



Legislation Text

File #: 19-0325, **Version:** 2

Ordinance to Amend and Re-Enact Chapter 5 of the City Code of the City of Hampton, Virginia Entitled "Animals" by Amending Articles I and III - VII

The proposed amendments to several Articles of Chapter 5, Animals, of the City Code of the City of Hampton, Virginia would bring the Code into alignment with recent changes to state code while also clarifying inconsistencies inadvertently created during prior amendments and further, adding new language under section 5-83, formerly reserved, requiring all pet shops, as defined in section 5-2, to obtain a permit from Hampton Animal Control.

At present, a pet shop may buy, sell, or exchange companion animals without first obtaining an inspection by Animal Control. The proposed amendment would require pet shops to obtain a permit annually from Hampton Animal Control prior to buying, selling or exchanging companion animals as a means of further promoting animal-welfare. Prior to issuance of a permit, the pet shop must be inspected by Animal Control and the applicant must demonstrate compliance with all applicable state and local laws and regulations. The permit fee is \$50 per year and due no later than December 31st of each year. The Hampton Animal Control Advisory Committee has vetted and recommends the enactment of the pet shop permit ordinance.

The remaining changes to Chapter 5 are housekeeping amendments to bring the city code into compliance with recent changes to the state code and improve existing language to increase consistency throughout the chapter.

Approve the Ordinance Amendments

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

ARTICLE I. - IN GENERAL

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Sec. 5-2. - Definitions.

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

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Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar shavings, or the

equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

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

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

Nuisance shall mean (i) as pertaining to dogs, excessive, continuous or untimely barking, howling, molesting of passersby, chasing vehicles, attacking other domestic animals, or unwelcome trespassing upon school grounds, private or public property.; (ii) as pertaining to cats, excessive, continuous or untimely caterwauling, a sound made during courtship, and/or destructive trespassing on the property of another.

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

Primary enclosure means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment or hutch.

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

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

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

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

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

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

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

- (a) No person shall suffer or permit any animal belonging to him or under his control and known or reasonably suspected of being dangerous to be kept in the city at any time except in strict confinement in such manner as to be safe for the public at large or any person licensed to go on the premises on which such animal is kept. This section shall not apply to dogs.
- (b) The term "dangerous animal" shall be defined for the purposes of this section as any animal, other than a dog, which attacks a human being or another animal without provocation; or any animal, other than a dog, with a known propensity, tendency or disposition to attack a human being or another animal without provocation. For purposes of this section, proof that any animal has bitten one (1) or more persons or animals without provocation shall be considered as prima facie evidence that such animal is dangerous.
- (c) No animal shall be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal or was teasing, tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal or was committing or attempting to commit a crime. No animal shall be declared dangerous if it attacks other animals which are trespassing on the premises occupied by the owner or keeper of the animal.
- (d) It shall be the duty of an animal control officer or law enforcement officer who may find any

dangerous animal that is either: not in strict confinement as required by subsection (a); or that has attacked a human being or another animal and whose presence in the city represents a continuing threat of serious harm to human beings or other animals, to forthwith take the dangerous animal in custody and dispose of it in accordance with section 5-38(b) or, in the alternative, to hold the animal until disposition by the court under sections 5-10 and 5-10.1.

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

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ARTICLE III. - DOGS AND CATS GENERALLY

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

All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of such dogs or cats, or injury thereto, or unlawful detention or use thereof, as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. An animal control officer or other officer finding a stolen dog or cat or a dog or cat held or detained contrary to law shall have authority to seize and hold such dog or cat pending action before the general district court or other court. If no such action is instituted within seven (7) days, the animal control officer or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner and the animal control officer may take such dog or cat in charge and notify its legal owner to remove him. The legal owner of a dog or cat shall pay a reasonable charge for the keep of such dog or cat while in the possession of the animal control officer, such charge not to exceed that prescribed in section 5-38.

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

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

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

(1) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (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; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or

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

(b) No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a 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 shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

(c) 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 may 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.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) The owner of any animal found to be a dangerous dog shall, within thirty (30) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$150.00, 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 \$85.00 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.

(k) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (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.

(l) 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.

(m) 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.

(n) 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 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.

(o) 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.

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.

(p) 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 thirty (30) 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.

(q) 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.

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

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

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

(a) As used in this section:

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

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

(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 vicious 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 the 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 the 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 vicious. The animal control officer shall 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 vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.2-6562 of the Code of Virginia. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person 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 vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. 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 city shall be required to prove its case beyond a reasonable doubt.

(c) No canine or canine crossbreed shall be found to be a vicious 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 vicious 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 vicious 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 vicious dog.

ARTICLE IV. - DOG AND CAT LICENSES

Sec. 5-51. - Required.

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

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

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 this 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 or if it is a lifetime license, 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 or if it is a lifetime license, 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 calendar year for which issued or if it is a lifetime license, and shall bear a serial number.

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

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

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

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

- (1) The dog is engaged in lawful hunting.
 - (2) The dog is competing in a dog show.
 - (3) The dog has a skin condition which would be exacerbated by the wearing of a collar.
 - (4) The dog is confined.
 - (5) The dog is under immediate control of the owner.
- (c) Any dog or cat not wearing a collar bearing a license tag for the proper calendar year or a lifetime license shall be prima facie evidence that the dog or cat is unlicensed and, in any proceeding under this article, the burden of proof of the fact that the dog or cat has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog or cat.

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

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

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

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

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

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ARTICLE V. - ANIMAL WELFARE

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

(a) Any person who (i) overrides, overdrives, overloads, ill-treats, or abandons any animal, whether belonging to himself or another; (ii) tortures any animal, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation on any animal, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (iii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) 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; (v) 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; (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vii) 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 (viii) 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) Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

(d) 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.

(e) 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 constitutes a felony punishable under state code.

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

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

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

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Sec. 5-83. - Pet shop permit required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) No person shall sell, raffle, give away, 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, gift, or transfer 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.

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

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

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

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 to remedy, 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.

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

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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, the local health department grants an exemption certificate pursuant to 12 VAC 5-105-30 because the animal suffers from an underlying medical condition that is likely to result in a life-threatening condition in response to such vaccination and such exemption would not risk public health and safety, the owner shall keep such dog or cat in quarantine unless and 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.

State Law reference- Rabies inoculation of dogs and domesticated cats, Code of Virginia, § § 3.2-6521, 3.2-6529.

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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 of the methods approved by the State Veterinarian as provided in Code of Virginia, § 3.2-6546. The disposition of other animals showing active signs of rabies shall be determined by the local health director and may include euthanasia and testing.

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

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 may have been 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 current 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.

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

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 shall be sent to the Division of Consolidated Laboratory Services of the Department of General Services, or the local health department, for evaluation. When determining whether a dog that has bitten a person shall be so confined, the health director shall weigh any proof that the dog has current certificates for both (i) rabies vaccination and (ii) special training for police work, military work, or work as a first responder.

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

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.

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

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

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