



Legislation Text

File #: 22-0008, Version: 1

Ordinance to Amend and Re-Enact Chapter 5 of the City Code of the City of Hampton, Virginia Entitled "Animals" by Amending Article III, Section 5-38 - Running at Large

PURPOSE/BACKGROUND:

The City Attorney's Office and the Hampton Animal Response Team ("HART") are seeking to expand their ability to successfully prosecute and monitor dogs found at large and dogs attacking while at large.

Discussion:

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 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.

Impact:

If approved, the Code as amended allows HART the flexibility to tailor charges based on the facts of each case. Additionally, it gives the Court the ability find a defendant guilty when a dog attacks someone or another companion animal, even if there is insufficient evidence to prove an act of commission/omission resulting in the dog being at large. The Code as amended would provide for more just outcomes for victims of dog attacks and gives the City a greater ability to resolve issues with aggressive dogs before those situations escalate.

Recommendation:

Staff recommends Council approve the ordinance as amended.

(a) Dogs.

(1) It shall be unlawful for any dog to run at large within the city, whether such dog is licensed or not. Any owner or custodian of a dog found running at large, unconfined, unrestricted, or not penned up in the City shall be deemed to have violated the provisions of this section and shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$100.

(2) It shall be unlawful for the owner or custodian of a dog to place such dog or allow it to be placed in the custody of any other person not physically capable of maintaining effective control of such dog. Any violation of this provision shall be treated as an unclassified misdemeanor punishable by a fine of up to \$100.

(3) If any person permits any dog owned or kept by him to run or go at large within the city,

whether such dog is licensed or not, he shall be guilty of a Class 4 misdemeanor.

(4) A second violation of this subsection (a) on the same animal shall constitute a Class 3 misdemeanor and subsequent violations on the same animal shall constitute a Class 2 misdemeanor. Any owner cited for three (3) violations of this section, may have his animals impounded or spayed and neutered at the owner's or custodian's expense.

(5) A violation of this subsection (a) shall constitute a Class 2 misdemeanor if the dog, while at large within the city, attacks a human being or another animal without provocation.

(6) Any person owning, keeping, or harboring a dog found while running at large in a pack shall additionally be subject to a civil penalty of no more than \$100 per dog so found. A dog shall be deemed to be "running at large in a pack" if it is running at large in the company of one or more other dogs that are also running at large.