

January 22, 2014

To the Mayor, Vice-Mayor and Members of City Council:

Re: Proposed Amendments to Chapter 10 of the City Code; Tethering of Dogs

Please find enclosed a proposed amendment to Chapter 10 of the City Code to regulate the tethering of dogs. On October 21, 2013, the Chesapeake Animal Services Advisory Board presented to my office draft amendments to the City Code, to regulate the tethering of dogs. Since that time, the Police Department, including Animal Services, the City Manager's Office and my office have assisted with revisions to the initial draft to ensure its enforceability. The proposed amendments presented for Council's consideration have been reviewed and approved by the Animal Services Advisory Board and are supported by the Chesapeake Humane Society.

As comparators, five (5) of the surrounding cities have tethering ordinances:

- Hampton- ban on tethering
- Norfolk - 3 hour time limit
- Portsmouth- 3 hour limit
- Suffolk - ban on unattended tethering
- Virginia Beach- 3 hour time limit

The Animal Services Advisory Board and Animal Services specifically chose an approach different from a simple time limit. A three (3) hour limit was believed to be unenforceable as Animal Services' personnel would be unable in most cases to observe a tethered animal for three (3) hours. In developing the proposed ordinance, both the Board and Animal Services did extensive research on the issue.

An extensive report was sent to City Council on January 8, 2014. Following this report, a City Council Member asked that the enclosed amendment be placed on the agenda for consideration.

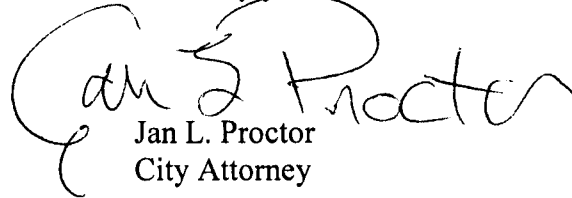
The draft tethering ordinance removes dogs from the provisions of City Code § 10-22, which only prevents animals from being tethered in such a manner that they can cross onto

another's property. A new City Code Section, 10-22.1, is proposed that specifically applies to the tethering of dogs. It includes:

- (1) Definitions of key terms:
 - (a) Body harness
 - (b) Collar
 - (c) Properly fitted
 - (d) Tether
- (2) A provision allowing the tethering of a dog in the immediate proximity of the owner or custodian in a manner that does not cause pain or injury to the dog.
- (3) The following restrictions when a tethered dog is not in the immediate proximity of its owner or custodian:
 - (a) The dog's owner or custodian must be present on property of the tethered dog;
 - (b) Tethering must be limited to sixty (60) continuous minutes;
 - (c) No tethering of dogs less than six (6) months of age is permitted;
 - (d) No tethering of female dogs in estrus is permitted;
 - (e) A tether may not exceed ten percent (10%) of the dog's body weight;
 - (f) A tether must be at least three (3) times the length of the dog's body;
 - (g) A tether must allow the dog to easily sit, stand, lie, turn around, and make all normal body movements comfortably;
 - (h) A tether must allow the dog to interact safely with other animals, if at all;
 - (i) The tether must be appropriate for the age and size of the dog; attached to the dog by a properly fitted collar or body harness configured to prevent the dog from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury to the dog;
 - (j) Only one (1) dog may be attached to a single tether; and
 - (k) The tether may not permit the dog to cross and enter upon another's property without the consent of the other property owner.
- (4) A violation of the draft ordinance is a Class 4 misdemeanor, which is punishable by a fine of not more than \$250.00.

Please do not hesitate to contact me if you have questions or require additional information.

Sincerely yours,



Jan L. Proctor
City Attorney

JLP:hvm
Enclosure

cc: James E. Baker, City Manager
Colonel Kelvin L. Wright, Chief of Police
Anna M. D'Antonio, Assistant to the City Manager
Mary Ann Saunders, Assistant to the City Manager

AN ORDINANCE AMENDING CHAPTER 10 OF THE CHESAPEAKE CITY CODE, ENTITLED "ANIMALS," TO AMEND SECTION 10-22 AND ADD SECTION 10-22.1, TO ESTABLISH CONDITIONS UNDER WHICH DOGS MAY BE TETHERED AND PROVIDING THAT VIOLATIONS ARE CLASS 4 MISDEMEANORS.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia, that Chapter 10 of the Chesapeake City Code, entitled "Animals," Article 1 thereof, is hereby amended and reordained as follows:

CHAPTER 10. ANIMALS

ARTICLE 1. IN GENERAL

Sec. 10-22. Staking Tethering animals other than dogs improperly.

(a) It shall be unlawful for any person to improperly tether any animal. Improper tethering shall include chaining, staking out, or tethering an animal; ~~such~~ so that; the animal is able to cross and enter upon another's property, except that the same shall not be unlawful if the affected property owner or person having lawful possession thereof provides consent.

(b) This section shall not apply to the tethering of dogs.

Sec. 10-22.1. Tethering dogs.

(a) Definitions. As used in this section,

Body harness means a device consisting of straps made of nylon, leather or other pliable material fitted to the body of a dog and used to affix a tether for restraint of the animal.

Collar means a device made of leather, nylon, chain or other flexible material secured around the neck of a dog that is properly fitted and has enough room between

the collar and the dog's throat through which two adult fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering a dog.

Properly fitted means worn without causing discomfort, pain, or injury.

Tether means, when used as a noun, any device, including but not limited to a chain, leash, cable, or tie out, attached to a stationary point or object, trolley or run used to contain or restrain a dog. When used as a verb, tether shall mean to attach a dog to such a device.

(b) Nothing in this section shall prohibit the tethering of a dog that is in the immediate proximity of its owner or custodian, in a manner that does not cause discomfort, pain or injury to the dog.

(c) No person shall tether or cause to be tethered any dog that is not in the immediate proximity of its owner or custodian except under all the following conditions:

(1) The owner or custodian is present on the property;

(2) Such tethering does not exceed sixty (60) continuous minutes;

(3) The dog is six (6) months of age or older;

(4) If female, the dog is sterilized or not in estrus;

(5) The tether does not exceed ten percent (10%) of the dog's body weight;

(6) The tether is at least three (3) times the length of the dog from the tip of its nose to the base of its tail.

(7) The tether allows the dog to easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable, normal position for the dog;

(8) The tether allows the dog to interact safely with other animals, if at all;

(9) The tether is (i) appropriate for the age and size of the dog; and (ii) attached to the dog by a properly fitted collar or body harness configured to prevent the dog or tether from becoming entangled with other objects or animals or from extending over an object or edge that could result in the strangulation or injury of the dog;

(10) Only one (1) dog is attached to a single tether; and

(11) The dog is not tethered in such a manner to permit the dog to cross and enter upon another's property, except that the same shall not be unlawful if the affected property owner or person having lawful possession thereof provides consent.

(d) A violation of this section shall be a class 4 misdemeanor.

ADOPTED by the Council of the City of Chesapeake, Virginia, this _____ day of _____ 2014.

APPROVED:

Mayor

ATTEST:

Clerk of the Council