

1 **Ordinance to Amend and Re-Enact Chapter 5 of the City Code of the City of**
2 **Hampton, Virginia Entitled “Animals” by Amending Articles I and III – VII**

3 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Articles I, III, IV,
4 V, VI, and VII of Chapter 5 of the City Code of the City of Hampton, Virginia be
5 amended and re-enacted as follows:

6 **ARTICLE I. - IN GENERAL**

7

8 **Sec. 5-2. - Definitions.**

9 Unless otherwise expressly stated or the content clearly indicates a different
10 intention, the following words and terms shall, for the purposes of this chapter, have the
11 meaning indicated in this section:

12

13 *Adequate shelter* means provision of and access to shelter that is suitable for the
14 species, age, condition, size, and type of each animal; provides adequate space for
15 each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct
16 sunlight, the adverse effects of heat or cold, physical suffering, and impairment of
17 health; is properly lighted; is properly cleaned; enables each animal to be clean and dry,
18 except when detrimental to the species; *during hot weather, is properly shaded and*
19 *does not readily conduct heat; during cold weather, has a windbreak at its entrance and*
20 *provides a quantity of bedding material consisting of straw, cedar shavings, or the*
21 *equivalent that is sufficient to protect the animal from cold and promote the retention of*
22 *body heat;* and, for dogs and cats, provides a solid surface, resting platform, pad,
23 floormat, or similar device that is large enough for the animal to lie on in a normal
24 manner and can be maintained in a sanitary manner. Under this chapter, shelters
25 whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings,
26 (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or
27 toes from injury are not adequate shelter.

28 *Adequate space* means sufficient space to allow each animal to (i) easily stand, sit,
29 lie, turn about, and make all other normal body movements in a comfortable, normal
30 position for the animal and (ii) interact safely with other animals in the enclosure. ~~When~~
31 ~~an animal is tethered, adequate space means a tether that permits the above actions~~
32 ~~and is appropriate to the age and size of the animal; is attached to the animal by a~~
33 ~~properly applied collar, halter, or harness configured so as to protect the animal from~~
34 ~~injury and prevent the animal or tether from becoming entangled with other objects or~~
35 ~~animals, or from extending over an object or edge that could result in the strangulation~~
36 ~~or injury of the animal; and is at least three (3) times the length of the animal, as~~
37 ~~measured from the tip of its nose to the base of its tail, except when the animal is being~~
38 ~~walked on a leash or is attached by a tether to a lead line. When freedom of movement~~
39 ~~would endanger the animal, temporarily and appropriately restricting movement of the~~

40 animal according to professionally accepted standards for the species is considered
41 provision of adequate space.

42

43 *At large* shall mean *any dog* roaming, running, or self-hunting off the property of its
44 owner or custodian and not under its owner's or custodian's immediate control by leash,
45 rope, or chain attached to a commercial pet collar or harness or contained within a pet
46 carrier, crate or enclosed pet stroller. A dog shall not be considered at large if it is on a
47 bona fide hunt in the city in the company of the hunter; is off leash in an officially
48 designated Bark Park; or is off leash in a space within a public park defined as an off-
49 leash dog area by the director of parks, recreation and leisure services and identified by
50 signage as available for off-leash dog activity. At large shall not apply to any person
51 while engaged in law enforcement or search and rescue activity; in a supervised formal
52 obedience training class or show; ~~or~~ during formally sanctioned field trials or field dog
53 training; *or while a dog is actively engaged in service to its owner or custodian as a*
54 *service dog.*

55

56 *Livestock* includes all domestic or domesticated: bovine animals; equine animals;
57 bovine; porcine animals; cervidae animals; capradae animals; animals of the genus
58 Lama *or Vicugna*; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia
59 Code § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or
60 fiber; or any other individual animal specifically raised for food or fiber, except
61 companion animals.

62

63 *Nuisance shall mean (i)* as pertaining to dogs, ~~means~~ excessive, continuous or
64 untimely barking, howling, molesting of passersby, chasing vehicles, attacking other
65 domestic animals, or unwelcome trespassing upon school grounds, private or public
66 property.; *(ii) as Nuisance* pertaining to cats, ~~means~~ excessive, continuous or untimely
67 caterwauling, a sound made during courtship, and/or destructive trespassing on the
68 property of another. ~~Other officer includes all other persons employed or elected by the~~
69 ~~people of Virginia or by any municipality, county, or incorporated town thereof, whose~~
70 ~~duty it is to preserve the peace, to make arrests or to enforce the law.~~

71

72 *Pet shop* means ~~an~~ *a retail* establishment where companion animals are bought,
73 sold, exchanged or offered for sale or exchange to the general public.

74

75 *Primary enclosure* means any structure used to immediately restrict an animal or
76 animals to a limited amount of space, such as a room, pen, cage, compartment or
77 hutch. ~~For tethered animals, the term includes the shelter and the area within reach of~~
78 ~~the tether.~~

79

80 *Properly cleaned means that carcasses, debris, food waste, and excrement are*
81 *removed from the primary enclosure with sufficient frequency to minimize the animal's*
82 *contact with the above-mentioned contaminants; the primary enclosure is sanitized with*
83 *sufficient frequency to minimize odors and the hazards of disease; and the primary*
84 *enclosure is cleaned so as to prevent the animals confined therein from being directly or*
85 *indirectly sprayed with the stream of water, or directly or indirectly exposed to*
86 *hazardous chemicals or disinfectants.*

87
88 *Properly lighted when referring to a facility means sufficient illumination to permit*
89 *routine inspections, maintenance, cleaning, and housekeeping of the facility, and*
90 *observation of the animals; to provide regular diurnal lighting cycles of either natural or*
91 *artificial light, uniformly diffused throughout the facility; and to promote the well-being of*
92 *the animals.*

93
94 *Properly lighted when referring to a private residential dwelling and its surrounding*
95 *grounds means sufficient illumination to permit routine maintenance and cleaning*
96 *thereof, and observation of the companion animals; and to provide regular diurnal*
97 *lighting cycles of either natural or artificial light to promote the well-being of the animals.*

98
99 *Releasing agency means (i) a public animal shelter or (ii) a private animal shelter,*
100 *humane society, animal welfare organization, society for the prevention of cruelty to*
101 *animals, or other similar entity or home-based rescue that releases companion animals*
102 *for adoption.*

103
104 *Sore means, when referring to an equine, that an irritating or blistering agent has*
105 *been applied, internally or externally, by a person to any limb or foot of an equine; any*
106 *burn, cut, or laceration that has been inflicted by a person to any limb or foot of an*
107 *equine; any tack, nail, screw, or chemical agent that has been injected by a person into*
108 *or used by a person on any limb or foot of an equine; any other substance or device that*
109 *has been used by a person on any limb or foot of an equine; or a person has engaged*
110 *in a practice involving an equine, and as a result of such application, infliction, injection,*
111 *use, or practice, such equine suffers, or can reasonably be expected to suffer, physical*
112 *pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving,*
113 *except that such term does not include such an application, infliction, injection, use, or*
114 *practice in connection with the therapeutic treatment of an equine by or under the*
115 *supervision of a licensed veterinarian. Notwithstanding anything contained herein to the*
116 *contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as*
117 *permitted by 9 C.F.R. Part 11.2.*

118

119 **State Law reference—** Similar definitions, Code of Virginia, § 3.2-5900.

120 **Sec. 5-10. - Dangerous animals, other than dogs.**

- 121 (a) No person shall suffer or permit any animal belonging to him or under his control
122 and known or reasonably suspected of being dangerous to be kept in the city at any
123 time except in strict confinement in such manner as to be safe for the public at large
124 or any person licensed to go on the premises on which such animal is kept. This
125 section shall not apply to dogs.
- 126 (b) The term "dangerous animal" shall be defined for the purposes of this section has
127 any animal, other than a dog, which attacks a human being or another animal
128 without provocation; or any animal, other than a dog, with a known propensity,
129 tendency or disposition to attack a human being or another animal without
130 provocation. For purposes of this section, proof that any animal has bitten one (1) or
131 more persons or animals without provocation shall be considered as prima facie
132 evidence that such animal is dangerous.
- 133 (c) No animal shall be declared dangerous if the threat, injury or damage was
134 sustained by a person who, at the time, was committing a willful trespass or other
135 tort upon the premises occupied by the owner or keeper of the animal or was
136 teasing, tormenting, abusing or assaulting the animal or has, in the past, been
137 observed or reported to have teased, tormented, abused or assaulted the animal or
138 was committing or attempting to commit a crime. No animal shall be declared
139 dangerous if it attacks other animals which are trespassing on the premises
140 occupied by the owner or keeper of the animal.
- 141 (d) It shall be the duty of an animal control officer or ~~other~~ *law enforcement* officer
142 who may find any dangerous animal that is either: not in strict confinement as
143 required by subsection (a); or that has attacked a human being or another animal
144 and whose presence in the city represents a continuing threat of serious harm to
145 human beings or other animals, to forthwith take the dangerous animal in custody
146 and dispose of it in accordance with section 5-38(b) or, in the alternative, to hold the
147 animal until disposition by the court under sections 5-10 and 5-10.1.

148 **Cross reference**— Dangerous dogs; penalties, § 5-42.

149

150 **ARTICLE III. – DOGS AND CATS GENERALLY**

151 **Sec. 5-37. - Dogs and cats deemed personal property; rights relating thereto.**

152 All dogs and cats shall be deemed personal property and may be the subject of
153 larceny and malicious or unlawful trespass, and the owners thereof may maintain any
154 action for the killing of such dogs or cats, or injury thereto, or unlawful detention or use
155 thereof, as in the case of other personal property. The owner of any dog or cat which is
156 injured or killed contrary to the provisions of this chapter by any person shall be entitled
157 to recover the value thereof or the damage done thereto in an appropriate action at law
158 from such person. An animal control officer or other officer finding a stolen dog or cat or
159 a dog or cat held or detained contrary to law shall have authority to seize and hold such
160 dog or cat pending action before the general district court or other court. If no such
161 action is instituted within seven (7) days, the animal control officer or other officer shall

162 deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a
163 person other than its legal owner shall raise no presumption of theft against the owner
164 and the animal control officer may take such dog or cat in charge and notify its legal
165 owner to remove him. The legal owner of a dog or cat shall pay a reasonable charge for
166 the keep of such dog or cat while in the possession of the animal control officer, such
167 charge not to exceed that prescribed in section 5-38.

168 **State Law reference—** Similar provisions, Code of Virginia, § 3.2-6585.

169

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

171 (a) As used in this section *Dangerous dog* means:

172 (1) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a
173 companion animal that is a dog or cat or killed a companion animal that is a dog
174 or cat. A canine or canine crossbreed is not a dangerous dog if, upon
175 investigation, a law-enforcement officer or animal control officer finds that (i) if
176 no serious physical injury, as determined by a licensed veterinarian, has
177 occurred to the dog or cat as a result of the attack or bite; (ii) both animals are
178 owned by the same person; or (iii) such attack occurred on the property of the
179 attacking or biting dog's owner or custodian; or

180 (2) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a
181 person. A canine or canine crossbreed is not a dangerous dog if, upon
182 investigation, a law-enforcement officer or animal control officer finds that the
183 injury inflicted by the canine or canine crossbreed upon a person consists solely
184 of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

185 (b) No dog shall be found to be a dangerous dog as a result of biting, attacking, or
186 inflicting injury on a dog or cat while engaged with an owner or custodian as part of
187 lawful hunting or participating in an organized, lawful dog handling event. No dog shall
188 be found to be a dangerous dog if the court determines, based on the totality of the
189 evidence before it, *or for other good cause*, that the dog is not dangerous or a threat to
190 the community.

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

203 evidence shall be heard and a verdict rendered. The court, through its contempt
204 powers, may compel the owner, custodian or harbinger of the animal to produce the
205 animal.

206 *(d)* If, after hearing the evidence, the court finds that the animal is a dangerous dog,
207 the court shall order the animal's owner to comply with the provisions of this section.
208 The court upon finding the animal to be a dangerous dog, may order the owner,
209 custodian, or harbinger thereof to pay restitution for actual damages to any person
210 injured by the animal or whose companion animal was injured or killed by the animal.
211 The court, in its discretion, may also order the owner to pay all reasonable expenses
212 incurred in caring and providing for such dangerous dog from the time the animal is
213 taken into custody until such time as the animal is disposed of or returned to the owner.

214 *(e) If, after hearing the evidence, the court decides to defer further proceedings*
215 *without entering an adjudication that the animal is a dangerous dog, it may do so,*
216 *notwithstanding any other provision of this section. A court that defers further*
217 *proceedings shall place specific conditions upon the owner of the dog. If the owner*
218 *violates any of the conditions, the court may enter an adjudication that the animal is a*
219 *dangerous dog and proceed as otherwise provided in this section. Upon fulfillment of*
220 *the conditions, the court shall dismiss the proceedings against the animal and the owner*
221 *without an adjudication that the animal is a dangerous dog.*

222 *(f)* The procedure for appeal and trial shall be the same as provided by law for
223 misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of
224 Chapter 15 of Title 19.2 of the Code of Virginia. The burden of proof shall be beyond a
225 reasonable doubt.

226 *(g)* ~~(d)~~ No canine or canine crossbreed shall be found to be a dangerous dog solely
227 because it is a particular breed, nor is the ownership of a particular breed of canine or
228 canine crossbreed prohibited.

229 *(h)* ~~(e)~~ No animal shall be found to be a dangerous dog if the threat, injury or damage
230 was sustained by a person who was (i) committing, at the time, a crime upon the
231 premises occupied by the animal's owner or custodian; (ii) committing, at the time, a
232 willful trespass upon the premises occupied by the animal's owner or custodian; or (iii)
233 provoking, tormenting, or physically abusing the animal, or can be shown to have
234 repeatedly provoked, tormented, abused, or assaulted the animal at other times. No
235 police dog that was engaged in the performance of its duties as such at the time of the
236 acts complained of shall be found to be a dangerous dog. No animal that, at the time of
237 the acts complained of, was responding to pain or injury, or was protecting itself, its
238 kennel, its offspring, a person, or its owner's or custodian's property, shall be found to
239 be a dangerous dog.

240 *(i)* ~~(f)~~ If the owner of an animal found to be a dangerous dog is a minor, the custodial
241 parent or legal guardian shall be responsible for complying with all requirements of this
242 section.

243 *(j)* ~~(g)~~ The owner of any animal found to be a dangerous dog shall, within thirty (30)
244 days of such finding, obtain a dangerous dog registration certificate from the local

245 animal control officer for a fee of \$150.00, in addition to other fees that may be
246 authorized by law. The local animal control officer or treasurer shall also provide the
247 owner with a uniformly designed tag that identifies the animal as a dangerous dog. The
248 owner shall affix the tag to the animal's collar and ensure that the animal wears the
249 collar and tag at all times. By January 31 of each year, until such time as the dangerous
250 dog is deceased, all certificates obtained pursuant to this subsection shall be renewed
251 annually for a fee of \$85.00 and in the same manner as the initial certificate was
252 obtained. The animal control officer shall post registration information on the Virginia
253 Dangerous Dog Registry.

254 *(k)* —~~(h)~~—All dangerous dog registration certificates or renewals thereof required to be
255 obtained under this section shall only be issued to persons eighteen (18) years of age
256 or older who present satisfactory evidence (i) of the animal's current rabies vaccination,
257 if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is
258 and will be confined in a proper enclosure or is and will be confined inside the owner's
259 residence or is and will be muzzled and confined in the owner's fenced-in yard until the
260 proper enclosure is constructed. In addition, owners who apply for certificates or
261 renewals thereof under this section shall not be issued a certificate or renewal thereof
262 unless they present satisfactory evidence that (a) their residence is and will continue to
263 be posted with clearly visible signs warning both minors and adults of the presence of a
264 dangerous dog on the property and (b) the animal has been permanently identified by
265 means of electronic implantation. All certificates or renewals thereof required to be
266 obtained under this section shall only be issued to persons who present satisfactory
267 evidence that the owner has liability insurance coverage, to the value of at least
268 \$100,000, that covers animal bites. The owner may obtain and maintain a bond in
269 surety, in lieu of liability insurance, to the value of at least \$100,000.

270 *(l)* —~~(i)~~ While on the property of its owner, an animal found to be a dangerous dog shall
271 be confined indoors or in a securely enclosed and locked structure of sufficient height
272 and design to prevent its escape or direct contact with or entry by minors, adults, or
273 other animals. While so confined within the structure, the animal shall be provided for
274 according to § 3.2-6503 of the Code of Virginia. When off its owner's property, an
275 animal found to be a dangerous dog shall be kept on a leash and muzzled in such a
276 manner as not to cause injury to the animal or interfere with the animal's vision or
277 respiration, but so as to prevent it from biting a person or another animal.

278 *(m)* —~~(j)~~ The owner of an animal found to be a dangerous dog shall cause the local
279 animal control officer to be promptly notified of (i) the names, addresses, and telephone
280 numbers of all owners; (ii) all of the means necessary to locate the owner and the dog
281 at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat
282 or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip
283 identification information; (vi) proof of insurance or surety bond; and (vii) the death of
284 the dog.

285 *(n)* —~~(k)~~ After an animal has been found to be a dangerous dog, the animal's owner
286 shall immediately, upon learning of same, cause the local animal control authority to be
287 notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another
288 animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who
289 relocates to a new address shall, within 10 days of relocating, provide written notice to

290 the appropriate local animal control authority for the old address from which the animal
291 has moved and the new address to which the animal has been moved.

292 (o) —(l) Any owner or custodian of a canine or canine crossbreed or other animal is
293 guilty of a:

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

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

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

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

311 (p) —(m) The owner of any animal that has been found to be a dangerous dog who
312 willfully fails to comply with the requirements of this section shall be guilty of a Class 1
313 misdemeanor.

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

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

329 (q) —(n) All fees collected pursuant to this section, less the costs incurred by the animal
330 control authority in producing and distributing the certificates and tags required by this
331 section, and the fees due to the ~~state veterinarian~~ *State Veterinarian* for maintenance of
332 the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the

333 treasury of the city for the purpose of paying the expenses of any training course
334 required under Virginia Code § 3.2-6556.

335 (r) ~~(e)~~-This section is enacted pursuant to Virginia Code § 3.2-6540~~(O)~~.

336 **State Law reference—** Dangerous or vicious dogs, Code of Virginia, § 3.2-6540.

337 **Sec. 5-42.1. - Control of vicious dogs; penalties.**

338 (a) As used in this section:

339 "Serious injury" means an injury having a reasonable potential to cause death or
340 any injury other than a sprain or strain, including serious disfigurement, serious
341 impairment of health, or serious impairment of bodily function and requiring significant
342 medical attention.

343 "Vicious dog" means a canine or canine crossbreed that has (i) killed a person, (ii)
344 inflicted serious injury to a person, or (iii) continued to exhibit the behavior that resulted
345 in a previous finding by a court or, on or before July 1, 2006, by an animal control officer
346 as authorized by ordinance, that it is a dangerous dog, provided that its owner has been
347 given notice of that finding.

348 (b) Any law-enforcement officer or animal control officer who has reason to believe
349 that a canine or canine crossbreed within his jurisdiction is a vicious dog shall apply
350 to a magistrate serving the jurisdiction for the issuance of a summons requiring the
351 owner or custodian, if known, to appear before the general district court at a
352 specified time. The summons shall advise the owner of the nature of the proceeding
353 and the matters at issue. If a law-enforcement officer successfully makes an
354 application for the issuance of a summons, he shall contact the local animal control
355 officer and inform him of the location of the dog and the relevant facts pertaining to
356 his belief that the dog is vicious. The animal control officer shall confine the animal
357 until such time as evidence shall be heard and a verdict rendered. The court,
358 through its contempt powers, may compel the owner, custodian, or harbinger of the
359 animal to produce the animal. If, after hearing the evidence, the court finds that the
360 animal is a vicious dog, the court shall order the animal euthanized in accordance
361 with the provisions of § 3.2-6562 of the Code of Virginia. The court, upon finding the
362 animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to
363 pay restitution for actual damages to any person injured by the animal or to the
364 estate of any person killed by the animal. The court, in its discretion, may also order
365 the owner to pay all reasonable expenses incurred in caring and providing for such
366 vicious dog from the time the animal is taken into custody until such time as the
367 animal is disposed of. The procedure for appeal and trial shall be the same as
368 provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§
369 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The city shall
370 be required to prove its case beyond a reasonable doubt.

371 (c) No canine or canine crossbreed shall be found to be a vicious dog solely because
372 it is a particular breed, nor is the ownership of a particular breed of canine or canine
373 crossbreed prohibited. No animal shall be found to be a vicious dog if the threat,

374 injury, or damage was sustained by a person who was (i) committing, at the time, a
375 crime upon the premises occupied by the animal's owner or custodian; (ii)
376 committing, at the time, a willful trespass upon the premises occupied by the
377 animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the
378 animal, or can be shown to have repeatedly provoked, tormented, abused, or
379 assaulted the animal at other times. No police dog that was engaged in the
380 performance of its duties as such at the time of the acts complained of shall be
381 found to be a vicious dog. No animal that, at the time of the acts complained of, was
382 responding to pain or injury or was protecting itself, its kennel, its offspring, a
383 person, or its owner's or custodian's property, shall be found to be a vicious dog.

384 ~~(d) Any owner or custodian of a canine or canine crossbreed or other animal whose~~
385 ~~willful act or omission in the care, control, or containment of a canine, canine~~
386 ~~crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless~~
387 ~~disregard for human life and is the proximate cause of such dog or other animal~~
388 ~~attacking and causing serious injury to any person is guilty of a Class 6 felony. The~~
389 ~~provisions of this subsection shall not apply to any animal that, at the time of the~~
390 ~~acts complained of, was responding to pain or injury or was protecting itself, its~~
391 ~~kennel, its offspring, a person, or its owner's or custodian's property, or when the~~
392 ~~animal is a police dog that is engaged in the performance of its duties at the time of~~
393 ~~the attack.~~

394

395 **ARTICLE IV. - DOG AND CAT LICENSES**

396 **Sec. 5-51. - Required.**

397 It shall be unlawful for any person *other than a releasing agency* to own a dog or cat
398 four (4) months old or older in this city, unless such dog or cat is licensed *with Hampton*
399 *Animal Control* under the provisions of this article. *Any dog or cat not wearing a collar*
400 *bearing a valid license tag shall prima facie be deemed to be unlicensed, and in any*
401 *proceedings under this chapter the burden of proof of the fact that such dog or cat has*
402 *been licensed, or is otherwise not required to bear a tag at the time, shall be on the*
403 *owner of the dog or cat.*

404 **State Law reference**— Similar provisions, Code of Virginia, § § 3.2-6524, *3.2-6533*.

405

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

407 (a) Any person may obtain a dog license or cat license by making oral or written
408 application to the treasurer of the locality where such person resides, accompanied
409 by the amount of license tax and current certificate of vaccination as required by this
410 article or satisfactory evidence that such certificate has been obtained. The
411 treasurer or other officer charged with the duty of issuing dog and cat licenses shall
412 only have authority to license dogs and cats of resident owners or custodians who
413 reside within the boundary limits of ~~this county or city~~ and may require information to

414 this effect from any applicant. Upon receipt of proper application and current
415 certificate of vaccination as required by this article or satisfactory evidence that such
416 certificate has been obtained, the treasurer or other officer charged with the duty of
417 issuing dog and cat licenses shall issue a license receipt for the amount on which
418 he shall record the name and address of the owner or custodian, the date of
419 payment, the year for which issued or if it is a lifetime license, the serial number of
420 the tag, whether dog or cat, whether male or female, whether spayed or neutered,
421 or whether a kennel, and deliver the metal license tags or plates provided for herein.
422 The information thus received shall be retained by the treasurer, open to public
423 inspection, during the period for which such license is valid. The treasurer may
424 establish substations in convenient locations in the city and appoint agents for the
425 collection of the license tax and issuance of such licenses.

426 (b) Each dog or cat license shall consist of a license tax receipt and a metal tag. Such
427 receipt shall have recorded thereon the amount of the tax paid, the name and
428 address of the owner or custodian of the dog or cat, the date of payment, the year
429 for which the dog or cat is licensed or if it is a lifetime license, the serial number of
430 the tag and whether the license is for a male, female or unsexed male or female
431 dog or cat or for a kennel. This information shall be retained by the treasurer and
432 shall be open for public inspection during the period for which such license is valid.

433 (c) The metal tag issued under this section shall be stamped or otherwise
434 permanently marked to show the name of the city, the calendar year for which
435 issued or if it is a lifetime license, and shall bear a serial number.

436 **State Law reference—** Similar provisions, Code of Virginia, §§ 3.2-6527, 3.2-6526.

437 Sec. 5-58. - Preservation and exhibition of license receipt; tag to be worn by dog;
438 exceptions.

439 (a) A dog or cat license receipt issued under this article shall be carefully preserved
440 by the person to whom issued and exhibited promptly on request for inspection by
441 an animal control officer or ~~other~~ *law enforcement* officer.

442 (b) A dog license tag issued under this article shall be securely fastened to a
443 substantial collar by the owner or custodian and worn by the dog for which it was
444 issued. It shall be unlawful for the owner to permit any licensed dog four months old
445 or older to run or roam at large at any time without a license tag. The owner of the
446 dog may remove the collar and license tag required by this section when:

447 (1) The dog is engaged in lawful hunting.

448 (2) The dog is competing in a dog show.

449 (3) The dog has a skin condition which would be exacerbated by the wearing of a
450 collar.

451 (4) The dog is confined.

452 (5) The dog is under immediate control of the owner.

453 (c) Any dog or cat not wearing a collar bearing a license tag for the proper calendar
454 year or a lifetime license shall be prima facie evidence that the dog or cat is
455 unlicensed and, in any proceeding under this article, the burden of proof of the fact
456 that the dog or cat has been licensed, or is otherwise not required to bear a tag at
457 the time, shall be on the owner of the dog or cat.

458 **State Law reference**— Similar provisions, Code of Virginia, § 3.2-6531.

459

460 **Sec. 5-60. - Disposition of unlicensed dogs and cats found running at large.**

461 (a) It shall be the duty of any animal control officer or ~~other~~ *law enforcement* officer (1)
462 to capture any dog found running at large on which the license tax imposed by this
463 article has not been paid and deliver such animal to the pound or shelter, and (2) to
464 capture any cat found running at large on which the license tax imposed by this
465 article has not been paid and has not been spayed or neutered in accordance with
466 section 5-38(b) and deliver such animal to the pound or shelter. Such animal shall
467 be disposed of in accordance with Virginia Code § 3.2-6546.

468 (b) Any person, animal control officer or ~~other~~ *law enforcement* officer euthanizing a
469 dog or cat under this section shall cremate, bury or sanitarily dispose of the same.

470 (c) Prior to the disposition, by euthanization or otherwise, of any dog or cat under this
471 section, all of the provisions of section 5-38 shall be complied with.

472

473 **ARTICLE V. – ANIMAL WELFARE**

474 **Sec. 5-77. - Cruelty to animals generally.**

475 (a) Any person who (i) overrides, overdrives, overloads, ~~tortures~~, ill-treats, *or*
476 abandons *any animal, whether belonging to himself or another*; (ii) *tortures any*
477 *animal*, willfully inflicts inhumane injury or pain not connected with bona fide
478 scientific or medical experimentation *on any animal*, or cruelly or unnecessarily
479 beats, maims, mutilates, or kills any animal, whether belonging to himself or
480 another; ~~(ii)~~ *(iii)* deprives any animal of necessary food, drink, shelter or emergency
481 veterinary treatment; ~~(iii)~~ *(iv)* sores any equine for any purpose or administers drugs
482 or medications to alter or mask such sores for the purpose of sale, show, or
483 exhibition of any kind, unless such administration of drugs or medications is within
484 the context of a veterinary client-patient relationship and solely for therapeutic
485 purposes; ~~(iv)~~ *(v)* ropes, lassoes, or otherwise obstructs or interferes with one or
486 more legs of an equine in order to intentionally cause it to trip or fall for the purpose
487 of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such
488 actions are in the practice of accepted animal husbandry or for the purpose of
489 allowing veterinary care; ~~(v)~~ *(vi)* willfully sets on foot, instigates, engages in, or in
490 any way furthers any act of cruelty to any animal; ~~(vi)~~ *(vii)* carries or causes to be
491 carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or

492 inhumane manner, so as to produce torture or unnecessary suffering; or ~~(vii)~~ *(viii)*
493 causes any of the above things, or being the owner of such animal permits such
494 acts to be done by another, is guilty of a Class 1 misdemeanor.

495 (b) In addition to the penalties provided in subsection A, the court may, in its
496 discretion, require any person convicted of a violation of subsection A to attend an
497 anger management or other appropriate treatment program or obtain psychiatric or
498 psychological counseling. The court may impose the costs of such a program or
499 counseling upon the person convicted.

500 (c) ~~Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected
501 with bona fide scientific or medical experimentation, or cruelly and unnecessarily
502 beats, maims, mutilates or kills any animal whether belonging to himself or another;
503 (ii) sores any equine for any purpose or administers drugs or medications to alter or
504 mask such sores for the purpose of sale, show, or exhibit of any kind, unless such
505 administration of drugs or medications is under the supervision of a licensed
506 veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise
507 obstructs or interferes with one or more legs of an equine in order to intentionally
508 cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition,
509 entertainment, or sport unless such actions are in the practice of accepted animal
510 husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives
511 any companion animal of necessary food, drink, shelter or emergency veterinary
512 treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any
513 animal set forth in clauses (i) through (iv) or (vi) causes any of the actions described
514 in clauses (i) through (v), or being the owner of such animal permits such acts to be
515 done by another; and has been within five years convicted of a violation of this
516 subsection or subsection A, is guilty of a Class 6 felony if the current violation or any
517 previous violation of this subsection or subsection A resulted in the death of an
518 animal or the euthanasia of an animal based on the recommendation of a licensed
519 veterinarian upon determination that such euthanasia was necessary due to the
520 condition of the animal, and such condition was a direct result of a violation of this
521 subsection or subsection A.~~

522 (d) Nothing in this section shall be construed to prohibit the dehorning of cattle
523 conducted in a reasonable and customary manner.

524 (d) ~~(e)~~—This section shall not prohibit authorized wildlife management activities or
525 hunting, fishing or trapping as regulated under other titles of the Code of Virginia,
526 including Title 29.1, or to farming activities as provided under this title or regulations
527 adopted hereunder.

528 (e) ~~(f)~~ It is unlawful for any person to kill a domestic dog or cat for the purpose of
529 obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a
530 Class 1 misdemeanor. A second or subsequent violation of this subsection is a
531 Class 6 felony *constitutes a felony punishable under state code.*

532 (g) ~~Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected
533 with bona fide scientific or medical experimentation or cruelly and unnecessarily
534 beats, maims or mutilates any dog or cat that is a companion animal whether
535 belonging to him or another; and (ii) as a direct result causes the death of such dog~~

536 ~~or cat that is a companion animal, or the euthanasia of such animal on the~~
537 ~~recommendation of a licensed veterinarian upon determination that such euthanasia~~
538 ~~was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a~~
539 ~~dog or cat is attacked on its owner's property by a dog so as to cause injury or~~
540 ~~death, the owner of the injured dog or cat may use all reasonable and necessary~~
541 ~~force against the dog at the time of the attack to protect his dog or cat. Such owner~~
542 ~~may be presumed to have taken necessary and appropriate action to defend his~~
543 ~~dog or cat and shall therefore be presumed not to have violated this subsection.~~
544 ~~The provisions of this subsection shall not overrule Sections 5-42, 5-42.1, or §3.2-~~
545 ~~6552 of the Code of Virginia.~~

546 (f) —(h) Any person convicted of violating this section may be prohibited by the court
547 from possession or ownership of companion animals.

548 **Cross reference**— Penalty for Class 1 misdemeanor, § 1-11.

549 **State Law reference**— Similar provisions, Code of Virginia, § 3.2-6570; general
550 authority of city to prevent cruelty to animals, § 3.2-6544; specific authority to adopt
551 above section, § 3.2-6543.

552

553 **Sec. 5-83. - Reserved. *Pet shop permit required.***

554 *(a) It shall be unlawful to operate a pet shop, as the term is defined in this chapter,*
555 *without a valid permit issued under this article. Such permit shall not be transferable and*
556 *shall expire at the end of each calendar year, unless revoked.*

557 *(b) Upon submission of a permit application to Hampton Animal Control and prior to*
558 *annual renewal of a permit, the property shall be inspected by a Hampton Animal*
559 *Control officer. The inspection shall be to determine compliance with standards*
560 *applicable to pet shops as set out in the Code of Virginia and compliance with all other*
561 *state and local laws, regulations and ordinances.*

562 *(c) As a condition of permitting, pet shops that sell dogs shall comply with the provisions*
563 *of the Code of Virginia § 3.2-6513.1, as amended.*

564 *(d) A permit will be issued to the applicant by Hampton Animal Control following*
565 *satisfactory inspection of the property and upon submittal of a valid business license.*

566 *(e) Hampton Animal Control shall deny renewal of or revoke a permit for fraudulent*
567 *practices or the inhumane treatment of animals dealt with by the permittee, including but*
568 *not limited to:*

569 *(1) Failing to comply with the recordkeeping and disclosure requirements in Code*
570 *of Virginia § 3.2-6512;*

571 (2) Providing false or misleading statements about the source of companion
572 animals acquired or sold by the pet shop or dealer;

573 (3) Providing false or misleading information to the public related to the
574 companion animals being sold by the pet shop;

575 (4) Selling dogs in violation of Code of Virginia § 3.2-6511.1, as amended; or

576 (5) Violating any state or local laws, regulations or ordinances related to the
577 inhumane treatment of animals.

578 (f) The pet shop permit fee shall be \$50 and payable at Hampton Animal Control at the
579 time a permit application or renewal is submitted. The pet shop permit fee shall be due
580 annually and payable no later than December 31 of each year. The fees collected shall
581 be used for the administration and enforcement of this section.

582 (g) A permit shall not be required if companion animals are only offered for adoption.

583 (h) It shall be a Class 3 misdemeanor to operate a pet shop without a permit in violation
584 of this section.

585 (i) Any person giving false information in the permit application or during the permitting
586 process shall be guilty of a Class 4 misdemeanor.

587 **State Law reference—** Similar provisions, Code of Virginia, § 3.2-6537.

588

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

590 (a) No person shall sell, raffle, *give away*, or offer for sale as pets or novelties, or offer
591 or give as a prize, premium, or advertising device any living chicks, ducklings, or
592 other fowl under two (2) months old in quantities of less than six (6) or any
593 unweaned mammalian companion animal or any dog or cat under the age of seven
594 (7) weeks without its dam or queen. Dealers may offer immature fowl, unweaned
595 mammalian companion animals, dogs or cats under the age of seven (7) weeks for
596 sale as pets or novelties with the requirement that prospective owners take
597 possession of the animals only after fowl have reached two (2) months of age,
598 mammalian companion animals have been weaned, and dogs and cats are at least
599 seven (7) weeks of age. Nothing in this section shall prohibit the sale, *gift, or*
600 *transfer* of an unweaned animal (i) as food for other animals or (ii) with the lactating
601 dam or queen or a lactating surrogate dam or queen that has accepted the animal;
602 (iii) due to a concern for the health or safety of the unweaned animal; or (iv) to
603 animal control, a public or private animal shelter, or a veterinarian.

604 (b) Dealers shall provide all dogs and cats with current vaccinations against
605 contagious and infectious diseases, as recommended in writing and considered
606 appropriate for the animal's age and breed by a licensed veterinarian, or pursuant to
607 written recommendations provided by the manufacturer of such vaccines at least

608 five days before any new owner takes possession of the animal. For dogs, the
609 vaccinations required by this subsection shall include at a minimum canine
610 distemper, adenovirus type II parainfluenza, and parvovirus. For cats, the
611 vaccinations required by this subsection shall include at a minimum rhinotracheitis,
612 calicivirus, and panleukopenia. Dealers shall provide the new owner with the dog's
613 or cat's immunization history.

614 (c) A violation of this section is punishable as a Class 3 misdemeanor.

615 **Cross reference**— Penalty for Class 3 misdemeanor, § 1-11.

616 **State Law reference**— Similar provisions, Code of Virginia, § 3.2-6510.

617

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

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

627 **State Law reference**— Impoundment; expenses; lien; disposition of animal, Code of
628 Virginia § 3.2-6565.

629

630 **ARTICLE VI. – RABIES CONTROL**

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

632 (a) The owner or custodian of all dogs and domesticated cats four (4) months of age
633 and older shall have them currently vaccinated for rabies by a licensed veterinarian
634 or licensed veterinary technician who is under the immediate and direct supervision
635 of a licensed veterinarian on the premises. The supervising veterinarian on the
636 premises shall provide the owner or custodian of the dog or cat with a rabies
637 vaccination certificate or herd rabies vaccination certificate and shall keep a copy in
638 his own files. The owner or custodian of the dog or cat shall furnish within a
639 reasonable period of time, upon the request of an animal control officer, humane
640 investigator, law enforcement officer, ~~state veterinarian's~~ **State Veterinarian's**
641 representative, or official of the department of health, the certificate of vaccination
642 for such dog or cat. The vaccine used shall be licensed by the United States
643 Department of Agriculture for use in that species. If, however, ~~such vaccination~~

644 ~~would threaten the physical well-being of such dog or cat,~~ *the local health*
645 *department grants an exemption certificate pursuant to 12 VAC 5-105-30 because*
646 *the animal suffers from an underlying medical condition that is likely to result in a*
647 *life-threatening condition in response to such vaccination and such exemption*
648 *would not risk public health and safety,* ~~the owner of such dog or cat shall obtain a~~
649 ~~certificate, signed by a licensed veterinarian, certifying such fact; and the owner~~
650 shall keep such dog or cat in quarantine *unless and* until the same is vaccinated.

651 (b) Any person transporting a dog or cat into the city from some other jurisdiction shall
652 comply with the requirements of subsection (a) of this section within 30 days
653 subsequent to bringing such dog or cat into the city.

654 (c) A veterinarian vaccinating a dog or cat as required by this section shall issue to
655 the owner of the dog or cat a certificate of vaccination showing:

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

663 **State Law reference—** Rabies inoculation of dogs and domesticated cats, Code of
664 Virginia, § ~~§~~ 3.2-6521, *3.2-6529*.

665

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

668 Any dog or cat showing active signs of rabies or suspected of having rabies that is
669 not known to have exposed a person, companion animal or livestock to rabies shall be
670 confined under competent observation for such a time as may be necessary to
671 determine a diagnosis. If confinement is impossible or impracticable, such dog or cat
672 shall be euthanized by one of the methods approved by the ~~state veterinarian~~ *State*
673 *Veterinarian* as provided in Code of Virginia, § 3.2-6546. *The disposition of other*
674 *animals showing active signs of rabies shall be determined by the local health director*
675 *and may include euthanasia and testing.*

676 **State Law reference—** Similar provisions, Code of Virginia, § 3.2-6522.

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

678 Any dog or cat, for which no proof of current rabies vaccination is available, and
679 which is *may have been* exposed to rabies through a bite, or through saliva or central

680 nervous system tissue, in a fresh open wound or mucous membrane, by an animal
681 believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure
682 approved by the health department for a period not to exceed six (6) months at the
683 expense of the owner or custodian in a manner and by a date certain as determined by
684 the health director; a **A** rabies vaccination shall be administered by a licensed
685 veterinarian prior to release. Inactivated rabies vaccine may be administered at the
686 beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva
687 or central nervous system tissue, in a fresh open wound or mucous membrane with
688 proof of a ~~valid~~ **current** rabies vaccination, shall be revaccinated by a licensed
689 veterinarian immediately following the exposure and shall be confined to the premises
690 of the owner or custodian, or other site as may be approved by the local health
691 department at the expense of the owner or custodian, for a period of 45 days. If the
692 local health director determines that isolation is not feasible or maintained, such dog or
693 cat shall be euthanized by one of the methods approved by the ~~state veterinarian~~ **State**
694 **Veterinarian** as provided in § 3.2-6546 of the Code of Virginia. The disposition of such
695 dogs or cats not so confined shall be at the discretion of the local health director.

696 **State Law reference**— Similar provisions, Code of Virginia, § 3.2-6522.

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

698 At the discretion of the local health director, any animal that may have exposed a
699 person shall be confined under competent observation for 10 days at the expense of the
700 owner or custodian, unless the animal develops active symptoms of rabies, expires, or
701 is euthanized before that time. A seriously injured or sick animal may be humanely
702 euthanized as provided in Code of Virginia, § 3.2-6546, and its head **shall be** sent to the
703 Division of Consolidated Laboratory Services of the Department of General Services, or
704 the local health department, for evaluation. **When determining whether a dog that has**
705 **bitten a person shall be so confined, the health director shall weigh any proof that the**
706 **dog has current certificates for both (i) rabies vaccination and (ii) special training for**
707 **police work, military work, or work as a first responder.**

708 **State Law reference**— Similar provisions, Code of Virginia, § 3.2-6522.

709 **ARTICLE VII. - HYBRID CANINES**

710 **Sec. 5-106. - Definitions.**

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

719 ~~a hybrid canine not under the direct supervision and control of the owner or custodian~~
720 ~~shall not be considered adequate confinement.~~

721 *Hybrid canine* means any animal *that is or can be demonstrated to be a hybrid of*
722 *the domestic dog and any other species of the Canidae family;* that at any time has
723 been or is permitted, registered, licensed, or advertised as such; or that at any time has
724 been described, represented, or reported *as such* by its owner to a licensed
725 veterinarian, law-enforcement officer, animal control officer, humane investigator, official
726 of the Department of Health, or State Veterinarian's representative.

727 *Responsible ownership* means the ownership and humane care of a hybrid canine
728 in such a manner as to comply with all laws and ordinances regarding hybrid canines
729 and prevent endangerment by the animal to public health and safety.

730