

**Ordinance To Amend and Reenact Chapter 5 - Animals of the City Code of Hampton, Virginia By Amending: Article 1 Section 5-2, Section 5-6, Section 5-7, Section 5-8, Section 5-11, and Section 5-12; Article II Section 5-24, Section 5-24.1, and Section 5-26; Article III Section 5-37, Section 5-38, Section 5-40, Section 5-42, and Section 5-43; Article IV Section 5-53, Section 5-54, and Section 5-57; Article V Section 5-77, Section 5-79, Section 5-82, Section 5-84, Section 5-85, Section 5-86, and Section 5-87; Article VI Section 5-100, Section 5-101, Section 5-102, Section 5-103, Section 5-104, and Section 5-105; and Article VII Section 5-106, and Section 5-108.**

**BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Chapter 5 of the City Code of the City of Hampton, Virginia be amended to read as follows:

## **CHAPTER 5 - ANIMALS**

### **ARTICLE I. – IN GENERAL**

#### **Sec. 5-2. - Definitions.**

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*Boarding kennel or establishment* means a place or establishment, other than public or private animal shelter, where companion animals not owned by the proprietor are sheltered, fed and watered in exchange for a fee.

*Collar* means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

*Companion animals* means dogs, both domestic and feral; cats, both domestic and feral; nonhuman primates; guinea pigs; hamsters; rabbits not raised for human food or fiber; exotic or native animals; reptile; exotic and native birds; or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this chapter.

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*Housing facility or facility* means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, used to contain a primary enclosure or enclosures in which animals are housed or kept.

*Foster care provider* means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

*Foster home* means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

*Home-based rescue* means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

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*Humane society* means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

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*Owner* means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as custodian of an animal.

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*Private animal shelter* means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any similar organization.

*Public animal shelter* means a facility operated by the commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

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**Sec. 5-6. – Violation of chapter by animal control officer, shelter or pound custodian.**

- (a) No animal control officer or custodian of any pound or animal shelter shall (i) obtain the release or transfer of an animal by the animal's owner to such animal control officer, humane investigator, humane society or custodian for personal gain or (ii) give or sell or negotiate for the gift or sale to any individual, pet shop, dealer, or research facility of any animal which may come into his custody in the course of carrying out his official assignments. No animal control officer or custodian of any pound or animal shelter, nor any member or employee of the firm, partnership or corporation of said pound or animal shelter shall be granted a dealer's license under section 5-73. Violation of this subsection shall be a Class 1 misdemeanor. Nothing in this section shall preclude any animal control officer from lawfully impounding any animal pursuant to Article V of this chapter of the Hampton City Code.
- (b) Any animal control officer or custodian of any pound who violates any provision of Chapter 5 of the Hampton City Code which relates to the seizure, impoundment and custody of animals by an animal control officer may be subject to suspension or dismissal from his position.

**Sec. 5-7. – Sterilization of dogs and cats; enforcement; civil penalty.**

- (a) Every new owner of a dog or cat adopted from a releasing agency within the city or from a releasing agency receiving funding of any kind from the city shall cause to be sterilized the dog or cat pursuant to the agreement required by subdivision 2 of subsection (b) of this section.
- (b) A dog or cat shall not be released for adoption from a releasing agency within the city or from a releasing agency receiving funding of any kind from the city unless:
  - (1) The animal has already been sterilized; or
  - (2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian (i) within 30 days of the adoption, if the animal is sexually mature, or (ii) within 30 days after the animal reaches six (6) months of age, if the animal is not sexually mature at the time of adoption.
- (c) A releasing agency may extend for 30 days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian and the releasing agency may negotiate the terms of an extension of the date by which the animal must be sterilized.
- (d) Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency, and the new owner.
- (e) Upon the petition of an animal control officer, humane investigator, the State Veterinarian or a State Veterinarian's representative to the district court, the court may order the new owner to take any steps necessary to comply with the requirements of this article. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this article.
- (f) Any person who violates subsection (a) or (b) of this section shall be subject to a civil penalty not to exceed \$250.
- (g) Any agreement used by a releasing agency pursuant to subsection (b) shall contain:
  - (1) The date of the agreement;
  - (2) The names, addresses, and signatures of the releasing agency and the new owner;
  - (3) A description of the dog or cat to be adopted;
  - (4) The date by which the dog or cat is required to be sterilized; and
  - (5) A statement printed in conspicuous, bold print, that sterilization of the dog or cat is required under this article; that a person who violates this article is subject to a civil

penalty; and that the new owner may be compelled to comply with the provisions of this article.

- (h) Each new owner who signs a sterilization agreement shall, within seven (7) days of the sterilization, cause to be delivered or mailed to the releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed \$150.
- (i) If an adopted dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven (7) days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death. Any person who violates this section shall be subject to a civil penalty not to exceed \$25.
- (j) This article shall not apply to:
  - (1) An owner reclaiming his dog or cat from a releasing agency within the city or from a releasing agency receiving funding of any kind from the city.
  - (2) A releasing agency within a locality that has adopted a more stringent mandatory sterilization ordinance; and
  - (3) A local governing body that has disposed of an animal by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the commonwealth.
- (k) An animal control officer, humane investigator, releasing agency, the State Veterinarian or State Veterinarian's representative shall be entitled to bring a civil action for any violation of this article that is subject to a civil penalty. Any civil penalty assessed pursuant to this article shall be paid into the treasury of the city and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of cats and dogs.

**Sec. 5-8. – Allowing animal to go on land of another and damage property.**

- (a) No person shall suffer or permit any animal belonging to him or under his control to go upon the land of another person and damage or destroy any garden, shrubs, grass or other property thereon.
- (b) Any violation of this section shall be punishable by a fine of not less \$20 nor more than \$50. Upon a second conviction, within the period of one (1) year, of a violation of this section involving the same animal, such person shall be fined not less than \$30 nor more than \$100 and the court may order the owner or custodian of such animal to

remove it from the city within a period of two (2)-weeks, and upon the failure of such owner or custodian to comply with such order, such animal shall be seized by an animal control officer or law enforcement officer and euthanized or otherwise disposed of in a manner consistent with normal procedures, and the owner shall be fined not less than \$200 nor more than \$500.

- (c) Any person owning property which is damaged or destroyed by any violation of this section may enter his complaint, by a warrant issued against the owner or custodian of the animal involved, and the complaint shall be heard by the court as all other complaints under criminal warrants are heard.

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**Sec. 5-11. – Confinement of reptiles.**

It shall be unlawful for the owner or keeper of any exotic reptile or type of reptile not native to the commonwealth, including but not limited to the American alligator, to keep the reptile in any manner that will permit its escape or to knowingly permit the reptile to run at large. Any violation of this section shall constitute a Class 2 misdemeanor.

**Sec. 5-12. – Disposal of dead animals and fowl generally.**

- (a) When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried or request such service from an officer or other person designated for the purpose. If the owner fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed \$75, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed \$5, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.
- (b) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

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**ARTICLE II. – AGRICULTURAL ANIMALS**

**Sec. 5-24. – Location and maintenance of poultry and animal yards generally.**

- (a) It shall be unlawful for any person to maintain in the city any poultry or animal yard within 175 feet of any buildings used for residential purposes or within 250 feet of any church or school building; provided, however, that the person maintaining such yard may do so within 175 feet of such person's own personal residence and further provided, that this subsection shall not apply to the keeping of pigeons.

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**Sec. 5-24.1. – Location and maintenance of domestic chickens generally.**

Except as specified in Section 5-24, it shall be unlawful for any person to keep domestic chickens within the city without first demonstrating compliance with this section and applying for and obtaining a permit to do so.

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- (e) Shelters, pens, coops, or cages shall not be located within the required building setbacks and shall be a minimum of 25 feet away from any neighboring residence or place of business.

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- (h) Any person wishing to keep chickens pursuant to this section shall first obtain a permit. Applications for such permit shall be obtained from the Treasurer for the City of Hampton upon payment of an application fee of \$25. Hampton Animal Control shall conduct an investigation of the information contained in the application within a reasonable time and either approve or deny the permit.

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- (k) A violation of any provision of this section shall be punishable by a fine of not less than \$250.

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**Sec. 5-26. – Running at large.**

- (a) *Agricultural animals.* No person shall permit any agricultural animal owned or controlled by such person to run at large within the city limits.
- (b) *Impoundment, holding and redemption of animals.* Any animal found running at large in violation of this section shall be taken up by an animal control officer or any police officer and impounded at a place provided by the city for such purpose. Such animal shall be held for a period of five (5) days, during which time the owner may redeem the animal, by proving ownership and paying the costs incurred by the city in impounding and caring for such animal. If the rightful owner of the animal confined may be readily identified, the operator of the pound shall make a reasonable effort to notify such owner within 24 hours of its confinement.

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### ARTICLE III. – DOGS AND CATS GENERALLY

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#### Sec. 5-38. – Running at large.

(c) It shall be the duty of an animal control officer or other officer who may find any dog or cat running at large in violation of section 5-38(a) and (b), respectively, to forthwith take the animal into custody and dispose of it in the following manner

- (1) The dog or cat shall be impounded in the animal shelter for a period of not less than five (5) days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof. The operator or custodian of the animal shelter shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification and make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement. If such identification is found on the animal, the animal shall be held for an additional five (5) days, unless sooner claimed by the rightful owner. If the owner or keeper of the dog or cat is known, or the owner can be reasonably ascertained through a collar, tag, license, tattoo or other form of identification, an animal control officer shall issue a summons within 24 hours to such owner directing him to appear in court and answer charges for violation of this section. If the identity of the owner cannot be ascertained at the time of impoundment, then the summons shall be issued at such time as the owner shall reclaim the dog or cat.
- (2) In all cases under this section, the owner may, upon proof of ownership, redeem the dog within the prescribed period of time as stated in subsection (1) and upon proof of ownership and payment of the actual expenses incurred in keeping the animal impounded. The fee for redeeming the dog shall be the sum of \$20 for the first 24 hours or portion thereof and the sum of five dollars \$5 for each succeeding day or fraction thereof; provided, however, that the minimum payment shall be twenty dollars \$20. For each subsequent impoundment within a twelve-month period, the owner may redeem the dog within the prescribed period of time as stated in subsection (1) upon payment of the sum of \$25 for the first 24 hours or portion thereof and the sum of \$5 for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be \$25.
- (3) In all cases under this section, the owner may redeem the cat, within the prescribed period of time as stated in subsection (1), upon proof of ownership, payment of the actual expenses incurred in keeping the animal, and proof of proper rabies inoculation in accordance with section 5-100 of the Hampton City Code. The fee for redeeming the cat shall be the sum of \$20 for the first 24 hours or portion thereof and the sum of

five dollars (\$5) for each succeeding day or fraction thereof; provided, however, that the minimum payment shall be \$20. For each subsequent impoundment within a twelve-month period, the owner may redeem the cat within the prescribed period of time as stated in subsection (1) upon payment of the sum of \$25 for the first 24 hours or portion thereof and the sum of five dollars (\$5) for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be \$25.

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**Sec. 5-40. – Kennels limited to fifty dogs.**

It shall be unlawful for any person to own, operate or maintain within the city any kennel for more than 50 dogs.

**Sec. 5-42. – Dangerous dogs; penalties.**

(a) As used in this section:

*"Dangerous dog"* means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on another dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

(b) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact a local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be



heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The burden of proof shall be beyond a reasonable doubt.

- (c) No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.
- (d) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.
- (e) The owner of any animal found to be a dangerous dog shall, within 45 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$150 in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be renewed annually for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

- (f) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (a) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (b) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.
- (g) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to § 3.2-6503 of the Code of Virginia. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.
- (h) The owner of an animal found to be a dangerous dog shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.
- (i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ~~ten~~ (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.
- (j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

(3) Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

- (k) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by the city pursuant to § 3.2-6562 of the Code of Virginia or (ii) grant the owner up to 45 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by the city pursuant to § 3.2-6562 of the Code of Virginia. The court in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

(l) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, and the fees due to the state veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the city for the purpose of paying the expenses of any training course required under Virginia Code § 3.2-6556.

(m) This section is enacted pursuant to Virginia Code § 3.2-6540(M).

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**Sec. 5-43. – Unlawful care of feral cats.**

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(b) It shall be the duty of an animal control officer or a to issue notice of noncompliance specifying that the caregiver has ~~forty-eight (48)~~ hours to provide a written response including how the colony will be brought into compliance within a ninety-day time period. The caregiver shall make weekly progress reports to the animal control office.

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**ARTICLE IV. – DOG AND CAT LICENSES**

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**Sec. 5-53. – Tax imposed.**

(a) A license tax is hereby imposed on dogs and cats required to be licensed under this article in the following amounts:

- (1) Male or female dog or cat ..... \$10
- (2) Unsexed dog or cat (neutered or spayed) .....\$4
- (3) Kennel for 10 or less dogs or cats .....\$30
- (4) Kennel for 11 to 30 dogs or cats .....\$40
- (5) Kennel for 31 to 50 dogs or cats .....\$50

Kennel to be defined in accordance with section 5-2 of the Hampton City Code for the purposes of this section.

(b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person or that is trained and serves as a service dog for a mobility-impaired person. As used in this subsection, the term "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

**Sec. 5-54. – When tax due and payable.**

- (a) The license tax as prescribed in section 5-53 is due no later than 30 days after a dog or cat has reached the age of four (4) months, or not later than 30 days after an owner acquires a dog or cat four (4) months of age or older and each year thereafter.
- (b) Licensing periods for individual dogs and cats may be equal to and may run concurrently with the rabies vaccination effective period. Any kennel license tax prescribed pursuant to section 5-53 shall be due on January 1 and not later than January 31 of each year.

**Sec. 5-57 Issuance, composition, and contents of license**

- (a) Any person may obtain a dog license or cat license by making oral or written application to the treasurer of the locality where such person resides, accompanied by the amount of license tax and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained. The treasurer or other officer charged with the duty of issuing dog and cat licenses shall only have authority to license dogs and cats of resident owners or custodians who reside within the boundary limits of his county or city and may require information to this effect from any applicant. Upon receipt of proper application and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained, the treasurer or other officer charged with the duty of issuing dog and cat licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether dog or cat, whether male or female, whether spayed or neutered, or whether a kennel, and deliver the metal license tags or plates provided for herein. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The treasurer may establish substations in convenient locations in the city and appoint agents for the collection of the license tax and issuance of such licenses.
- (b) Each dog or cat license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog or cat, the date of payment, the year for which the dog or cat is licensed, the serial number of the tag and whether the license is for a male, female or unsexed male or female dog or cat or for a kennel. This information shall be retained by the treasurer and shall be open for public inspection during the period for which such license is valid.

- (c) The metal tag issued under this section shall be stamped or otherwise permanently marked to show the name of the city, the sex of the dog or cat and the calendar year for which issued and shall bear a serial number.

## **ARTICLE V. – ANIMAL WELFARE**

### **Sec. 5-77. – Cruelty to animals generally.**

- (a) Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (v) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vi) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vii) causes any of the above things, or being the owner of such animal permits such acts to be done by another, is guilty of a Class 1 misdemeanor.
- (b) In addition to the penalties provided in subsection A, the court may, in its discretion, require any person convicted of a violation of subsection A to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.
- (c) Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal

husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv) or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

- (d) Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.
- (e) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.
- (f) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.
- (g) Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule Sec. 5-42, 5-42.1, or 3.2-6552 of the Code of Virginia.
- (h) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

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**Sec. 5-79. – General duty of owners to provide food, water, shelter, etc.**

- (a) Each owner shall provide for each of his companion animals:
  - (1) Adequate feed;
  - (2) Adequate water;
  - (3) Adequate shelter that is properly cleaned;
  - (4) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
  - (5) Adequate exercise;
  - (6) Adequate care, treatment, and transportation; and
  - (7) Veterinary care when needed or to prevent suffering or disease transmission.

The provisions of this section shall also apply to every public or private animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

- (b) Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision A 1, 2, 3, or 7 is a Class 2 misdemeanor and a second or subsequent violation of subdivision A 4, 5, or 6 is a Class 3 misdemeanor.

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**Sec. 5-82. – Care of animals being transported.**

No owner, railroad or other common carrier when transporting any animal shall allow that animal to be confined in any type of conveyance more than 24 consecutive hours without being exercised, properly rested, fed and watered as necessary for that particular type and species of animal. A reasonable extension of this time shall be permitted when an accident, storm or other act of God causes a delay. Adequate space in the primary enclosure within any type of conveyance shall be provided each animal depending upon the particular type and species of animal. No person shall import into the commonwealth, nor export from the commonwealth, for the purpose of sale or offering for sale any dog or cat under the age of eight (8) weeks without its dam. Violation of this section shall be punishable as a Class 1 misdemeanor.

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**Sec. 5-84. – Sale, etc., of unweaned or certain immature animals prohibited.**

- (a) No person shall sell, raffle, or offer for sale as pets or novelties, or offer or give as a prize, premium, or advertising device any living chicks, ducklings, or other fowl under two (2) months old in quantities of less than six (6) or any unweaned mammalian companion animal or any dog or cat under the age of seven (7) weeks without its dam or queen. Dealers may offer immature fowl, unweaned mammalian companion animals,



dogs or cats under the age of seven (7) weeks for sale as pets or novelties with the requirement that prospective owners take possession of the animals only after fowl have reached two (2) months of age, mammalian companion animals have been weaned, and dogs and cats are at least seven (7) weeks of age. Nothing in this section shall prohibit the sale of an unweaned animal (i) as food for other animals or (ii) with the lactating dam or queen or a lactating surrogate dam or queen that has accepted the animal; (iii) due to a concern for the health or safety of the unweaned animal; or (iv) to animal control, a public or private animal shelter, or a veterinarian.

- (b) Dealers shall provide all dogs and cats with current vaccinations against contagious and infectious diseases, as recommended in writing and considered appropriate for the animal's age and breed by a licensed veterinarian, or pursuant to written recommendations provided by the manufacturer of such vaccines at least five days before any new owner takes possession of the animal. For dogs, the vaccinations required by this subsection shall include at a minimum canine distemper, adenovirus type II parainfluenza, and parvovirus. For cats, the vaccinations required by this subsection shall include at a minimum rhinotracheitis, calicivirus, and panleukopenia. Dealers shall provide the new owner with the dog's or cat's immunization history.
- (c) A violation of this section is punishable as a Class 3 misdemeanor.

**Sec. 5-85. – Misrepresentation of animal's condition.**

No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery or other method of transfer. For the purposes of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. The sale of an agricultural animal that has external or internal parasites that are not made known to the person receiving the animal shall not be a violation of this section unless the animal is clinically ill or debilitated due to such parasites at the time of sale, trade, delivery or transfer of the animal. A violation of this section shall be punishable as a Class 3 misdemeanor.

**Sec. 5-86. – Investigation of complaint of violation of article; corrective action.**

- (a) Upon receiving a complaint of a suspected violation of this chapter, any ordinance enacted pursuant to this chapter or any law for the protection of domestic animals, any animal control officer, law-enforcement officer, or State Veterinarian's representative may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment. Upon receiving a complaint of a suspected violation of any law or ordinance regarding care or treatment of animals or disposal of dead animals, any humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment.

Upon obtaining a warrant as provided for in § 3.2-6568 of the Code of Virginia, the law-enforcement officer, animal control officer, State Veterinarian's representative, or humane investigator may enter upon any other premises where the animal or animals

described in the complaint are housed or kept. Attorneys for the Commonwealth and law-enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

- (b) If the investigation discloses that a violation of Sec. 5-79 has occurred, the investigating official shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter.

**Sec. 5-87. – Impoundment of threatened, neglected, etc.**

When a humane investigator, any law-enforcement officer, an animal control officer or a licensed veterinarian finds that an apparent violation of this article has rendered an animal in such condition as to constitute a direct and immediate threat to its life, safety or health, which the owner or custodian has failed or refuses to remedy, or finds an abandoned, neglected or cruelly treated animal or one that is unfit for use, such approved humane officer, law-enforcement officer, animal control officer or licensed veterinarian may take charge of and impound the animal in a facility which will provide the elements of good care set forth in section 5-79 and shall then proceed to take such steps as are required to dispose of the animal pursuant to section 5-88.

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**ARTICLE VI. – RABIES CONTROL**

**Sec. 5-100. – Vaccination of dogs and cats**

- (a) The owner or custodian of all dogs and domesticated cats four (4) months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner or custodian of the dog or cat with a rabies vaccination certificate or herd rabies vaccination certificate and shall keep a copy in his own files. The owner or custodian of the dog or cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law enforcement officer, state veterinarian's representative, or official of the department of health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. If, however, such vaccination would threaten the physical well-being of such dog or cat, the owner of such dog or cat shall obtain a certificate, signed by a licensed veterinarian, certifying such fact; and the owner shall keep such dog or cat in quarantine until the same is vaccinated.
- (b) Any person transporting a dog or cat into the city from some other jurisdiction shall comply with the requirements of subsection (a) of this section within 30 days subsequent to bringing such dog or cat into the city.
- (c) A veterinarian vaccinating a dog or cat as required by this section shall issue to the owner of the dog or cat a certificate of vaccination showing:

- (1) Date of the vaccination;
- (2) Sex and breed of the dog or cat;
- (3) The dog's or cat's weight, color and marks;
- (4) Rabies tag number;
- (5) Name of the owner;
- (6) Amount and kind of vaccine injection; and
- (7) Method of injection.

**Sec. 5-101. Report of existence of rabid animal.**

Every person having knowledge of the existence of an animal that is suspected to be rabid and that may have exposed a person, companion animal, or livestock to rabies shall report immediately to the health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms signs suggesting rabies.

**Sec. 5-102. Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large.**

When there is sufficient reason to believe that the risk of exposure to rabies is elevated, the city council shall have the power to pass an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all dogs and cats in the city to keep the same confined on their premises, unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten by a rabid animal. Any 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 city council.

**Sec. 5-103. – Confinement or destruction of dogs or cats showing signs of, or suspected of having, rabies.**

Any dog or cat showing active signs of rabies or suspected of having rabies that is not known to have exposed a person, companion animal or livestock to 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 or cat shall be euthanized by one (1) of the methods approved by the state veterinarian as provided in Code of Virginia, § 3.2-6546.

**Sec. 5-104. – Destruction or confinement of dog or cat bitten by rabid animal.**

Any dog or cat, for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six (6) months at the expense of the owner or custodian in a manner and by a date certain as determined by the health director. A rabies vaccination shall be administered by a licensed veterinarian prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of a valid rabies vaccination, shall be revaccinated by a licensed veterinarian immediately following the exposure and shall be confined to the premises of the owner or custodian, or other site as may be approved by the local health department at the expense of the owner or custodian, for a

period of 45 days. If the local health director determines that isolation is not feasible or maintained, such dog or cat shall be euthanized by one of the methods approved by the state veterinarian as provided in § 3.2-6546 of the Code of Virginia. The disposition of such dogs or cats not so confined shall be at the discretion of the local health director.

**Sec. 5-105. – Confinement or destruction of animal which has bitten person.**

At the discretion of the local health director, any animal that may have exposed a person shall be confined under competent observation for 10 days at the expense of the owner or custodian, unless the animal develops active symptoms of rabies, expires, or is euthanized before that time. A seriously injured or sick animal may be humanely euthanized as provided in Code of Virginia, § 3.2-6546, and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services, or the local health department, for evaluation.

**ARTICLE VII. – HYBRID CANINES**

**Sec. 5-106. – Definitions.**

*Adequate confinement* means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to: (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to § 3.2-6540 of the Code of Virginia or section 5-42 of this chapter, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine; and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

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**Sec. 5-108. – Same- Application fee.**

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(b) Any application for a hybrid canine permit shall be accompanied by payment of an application fee in the amount of \$50.