

15. DISCUSSION REGARDING HUNTING WEAPON RESTRICTIONS FOR COYOTES

Supervisors Faison and Phillips asked that this matter be placed on your agenda for discussion. Currently, the Virginia state game regulations classify coyotes as a nuisance species and allow them be killed at anytime, except they may not be killed with a gun, firearm, or other weapon on Sunday.

However, Section 10-26 of the Southampton County Code makes it unlawful to hunt with a rifle larger than .22 caliber except for hunting groundhogs between March 1 and August 31. The language in our county code mirrors the enabling legislation contained in § 29.1-528 of the *Code of Virginia*:

LOCAL ORDINANCE

Sec. 10-26. - Hunting weapons restricted.

(a) It shall be unlawful to hunt with a rifle larger than twenty-two one hundredths of an inch (.22) caliber rim fire except rifles of a larger caliber may be used for hunting groundhogs between March 1 and August 31;

(b) It shall be unlawful to hunt with a muzzle-loading rifle at anytime;

(c) It shall be unlawful to hunt with a muzzle-loading shotgun loaded with slugs or sabot slugs; and

(d) Any person violating the provisions of this section, upon conviction, shall be guilty of a Class 3 Misdemeanor and shall be punished accordingly.
(Code 1976, § 11-36.1; Ord. of 3-24-03(2))

State law reference— Authority for above section, Code of Virginia, §§ 29.1-100, 29.1-519, and 29.1-528; prohibiting hunting with certain firearms, Code of Virginia, § 29.1-528.

STATE ENABLING LEGISLATION

§ 29.1-528. **Board to develop model ordinances for hunting with firearms; counties or cities may adopt.** — A. The Board shall promulgate regulations establishing model ordinances for hunting with firearms that may be adopted by counties or cities. Such model ordinances developed by the Board shall address such items as, but are not limited to, firearm caliber, type of firearm (e.g., rifle, shotgun, muzzleloader), and type of ammunition. The governing body of any county or city may, by ordinance, prohibit hunting in such county or city with a shotgun loaded with slugs, or with a rifle of a caliber larger than .22 rimfire. However, such ordinance may permit the hunting of groundhogs with a rifle of a caliber larger than .22 rimfire between March 1 and August 31. Such ordinance may also permit the use of muzzle-loading rifles during the prescribed open seasons for the hunting of game species. Any such ordinance may also specify permissible type of ammunition to be used for such hunting.

B. No such ordinance shall be enforceable unless the governing body notifies the Director by registered mail prior to May 1 of the year in which the ordinance is to take effect.

C. In adopting an ordinance pursuant to the provisions of this section the governing body of any county or city may provide that any person who violates the provisions of the ordinance shall be guilty of a Class 3 misdemeanor. (1976, c. 443, § 29-144.6; 1977, cc. 20, 377; 1978, c. 303; 1986, c. 342; 1987, c. 488; 1989, c. 421; 2007, c. 642.)

Messrs. Faison and Phillips have been contacted by constituents with an interest in shooting coyotes with rifles larger than .22 caliber.

As you know, Virginia operates under what's known as the Dillon Rule - lawyers call it a rule of statutory construction. Simply put, the Dillon Rule construes power to localities very narrowly. Under the Dillon Rule, local governments have only those powers granted to them in express words and if there is a question about a local government's power or authority, then the local government does not receive the benefit of the doubt. In the absence of express authority, one must assume that the local government does not have the power in question.

Accordingly, if this is something you're interested in pursuing, Mr. Railey has suggested that you contact our local delegates and senators and ask them to introduce legislation at next year's session authorizing us to amend our local ordinance to permit larger caliber rifles for the hunting of coyotes.

MOTION REQUIRED: If the Board is so inclined, a motion is required directing staff to seek assistance from our state elected officials in amending the Code of Virginia as described above.