



**COMMONWEALTH of VIRGINIA**  
**Office of the Attorney General**

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Animal Control Professionals:

During these excessively hot days of summer, I wanted to remind you of the new shelter/space laws which went into effect July 1, 2020.

In particular, the new tethering provisions are more stringent than they have been. An animal cannot be chained under these 3 sets of conditions:

1. Unless the animal is safe from predators and well suited and well equipped to tolerate its environment; or
2. During the effective period for a hurricane warning or tropical storm warning issued for the area by the National Weather Service; or
3. (c)(1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning.

**It is clear that an animal is not going to be well suited or well equipped to tolerate its environment when 2 or 3 of the above conditions are met.**

The new law put in an exception to these (c) (1), (2) or (3) categories “unless an animal control officer, having inspected an animal’s individual circumstances in clause (c) (1), (2) or (3), has determined the animal to be safe from predators and well suited and well equipped to tolerate its environment.”

This means that you, as an Animal Control Officer, have to certify that the animal is, in fact, safe from predators, and well suited and well equipped to tolerate its environment during (c) (1), (2) or (3). You should only make that certification if you can guarantee the animal’s safety and welfare in its environment (c) (1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period

for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning.

In fact, if you do a certification, it should be limited in time and scope for the day and time you were on the property. Otherwise, you and your department will be liable for the animal's demise if it occurs after you leave the property. **This exception should be cautiously used.**

**These new amendments are not to be ignored and they must be enforced.**

In addition, adequate space has been amended as well – the tether has been extended in length and a certification by an ACO can create an exemption. “When an animal is tethered...the tether is at least 15 feet in length or four times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line or when an animal control officer, having inspected an animal's individual circumstances, has determined that in such an individual case, a tether of at least 10 feet or three times the length of the animal, but shorter than 15 feet or four times the length of the animal, makes the animal more safe, more suited, and better equipped to tolerate its environment than a longer tether.”

**Again, as the Animal Control Officer, you have to make the certification and I recommend any certification must be for the time and duration of your visit and no absolute certification can be made because the conditions change once you leave the property.**

Many Officers have asked why more protection is given to the chained animal than to the animal that is living in a pen – the answer is we don't give more protection. Adequate shelter and adequate space still have the same definition and you must enforce it. In particular, the shelter must protect the animal from the adverse effects of heat and cold. As you know, any compliance investigation typically has more than one violation to the neglect code (VA Code Section 3.2-6503). And thus, you should step up your enforcement and make owners of animals comply with the provision of our neglect statute.

Adequate shelter has always required the companion animal is safe and protects each animal from injury, rain, sleet, snow, hail, “direct sunlight”, “the adverse effects of heat or cold”, physical suffering, and impairment of health. Adequate shelter also must be properly shaded and does not readily conduct heat during hot weather. Because of the extreme heat, if the shelter is conducting heat or is not keeping the animal cool, the owner must do something different. One way to know whether the shelter is adequate is to take the temperature inside the shelter.

What does compliance mean? You may provide the owner with the following options:

1. Owner can bring the dog into the house, especially during the hottest part of the day (offer wire crates if you have them);
2. Surrender the dog to ACO; or

3. ACO can take temporary custody of the dog (you can charge them a fee for the custody)

If the owner does not want to comply, you should seize the dog. Under the weather advisories we are currently experiencing and may experience in the future, the owners can and should be charged with cruelty under 3.2-6570(A)(i).

It is also important for you to review the new felony provisions of the animal cruelty code (Virginia Code 3.2-6570 (F)) because it may apply in these instances.

**Compliance is what you should be striving for at every call and the welfare of the animal should always be your first concern.**

Please feel free to reach out to me if you should have any questions.

Sincerely,



Michelle Welch

Director of the Animal Law Unit, Office of Attorney General Mark R. Herring