

CHAPTER IX - KEEPING ANIMALS WITHIN THE TOWN LIMITS

ARTICLE I. - IN GENERAL

Section 9-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Animal” means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, *Code of Virginia*, as amended, as it applies to this Ordinance, the term “animal” means any species susceptible to rabies.

“Animal shelter” means a facility that is used to house or contain animals and which is owned, operated or maintained by a duly incorporated humane society or other organization devoted to the welfare, protection and humane treatment of animals.

“Beehive” means a single colony, hive or stand of bees, regardless of size.

“Bite” means to seize with the teeth or jaws so that a person or animal has been nipped, gripped, wounded, or pierced and saliva of the biting animal has contacted the resulting break or abrasion of the skin.

“Cat” means any feline or member of the animal species *Felis catus*.

“Control of an animal” means that the animal is:

- (1) On a leash held by a caretaker not more than fifteen (15) feet in length;
- (2) On or within a vehicle being driven or parked; or
- (3) Within the property limits of its owner or handler or upon the premises of another person with the consent of that person.

Dangerous dog.

- (1) The term “dangerous dog” means any dog which has:
 - a. Bitten any person or companion animal as defined in § 3.1-796.66, *Code of Virginia*, as amended, other than a dog;
 - b. Attacked any person or companion animal, other than a dog;
 - c. Inflicted injury on a person or companion animal, other than a dog;
 - d. Killed a companion animal; or
 - e. Been found to be a dangerous dog by any general district court, circuit court or law enforcement officer of the commonwealth.
- (2) Any dog evidencing the characteristics or conduct described in subsections (1)a, b, c or d of this definition shall be a dangerous dog even though not previously found dangerous by any court.

“Dog” means any canine or any member of the animal species *Canis familiaris*, or any canine crossbreed.

“Equine animal” means any horse, pony, mule, jackass, donkey, burro or other equine animal, regardless of sex or age.

“Exotic animal” means any live monkey (nonhuman primate), raccoon, skunk, wolf, wolf-canine hybrid, squirrel, fox, porcine, leopard, tiger, lion, panther, ratite or any other warm-blooded animal, poisonous reptile or nonpoisonous reptile which can normally be found in the wild state or any other member of the crocodilian, including, but not limited to, alligators, crocodiles, caimans, and gavials. Ferrets, birds which are normally purchased through pet stores (with the exception of ratites), domestic rabbits and domestic rodents which have been bred in captivity and which never have known the wild shall be excluded from this definition.

“Harboring” or “custodian” means any person who provides food or shelter for any domesticated animal on other than a periodic or temporary basis (up to 24 hours).

“Livestock” means all bovine animals; equine animals; ovine animals; swine and porcine animals, including Vietnamese pot-bellied pigs and related breeds of pigs; cervidae animals; caprae animals; animals of the genus *Lama*; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.1-73.6, *Code of Virginia*, as amended; enclosed domestic rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber.

“Owner” means any person who:

- (1) Has a right of property in an animal;
- (2) Keeps or harbors an animal;
- (3) Has an animal in his care; or
- (4) Acts as a custodian of an animal.

“Poultry” means any domesticated bird raised for food, either meat or eggs, feathers or show, including, but not limited to, chickens, ducks, geese, swans, turkeys, guinea fowl and pigeons.

“Public nuisance” means any animal or fowl that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life and property. The term “public nuisance” means and includes any animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owners;
- (3) Excessively makes disturbing noises, including, but not limited to, continued, and repeated caterwauling, howling, whining, barking, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the animal owner or handler, unless promptly removed by the animal owner or handler; or
- (6) Creates an insect breeding and/or attraction site due to an accumulation of excreta.

“Ratite” means a flightless bird, such as an ostrich or emu, that has a flat breastbone without the ridge-shaped part keel to which the flight muscles are attached in a flying bird.

“Swine” means all porcine animals, including Vietnamese pot-bellied pigs and related breeds of pigs.

“Vicious dog” means any dog which:

- (1) Has killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of bodily function;
- (3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding; or
- (4) Has been found vicious by any court of the Commonwealth.

“Work dog” means any member of the animal species *Canis familiaris* trained for, and actively engaged in, rescue, law enforcement or as a guide for the blind or deaf.

State Law reference— Definitions, §§ 3.2-5900, 3.2-6500, *Code of Virginia*, as amended.

Section 9-2. - Keeping of most animals prohibited.

It shall be unlawful for any person to own, keep, maintain or possess any horse, mule, ass, jennet, cow, calf, heifer, steer, goat, pony, or any other farm animal at any place within the Town limits.

Chickens may be kept subject to Section 9-10 of this Chapter.

Section 9-3. - Livestock running at large.

It shall be unlawful for any person to permit to run at large at any time in the streets, alleys and public ways of the Town any cow, calf, horse, mule, steer, goat, swine, sheep or bull belonging to such person or under his care or control.

Any animal found running at large in the Town in violation of this section shall be taken up by the police and impounded and kept until such fine as may be assessed against the person violating this section shall be paid, together with the costs of keeping the animal.

Section 9-4. - Dangerous or vicious animals running at large.

If any person shall permit any dangerous or vicious animal owned or kept by him to go at large in the Town, he shall be guilty of a misdemeanor, and such animal may be killed by order of the judge of the general district court unless, after 24 hours' notice to the person owning or keeping the same, such animal is removed beyond the limits of the Town.

Section 9-5. - Cruelty to animals.

- (a) Any person who overrides, overdrives, overloads, tortures, ill treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another; or deprives any animal of necessary sustenance, food, drink or shelter or emergency veterinary treatment; 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; or willfully sets on foot, instigates, engages in or in any way furthers any acts of cruelty to any animal; or 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 causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor. Prosecution for violations of this subsection shall commence within five years after commission of the offense. Prosecution of this subsection regarding agricultural animals, as defined in § 3.2-6500 et seq., *Code of Virginia*, as amended, shall commence within one year after the commission of the offense.
- (b) Any person who abandons any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street or on the property of another, shall be guilty of a Class 3 misdemeanor.
- (c) Nothing in this section shall be construed to prohibit the dehorning of cattle.
- (d) For the purposes of this section, the term "animal" shall be construed to include birds and fowl.

State Law reference— Cruelty to animals, § 3.2-6570, *Code of Virginia*, as amended.

Section 9-6. - Town designated as bird sanctuary.

The entire area embraced within the corporate limits of the Town shall be, and the same is, hereby designated as a bird sanctuary.

Section 9-7. - Shooting, trapping, etc., birds prohibited; exceptions.

It shall be unlawful for any person to trap, shoot or attempt to shoot or molest in any

manner any bird or wildfowl or to rob bird nests or wildfowl nests within the Town; provided that, if blackbirds, red-winged blackbirds, grackles, cowbirds, pigeons and starlings, or any other species declared to be a nuisance birds by regulations of the state board of agriculture and consumer services are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the Town, such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of a designee of Town Council, in which event a copy of the health officer's ruling shall be filed with the Town Council.

Section 9-8. Backyard Chickens.

(a) Intent

With the increased awareness of self-sufficiency, sustainability and urban farming, the raising of a limited number of chickens is allowed as an accessory use to detached single family residential properties provided that the use meets certain minimum standards and does not pose a health hazard or become a nuisance to adjoining property owners.

(b) Standards

The keeping of backyard hens shall be allowed in non-agriculturally zoned areas in accordance with the following standards:

- i. The residence on the property must be a single family dwelling.
- ii. The owner must reside on the same lot, or a contiguous lot owned by the same owner, as the lot where the chickens are kept.
- iii. The minimum total property size shall be five thousand (5,000) square feet.
- iv. No more than three (3) chickens per member of the household are permitted, with a maximum of twelve (12) chickens allowed on a single property.
- v. Each owner shall provide feed to prevent malnourishment, water to prevent dehydration, and veterinary treatment as needed, pursuant to § 3.2-6503.1, *Code of Virginia*, as amended.
- vi. A coop is required for the adequate care and protection of all chickens.
- vii. Permanent chicken coops must be zoned as any another permanent structure and require a zoning compliance permit. Structures, including fences, must be at least five (5) feet from any alley, at least forty (40) feet from the center line of the highway in front of the residence, at least ten (10) feet from the adjoining neighbor's property lines, and at least twenty-five (25) feet from the adjoining neighbor's homes.
- viii. A chicken coop shall be deemed portable if it can be moved by two (2) or fewer persons. Portable coops must meet the same zoning standards and requirements as permanent chicken coops.
- ix. Coops are required to have a minimum of three (3) square feet of fenced-in living space per chicken.
- x. Chickens must remain in their coop at all times. Chickens may not roam in other areas of the property or off of the property. Coops shall be well-

- ventilated and kept in clean, dry, and sanitary condition at all times.
- xi. Feed shall be stored and maintained in a secure container.
 - xii. Manure and other waste products shall be properly handled and disposed of so as to not create an odor, attract vermin, or create a nuisance for surrounding property owners.
 - (a) Evidence of vermin or excessive odors is cause for revoking both the Zoning Compliance Permit and any Grower's Permits.
 - xiii. Chickens may be slaughtered for personal use, but slaughtering, cleaning, and any other associated activity may be performed only in an enclosed building out of public view.

(c) Process for Approval

A request for a Zoning Compliance Permit, including a building plan, shall be submitted and reviewed by the Zoning Administrator. A Zoning Compliance Permit will be issued for the keeping of chickens after the Zoning Administrator determines that the application and building plan complies with the requirements of this Section. The Permit must include a copy of the requirements for the keeping of chickens and information regarding the reporting of any violations of this ordinance.

Any proposed changes to the size or location of any Permitted coop, other than complete removal, must be submitted to the Zoning Administrator and approved before any changes are made.

(d) Permits

The property owner must obtain a Grower's Permit from the Clerk of the Town of Iron Gate every year.

The Grower's Permit will cost thirty-five dollars (\$35) from the date of issuance through the end of the then-current fiscal year. This fee will include a background check. Grower's Permits will cost twenty-five dollars (\$25) per year for subsequent years, which must be paid by July 31 or the Permit may be revoked.

Permits are non-transferable. Permits may be revoked at any time at the discretion of the Zoning Administrator or by vote of Town Council for any violations of the above-listed standards.

(e) Criminal Violations

Any person who abuses, neglects, or otherwise harms any chicken, other than slaughtering for personal use, shall be guilty of violations of the above-mentioned standards, and shall be subject to any and all criminal penalties provided by § 3.2-6570, *Code of Virginia*, as amended, which makes animal cruelty a Class 1 Misdemeanor.

Section 9-9. - Leaving maimed, diseased, etc., animal or fowl in road or public place.

If any person having the custody of any maimed, diseased, disabled or infirm animal or fowl leaves it to lie or be in any street, road or public place, that person shall be guilty of a Class 3 misdemeanor.

Section 9-10. - Burial or cremation of dead animals.

- (a) When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, and, if he fails to do so, any judge of the general district court, after notice to the owner, if he can be ascertained, shall cause such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover from the owner of every such animal so cremated or buried the actual cost of such cremation or burial, not to exceed \$75.00, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.
- (b) This section shall not be deemed to require the burial or cremation of the whole or any portion of any animal or fowl which is to be used for food or in any commercial manner.
- (c) A violation of this section shall constitute a Class 3 misdemeanor.

Section 9-11. - Violation.

Violation of this chapter shall constitute a Class 3 misdemeanor and, in addition, any such violation is hereby declared a public nuisance. Any person suffering injury or damage therefrom may seek the correction, removal or abatement of such nuisance through appropriate suit in equity. Any public nuisance may also be corrected, removed or abated through appropriate suit in equity by any person suffering injury or damage therefrom, pursuant to § 15.2-1115, *Code of Virginia*, as amended.

Section 9-12. - Recovery of enforcement costs.

In addition to any civil or criminal penalty specifically enumerated herein, any costs associated with enforcing any provision of this chapter, including capture and impoundment, shall be chargeable to and paid by the owner of the animal and shall be collected by the Town Clerk in the same manner local levies are collected.

If the owner of the animal also owns property within the Town limits, every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against that property.

Secs. 9-13—9-40. - Reserved.

ARTICLE II. - CARE AND CONTROL OF DOGS AND CATS

DIVISION 1. - GENERALLY

Section 9-41. - Running at large.

Dogs shall not be allowed to run at large in the Town. For the purpose of this section, a dog shall be deemed running at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

Section 9-42. - Impoundment when dog and/or cat found running at large.

- (a) Dogs. The police officer or any other official designated by the Town Council shall capture and impound any dog found running at large within the Town, whether such dog is licensed or unlicensed.
- (b) Cats. Any cat found in violation of any provision of this chapter, or whose owner is in violation of any provision of this chapter, or any cat creating a public nuisance, may be seized by any police officer or any other official designated by the Town Council and impounded. The officer seizing any cat and officials of the Town shall follow the procedures established for impounded dogs in Section 9-43 in keeping and disposing of any impounded cat.

Section 9-43. - Minimum holding period; notice to owner.

- (a) Dogs. Any dog impounded as provided for in Section 9-42 shall be held for a minimum period of seven days without a collar or 12 days with a license. If the police officer or other official designated by the Town Council knows the owner of the impounded dog, notice shall be served on such owner. If the humane shelter determines that the dog is severely injured, that dog may be euthanized immediately.
- (b) Cats. Any cat impounded as provided in Section 9-42 shall be held for a minimum period of seven days without a collar or 12 days with a collar. If the police officer or other official designated by the Town Council knows the owner of the impounded cat, notice shall be served on such owner. If the humane shelter determines that the cat is severely injured, that cat may be euthanized immediately.

Section 9-44. - Removal of dog or cat feces.

Any owner or person having custody of any dog or cat shall not permit said animal on any public grounds, including public streets, alleys, sidewalks, parks, cemeteries or any other public grounds within the Town, unless said owner or person in control expeditiously removes any excrement deposited by said dog or cat in any such place.

Secs. 9-45—9-70. - Reserved.

DIVISION 2. - RABIES VACCINATIONS AND LICENSING

Section 9-71. - Rabies vaccination required.

- (a) The owner or custodian of all dogs and/or cats, four months of age and older, shall have them currently vaccinated for rabies by a licensed veterinarian 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 of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish, within a reasonable period of time, upon the request of the law enforcement officer, or other official designated by Town Council, 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.
- (b) A copy of the certificate of rabies inoculation shall be presented with the application for a certificate as required by Section 9-72. No license shall be issued unless such of rabies inoculation bears a date within one year prior to the date of certificate application if a one-year immunization vaccine was used, or within three years prior to the date of the certificate application if a three-year immunization was administered.

State Law reference— Rabies inoculation of companion animals, § 3.2-6521, *Code of Virginia*, as amended.

Section 9-72. - Certification required.

It shall be unlawful for any person to own or harbor any dog or cat four months or more in age in the Town without having first obtained a certificate by application to the Town. Only persons who comply with the provisions of this Chapter shall be entitled to receive and retain such certificate.

Licensing of animals may be required by Alleghany County, and all rules and regulations promulgated therefor by the County must be followed by the Town citizens pursuant to the Agreement currently in effect between the Town and the County.

Section 9-73. - Purpose of certification; fees.

The purpose of certification of dogs and cats is to establish ownership of the animal.

There will be no fee for certification of dogs and cats that have been spayed or neutered.

The fee for certification of unaltered dogs and cats will be five dollars (\$5.00) per animal per year.

Section 9-74. - Procedure for certification.

Owners of dogs and cats must certify their ownership with the Town Clerk annually. Proof of spaying and neutering must be provided at the time of certification. The Town Clerk is authorized to establish any procedures and requirements necessary to effect the purposes of this Chapter.

Section 9-75. - Penalties.

Any owner of a dog or cat who fails to certify the animal pursuant to this Chapter shall be guilty of a Class 3 Misdemeanor. The Town Clerk, or other designee of Town Council, may enforce the certification provision using any remedy provided anywhere else in this Chapter.

Section 9-76. - Limitation on number of dogs and cats.

- (a) No person or household shall keep a total of more than five dogs and cats over four months of age, of which no more than three may be dogs, on tracts that are two acres or less in size.
- (b) Tract size is determined by plat, and the fact that one person or family may own and/or occupy multiple adjoining lots is immaterial. Such a person or family will be considered to live on one tract.
- (c) Violations of this section shall constitute a Class 2 misdemeanor.

Section 9-77. - Additional Animals.

Persons or households desiring to keep more than five dogs or cats may apply for an Additional Animal Certificate.

Additional Animal Certificates are required to have approval from the Zoning Board and complete the process of obtaining a Conditional Use Permit prior to the issuance of a Additional Animal Certificate.

All animals above the five animal limit must be spayed or neutered as a condition of obtaining an Additional Animal Certificate.

Section 9-78. - Bite procedures.

All incidents of bites by a dog or cat suffered by a human shall be reported to the Allegheny County Sheriff's Office within twenty-four (24) hours of the bite, who may report all bite incidents to the county health department on forms and in the time sequence required by that agency. The Sheriff's Office shall follow their rules and procedures regarding examination and quarantine of biting animals.

Section 9-79. - Expense liability.

- (a) The owner or handler of any dog or cat requiring veterinarian, impounding, licensing, destruction or disposition services as a result of any violations of this division shall be responsible for all such expenses. In addition, failure to assume such expenses shall be deemed an act of disclaiming, and the dog or cat involved shall be considered a stray animal.
- (b) The owner of any dog or cat causing damage to the property of any other person shall be civilly liable for such damages.

Secs. 9-80—9-100. - Reserved.

DIVISION 3. - DANGEROUS DOGS

Section 9-101. - Owning or harboring; penalties; procedures; determination whether dangerous dog by police officer.

- (a) Dangerous dog. It shall be unlawful and a Class 1 misdemeanor to own, keep, harbor, act as custodian of, or permit to remain on or about any premises any dog that the owner knew or reasonably should have known to be a dangerous dog, except in strict compliance with Section 9-103. If, after hearing evidence, the court finds any dog to be a dangerous dog, the court shall, in addition to any other penalties imposed, order the dog's owner to comply with the provisions of Section 9-103. If any owner of a dangerous dog willfully fails to comply with Section 9-103, such owner shall be guilty of a Class 1 misdemeanor.
- (b) Procedures. When the police officer has reason to believe that a dog within his jurisdiction is dangerous, he may apply to the magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specific time. The summons shall advise the owner of the nature of the proceedings and the matters at issue. The humane society, animal shelter or owner shall confine the dog until such a time as evidence shall be heard and a verdict rendered. The court, through its contempt power, may compel the owner, custodian or handler to produce the animal. If any dog is found to be a dangerous or vicious, the owner, custodian or handler of such dog shall be responsible for payment of any expenses of impounding and keeping the dog, pending disposition in the case.
- (c) Determination of dangerous dog. In lieu of obtaining a summons, the police officer may, in his discretion, make a determination after an investigation whether a dog is dangerous. If the police officer determines a dog is a dangerous dog, he may order the dog owner to comply with the provisions of this division. If the dog owner disagrees with the police officer's determination, he may appeal the determination to the general district court for a trial on the merits within thirty (30) days of the determination.

State Law reference— Dangerous dogs, § 3.2-6540, *Code of Virginia*, as amended; vicious dog, § 3.2-6540.1, *Code of Virginia*, as amended.

Section 9-102. - Licensure.

The owner of any dog found by a court to be dangerous shall, within forty-five (45) days of such finding, obtain a dangerous dog license from the town by paying the fee required in Section 9-74, and any other outstanding fees and costs. The Town Clerk shall provide the owner with a uniformly designed tag, which identifies the dog as a dangerous dog. The owner shall affix the tag to the dog's collar and ensure that the dog 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 section shall be updated and renewed 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 state dangerous dog registry.

Section 9-103. - Keeping dangerous dogs; conditions.

It shall be unlawful for any owner of any dangerous dog to own, keep or harbor any such animal within the town except in compliance with each of the following conditions and specifications:

- (1) While on the property of its owner, a dangerous dog shall be confined indoors or, if kept outdoors, shall be kept 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. The structure shall be designed to provide the dog with shelter from the elements of nature.
- (2) While off the property of its owner, a dangerous dog shall be kept on a leash and muzzled in such a manner so 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.
- (3) The owner shall produce satisfactory evidence of and post clearly visible signs warning both minors and adults of the presence of a dangerous dog on the owner's property.
- (4) The owner shall produce satisfactory evidence of, and shall permanently identify the dog by means of, a tattoo on the dog's inside thigh or by electronic implementation.
- (5) The owner of any dangerous dog shall obtain liability insurance coverage, in the amount of \$100,000.00 or greater, that covers bites. No license or license renewal shall be issued until the owner produces satisfactory evidence of such insurance.
- (6) The owner shall immediately, upon learning of the same, notify the police officer if the dangerous dog:
 - a. Is loose or unconfined;
 - b. Bites a person or attacks another animal;
 - c. Is sold, given away, or dies; or

- d. Has been moved to a different location.
- (7) All dangerous dog registration certificates or renewals thereof required to be obtained under this division shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that all the requirements in this division and state law have been met. If a minor is the owner of a dangerous dog, the custodial parent or legal guardian shall be responsible for complying with all requirements established by this division.
- (8) In addition to the conditions and specifications established by this section with respect to dangerous dogs, the owner of any dangerous dog shall meet all other requirements established by this article for keeping any dog.
- (9) The police officer shall have the right to seize and impound the dog if any of the conditions and specifications established by this section for the keeping of a dangerous dog are not being met.

State Law reference— Control of dangerous dogs, § 3.2-6540, *Code of Virginia*, as amended.

Section 9-104. - Violations.

It shall be a Class 2 misdemeanor for the owner of any dog which has caused an injury to any person to conceal or cause to be concealed such dog from any police officer. It shall be a Class 2 misdemeanor for any willful violation of the requirements of this chapter by the owner of a dangerous dog.

Section 9-105. - Exceptions.

- (a) No dog shall be deemed or declared to be a dangerous dog if the threat, injury or damage was sustained by a person who was, at the time:
 - (1) Committing a crime upon the premises occupied by the dog's owner or custodian.
 - (2) Committing a willful trespass or other tort upon the premises occupied by the dog's owner or custodian.
 - (3) Provoking, tormenting or physically abusing the dog, or who can be shown to have repeatedly provoked, tormented, abused or assaulted the dog at other times.
- (b) No dog, which at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner's property, shall be found to be a dangerous dog.
- (c) No police dog which is engaged in the performance of its duties at such time as the acts complained of shall be found to be a dangerous dog.
- (d) No dog shall be found to be a dangerous dog solely because of its particular breed.

Secs. 9-106—9-133. - Reserved.

DIVISION 4. - VICIOUS DOGS

Section 9-134. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“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:

- (1) Killed a person;
- (2) Inflicted serious injury to a person; or
- (3) 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.

State Law reference— Vicious dogs, § 3.2-6540.1, *Code of Virginia*, as amended.

Section 9-135. - Determination of vicious dog.

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 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 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, *Code of Virginia*, as amended. 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 § 19.2-260 et seq, *Code of Virginia*, as amended. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

Section 9-136. - Exceptions.

- (a) 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.
- (b) No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was:
 - (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.
- (c) 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.
- (d) 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.

Section 9-137. - Violations.

It is unlawful for any owner or custodian of a canine or canine crossbreed or other animal to through willful acts or omission in the care, control, or containment of a canine, canine crossbreed, or other animal which is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person. The provisions of this section 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.

State Law reference— Similar provisions, § 3.2-6540.1, *Code of Virginia*, as amended.

Secs. 9-138—9-151. - Reserved.

ARTICLE III. - LIVESTOCK AND OTHER FARM ANIMALS

Section 9-152. - Keeping of livestock; impounding and confiscation.

It shall be unlawful for any person to keep any livestock, including, but not limited to, cattle, horses, sheep, goats or swine, or to keep any fowl or rabbits within the Town,

except in accordance with the provisions of this chapter. When a warrant has been obtained or a summons issued pursuant to this section, the police officer, his agent or any officer of the law may, in his discretion, enter onto private property and confiscate and impound the animal until such time as evidence shall be heard and a final verdict rendered in the matter. If the court finds any person to be in violation of this section, that person shall be responsible for payment to the Town of any expenses of confiscating and impounding the animal pending disposition of the case at the rate prescribed by the Town Council. The court may, through its contempt power, compel any person to produce the animal for the police officer, his agent or any officer of the law.

State Law reference— Authority of town to regulate or prohibit keeping of animals and fowl, § 3.1-796.94:1, *Code of Virginia*, as amended.

Section 9-153. - Horseback riding prohibited; exceptions.

No person shall ride or lead a horse within the Town upon any public way or public property, except upon property which has been designated for that purpose by the Town Council. This section shall not apply to persons riding in parades or recognized civic events. A violation of this section shall be a Class 3 misdemeanor.

Secs. 9-154—9-180. - Reserved.

ARTICLE IV. - BEES

Section 9-181. - Beehives prohibited.

It shall be unlawful for any person to keep or place a beehive within the limits of the Town.

Section 9-182. - Exceptions.

The provisions of this article shall not apply to the keeping of bees within an educational institution, museum, physician's office, or laboratory for the purpose of study, observation or medical research or treatment, provided that such bees are not permitted to fly at large.

Secs. 9-183—9-206. - Reserved.

ARTICLE V. - WILD, EXOTIC OR POISONOUS ANIMALS

Section 9-207. - Prohibition of keeping or exhibiting of wild, exotic or poisonous animals within the Town.

- (a) Permit required. It shall be unlawful for any person to keep or exhibit or permit to be kept or exhibited upon any property within the Town limits any wild, exotic and/or poisonous animal without a permit. In no case, however, shall any such wild, exotic and/or poisonous animal be exhibited, displayed or kept in such a manner so as to permit said animal to escape, be at large, or to otherwise come in direct physical contact with any person unless under direct care and control of the handler.

- (b) Permit application. The owner or custodian of any wild, exotic and/or poisonous animal shall apply to the Town Clerk within ten working days of acquisition of said animal, within ten working days of becoming a new resident of the Town, within ten working days of changing address within the Town, or, in the case of an exhibition, ten working days prior to the exhibition, for a permit authorizing the keeping of said animal within the Town limits. Each applicant for a wild, exotic or poisonous animal permit shall by affidavit provide the following:
 - (1) Name and street address of each owner.
 - (2) Location of animal storage.
 - (3) The common name of the animal.
 - (4) The date of acquiring ownership.
 - (5) Any identifying marks of the animal.
 - (6) A statement of understanding signed by the owner concerning the laws and regulations involved with the said animal.
 - (7) At least one emergency phone number where the owner can be contacted in an emergency.
- (c) Nontransferability of permit. The permit shall not be transferable and shall be valid through December 31 of the year of issue and shall be renewed by January 31 of each subsequent year. Permits for temporary exhibits shall be valid for the time period specified in the permit. One permit per address will be required within Town limits.
- (d) Permit in addition to state and federal regulations. The Town's wild, exotic and/or poisonous animal permit shall be required in addition to any state and federal regulations.
- (e) Release of wild animals prohibited. It shall be unlawful to release any wild, exotic and/or poisonous animal into the wild.
- (f) Fees. The initial fee of the permit administration shall be \$25.00 per address. A charge of \$15.00 will be collected for the annual permit renewal, the adding of additional animals to an existing permit, or the duplication of an existing permit.
- (g) False information prohibited. It shall be unlawful for any person to furnish false information for the purpose of obtaining a permit. Any permit obtained under fraudulent pretenses shall be voided.
- (h) Rejection of permit application.
 - (1) The Town Clerk may reject an application for a wild, exotic and/or poisonous animal permit, renewal of a permit or an addition to an existing permit for the following reasons:
 - a. Failure to comply or supply information required in subsection (b) of this section;
 - b. Falsification of any information required in subsection (b) of this section;

- c. Previous or current violations of this section;
 - d. Previous or current violations of any local, state, or federal law relating to animals; or
 - e. The history or demonstration of a vicious or dangerous nature of an animal.
- (2) Any town person whose application is rejected pursuant this subsection may appeal this decision to the Town Council.

State Law reference, generally, to the *Code of Virginia*, as amended —

Comprehensive animal laws, § 3.2-6500 *et seq.*; offenses involving animals, §§ 3.2-6587, 3.2-6588, 3.2-6589, 18.2-403.1 *et seq.*; inoculation of companion animals against rabies, § 3.2-6521; cruelty to animals, § 3.2-6570; regulation of animals by municipalities, § 3.2-6544; diseased animals, dead animals, etc., §§ 18.2-323, 18.2-510; regulation of hunting and trapping by counties and cities, §§ 29.1-526, 29.1-528; hunting near public schools and public parks, § 29.1-527; estrays, § 55-202 *et seq.*