;
- (3) Makes excessive noises including, but not limited to, barking, whining, howling, caterwauling or crying;
- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the owner unless feces are promptly removed by the animal's owner or custodian; or
- (6) Creates an unsanitary condition or insect breeding site due to an accumulation of excreta or filth. (Cross reference -- Code of Virginia Section 3.1-796.66)

Sec. II -- Unlawful acts: penalties.

(a) The following shall be unlawful acts and constitute class 4 misdemeanors punishable as provided in Sec. IV.

(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 any license tax required before February 1 for the year in which it is due or within thirty (30) days of relocation into this county. In addition, the court may order confiscation and the proper disposition of unlicensed dogs.

(3) Dog running at large. For any dog owner to allow his dog to run at large in violation of Sec. III.

(4) Rabies regulations. For any person to fail to have his dog vaccinated in accordance with Section 3.1-796.97:1 of the Code of Virginia, of 1950, as amended.

(5) Dead companion animals. For any owner of any dog to fail to dispose of the body of his companion animal in accordance with Section 3.1-796.121 of the Code of Virginia, of 1950, as amended.

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

(7) Concealing a dog. For any person to conceal or harbor any dog on which any required license tax has not been paid.

(8) Removing collar and tag. 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.

(b) Animal nuisance constitutes a civil offense that may be addressed by the person alleging injury or damage as provided in the following subsections.

(1) Any "animal nuisance" as defined in Section I may be corrected, removed or abated through a civil complaint filed in the General District Court of Russell County brought by any person suffering injury or damage therefrom.

(2) (i) In addition to restitution for property damage sustained by the complaining party, animal nuisance shall be punishable by a civil penalty of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) per offense in the first court proceeding that results in the finding of animal nuisance.

(ii) Upon additional finding of animal nuisance in a subsequent court proceeding within a period of twelve (12) consecutive months from the first court proceeding, such person shall be fined not less than thirty (\$30.00) dollars nor more than one hundred (\$100.00) dollars per offense in addition to restitution for property damage.

(iii) Upon additional finding of animal nuisance in a subsequent court proceeding within a period of twelve consecutive months from the second court proceeding, such person shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars per offense in addition to restitution for property damage. In addition, the court may order the owner or custodian to remove the animal from the County within a period of two (2) weeks and order that upon the failure of the owner or custodian to comply with such order, the County Animal Warden shall seize the animal and destroy it or otherwise dispose of it in a manner consistent with normal procedures.

Sec. III -- Prohibition against dogs running at large.

Except as otherwise provided in this Section the owner or custodian of any and all categories of dogs shall not allow their dog to run at large at any time.

For purposes of this section, 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.

Any person who permits his dog to run at large, or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this section.

Fox hunters and coon hunters during a lawful hunt, when the chase begins on other lands, may follow their dogs on prohibited lands, and hunters of all other game, when the chase begins on other lands, may go upon prohibited lands to retrieve their dogs, but may not carry firearms or bows and arrows on their persons or hunt any game while thereon. The use of vehicles to retrieve dogs on prohibited lands shall be allowed only with the permission of the landowner or his agent.

Sec. IV -- Penalties.

A violation of this ordinance shall result in a fine of not more than Two Hundred Fifty (\$250.00) Dollars.

Sec. V -- Payment of Civil Penalties and Fines.

Any civil penalty or fine assessed pursuant to this ordinance shall be paid into the treasury of Russell County and used for the purpose of defraying the costs of local animal control.

Sec. VI -- Jurisdiction of General District Court; Right of Appeal

The provisions of this ordinance may be enforced by the General District Court of Russell County. Every such offender shall have the right of appeal to the Circuit Court of Russell County, Virginia.

Enacted this the 6th day of July, 2000.

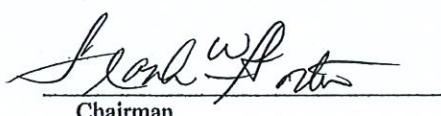
The vote was:

AYE: Ralph Maples, Clarence Ball, Danny Brown, Frank Horton, Robert Keene and Carter McGlothlin

NAY: None

Motion made by Danny Brown, second by Clarence Ball and duly approved by the Board of Supervisors to adjourn.


James Miller
Clerk


Frank W. Horton
Chairman