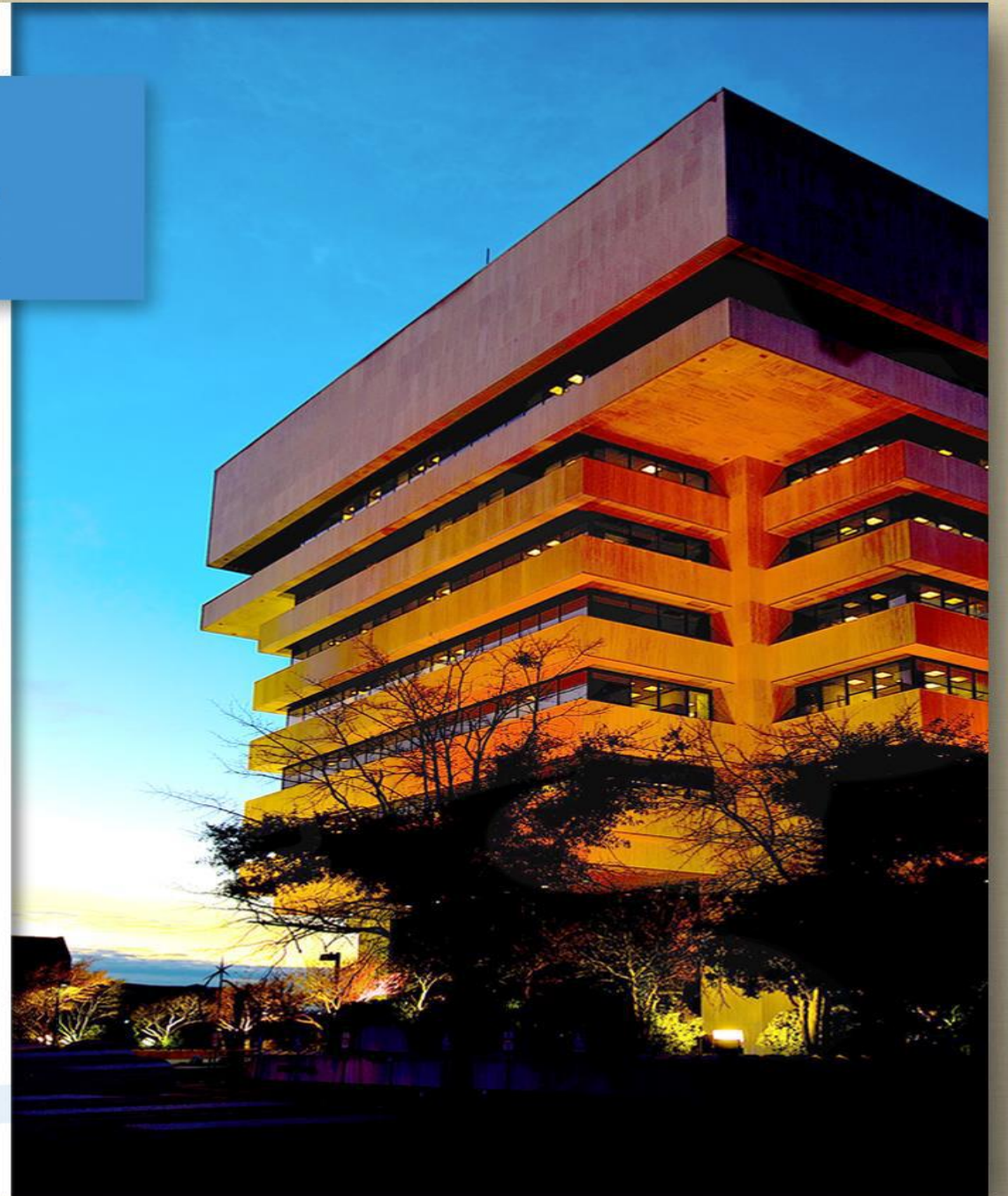


# HAMPTON VA

## **Updates to Hampton City Code Section 5-38, Dogs Running at Large Item No. 22-0008**

**Hampton City Council  
January 12, 2022**



# Purpose

The City Attorney's Office and the Hampton Animal Response Team are seeking to better address issues with dogs found at large and dogs attacking while at large.

# Hampton City Code Section 5-38 – Current

- In the event of a dog attack, Hampton City Code Section 5-38 provides the ONLY applicable criminal charge HART has the authority to issue – dog at large while attacking.
- The current Code requires that the individual permitted the dog to be at large, that is, not on its owner's property and under his/her control, in order for HART to charge the individual with the dog being at large.
- If the City cannot prove the defendant permitted the dog to be at large, the Court will find no criminal liability for the attack, regardless of severity.

# Hampton City Code Section 5-38 – Current (Cont.)

Hampton courts consistently interpret the term “permit” to require a prosecutorial showing that the defendant actively did or did not do something which resulted in the dog being at large.

- Example of an Act of Commission (Intentional Act): Defendant lets the dog outside without a leash and not restrained within a fence.
- Example of an Act of Omission (Failure to Act): Defendant puts the dog within a fenced in area that the Defendant knows the dog is able to escape by jumping over the fence.
- Examples that Do Not Meet the Criteria for “Permit”: Defendant accidentally left a gate open, the front door did not close all the way, the dog has not jumped the fence before.

# Proposed Amendment

- How It's Different from the Current Code Section:
  - Current: Evidence must demonstrate "permit."
  - Proposed: Additional "strict liability" charge added for a dog being at large. Strict liability = no required prosecutorial showing of actual negligence/recklessness/intent. If a dog is out, the dog's owner/caretaker is subject to being charged.
  - "Strict liability" charge would be charged as an unclassified misdemeanor, with a fine of up to \$100.
- Housekeeping Amendment: Additional \$100 fine imposed for dogs found running with other dogs. This is to align with State Code.

# Proposed Amendment - Continued

Under the proposed amendment, the prosecution must prove either:

At Large "Strict Liability"  
– Unclassified  
Misdemeanor – Up to  
\$100 Fine

At Large "Permit" –  
Class Four  
Misdemeanor – Up to  
\$250 fine

After Proving at  
Large:

Attacking While at  
Large- Class Two  
Misdemeanor – Up to  
Six Months in Jail +  
\$1000 Fine

# Conclusion

- The Proposed Amendment:
  - Allows HART the flexibility to tailor charges based on the facts of each case.
  - Provides for more just outcomes for victims of dog attacks.
  - Gives the City a greater ability to resolve issues with aggressive dogs before the situation escalates.

# RECOMMENDATION

The City Attorney's Office, the Hampton Animal Response Team, and the Hampton Animal Control Advisory Committee recommend adopting the proposed amendments to Hampton City Code Section 5-38: Running at Large (Item No. 22-0008)