

## ORDINANCE #15-26

### AN ORDINANCE TO AMEND AND RESTATE ARTICLE I AND ARTICLE II, DIVISION 1 OF CHAPTER 4 OF THE WILLIAMSBURG CODE IN THEIR ENTIRETY IN ORDER TO REFLECT PERTINENT ENABLING PROVISIONS OF ARTICLE 6, TITLE 3.2 OF THE CODE OF VIRGINIA (1950), AS AMENDED

**WHEREAS**, in order to effect various updates requested by the City's Animal Control Officer regarding dangerous and vicious dogs; hybrid dogs and wild or exotic animals and in order to update Articles I and II of Chapter 4 of the Williamsburg Code to reflect applicable enabling provisions of Article 6, Title 3.2 of the Code of Virginia,

**THEREFORE**, it is hereby **ORDAINED**, that Articles I and II, Division 1 of Chapter 4 of the Williamsburg Code are hereby amended and restated in their entireties as follows:

#### CHAPTER 4 – ANIMALS

#### ARTICLE I – IN GENERAL

##### Sec. 4-1. - 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 Control Officer* shall mean any officer appointed under section 4-2 and in accordance with the requirements of the Comprehensive Animal Laws as set forth in Title 3.2, Chapter 6.5 of the Code of Virginia.

*Companion animal* means any domestic or feral dog, domestic or feral cat, canine crossbreed, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this Chapter.

*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 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.

*Enclosure* means a structure used to house or restrict animals from running at large.

*kennel*  means an enclosure wherein dogs are kept and from which they cannot escape.

*Livestock*  includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; 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.

*Other officer*  means all other persons employed or elected by the people of the state or by any municipality, county or incorporated town thereof whose duty it is to preserve the peace, to make arrests or to enforce the law.

*Own*  and  *owner*  mean any person having a right of property in a dog or other animal; any person who keeps or harbors a dog or other animal or has it in his care or who acts as its custodian; and any person who permits a dog or other animal to remain on or about any premises occupied by him.

*Poultry*  means all domesticated fowl and game birds raised in captivity.

*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. For tethered animals, the term includes the shelter and the area within reach of the tether.

*Wild or exotic animal*  means any (i) live monkey, raccoon, skunk, wolf, squirrel, fox, leopard, panther tiger, lion, lynx or any non-native warm-blooded mammal, (ii) poisonous snake, (iii) tarantula, (iv) other poisonous animal normally found in the wild, or (v) any member of the crocodilian family including, but not limited to alligators, crocodiles, caimans and gavials. Non-poisonous snakes, ferrets, rabbits, laboratory rats, gerbils, hamsters and other similar small mammals and other domesticated animals which have been bred in captivity are not wild or exotic animals.

**Cross reference** — Definitions and rules of construction generally, § 1-2.

**State Law reference** — Similar definitions, Code of Virginia, § 3.2-6500

#### **Sec. 4-2. - Position of Animal Control Officer created; duties.**

In accordance with the Charter of the City and pursuant to the requirements of the Comprehensive Animal Laws, Code of Virginia, § 3.2-6500 et seq., there is hereby created the position of Animal Control Officer. The duties of the Animal Control Officer shall be those provided for in this chapter and other ordinances of this City and in the Comprehensive Animal Laws set out in Code of Virginia, § 3.2-6500 et seq., as well as other applicable statutes of the State. The Animal Control Officer shall also perform such other duties as may be provided for by the City Council.

**State law reference**  -- Code of Virginia § 3.2-6555

**Sec. 4-3. - Keeping certain animals within City.**

Except in the Colonial Williamsburg (CW) and Museum Support (MS) Districts as described in Chapter 21, Zoning, or unless allowed by temporary permit issued under Section 4-12 of this chapter, it shall be unlawful for any person to keep any livestock within the Corporate Limits of the City.

**Sec. 4-4. - Certain animals not to run at large.**

- (a) No person, whether owner or agent, shall permit any livestock; companion animal; canine crossbreed; or wild or exotic animal to be at large within the City or be kept in any manner in violation of the requirements of this Chapter. Any animal so at large shall be impounded, released, sold or otherwise disposed of as provided in Virginia Code § 3.2-6569
- (b) Any owner of poultry of any description who does not confine them so as to prevent their straying to the public streets or alleys or to the premises of others shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be punished in accordance with Section 1-15 of this Code. Where any such poultry is found at large in any public street or alley or on the premises of another, such poultry shall be impounded, released, sold or otherwise disposed of as provided in Virginia Code § 3.2-6569.

**State law reference** -- Code of Virginia §§ 3.2-6538 and 6544

**Sec. 4-5. - Wild or exotic animals.**

It shall be unlawful for any person to bring into or keep any wild or exotic animal (classed as *ferae naturae*) within the City unless allowed to do so under a temporary permit issued under Section 4-12 of this Article. The owner of any exotic or poisonous animal found running at large shall pay a fee equal to the City's cost of locating and capturing or otherwise disposing of the animal.

**State law reference** -- Code of Virginia § 3.2-6544

**Sec. 4-6. - Rabbits.**

No person shall keep any hare or rabbit within the City unless such hare or rabbit is penned and kept only as a household pet, and no part of the pen is closer to the nearest dwelling or business house than 100 feet. The pen or hutch shall be kept in a clean and sanitary condition and free from odors and shall be subject to the inspection and approval of the City's Animal Control Officer. Such hare or rabbit shall not be raised or used for commercial purposes.

**State law reference** -- Code of Virginia § 3.2-6544

**Sec. 4-7. Cruelty to animals; penalty.**

- (a) Any person who: (i) 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; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) 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; (iv) 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; (v) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vi) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vii) 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.

In addition to the penalties provided in this Subsection, the Court may, in its discretion, require any person convicted of a violation of this Subsection 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.

- (b) Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) 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; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv) or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this Subsection or Subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this Subsection or Subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this Subsection or Subsection (a).
- (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 Virginia Code, 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 is a Class 6 felony.
- (f) Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this Subsection. The provisions of this Subsection shall not overrule § 3.2-6540, 3.2-6540.1, or 3.2-6552 of the Virginia Code.
- (g) Any person convicted of violating this Section may be prohibited by the Court from possession or ownership of companion animals.

**State law reference** -- Code of Virginia, § 3.2-6570

**Sec. 4-8. - Disposition of carcasses.**

The owner of any companion animal shall forthwith cremate, bury, or sanitarily dispose of the animal upon its death. If, after notice, any owner fails to do so, the Animal Control Officer or other officer shall bury or cremate the companion animal, and he may recover on behalf of the local jurisdiction from the owner his cost for this service. Any owner of a dead animal violating the provisions of this Section shall be guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished in accordance with Section 1-15 of this Code.

**State Law reference.** Code of Virginia, § 3.2-6554

**Sec. 4-9. - Leaving disabled or dead animals in road or allowing dead animals to remain unburied.**

If any person casts any dead animal into a road or knowingly permits any dead animal to remain unburied upon his property when offensive to the public or, having in custody any maimed, diseased, disabled or infirm animal, leaves it to lie or be in a street, road or public place, he shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be punished in accordance with Section 1-15 of this Code.

**State law reference.** Similar provisions, Code of Virginia, § 18.2-323

**Sec. 4-10. - City designated as bird sanctuary; killing birds prohibited.**

The area within the Corporate Limits of the City hereby is designated as a bird sanctuary. It shall be unlawful for any person to kill or attempt to kill any song bird or game bird within the Corporate Limits of the City with any gun, pistol or other firearm, air rifle, BB gun, gravel shooter, bow and arrow or sling shot. Any person violating this Section shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be punished in accordance with Section 1-15 of this Code.

**Sec. 4-11. Noisy Companion Animals.**

Any person who shall own, allow, permit, keep or harbor, on or about any premises, any companion animal which creates sound (i) that is plainly audible across property boundaries or inside the confines of the dwelling unit, house or apartment of another person between the hours of 10:00 p.m. and 8:00 a.m.; (ii) that is plainly audible inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten (10) consecutive minutes; (iii) that is plainly audible at fifty (50) or more feet from the animal(s) or bird(s) between the hours of 10:00 p.m. and 8:00 a.m.; or (iv) that is plainly audible at fifty (50) or more feet from the animal(s) or bird(s) at least once a minute for ten (10) consecutive minutes, shall be deemed to have caused or permitted a public nuisance, which is unlawful, and shall be guilty of a Class 4 misdemeanor for each occurrence the nuisance may continue, after due notice has been given to remove, correct or abate the same.

**State law reference.** Code of Virginia §15.2-900

**Sec. 4-12. - Permits to allow temporary keeping of certain animals in the City.**

Upon application made to the City Manager by a tax-exempt, non-profit organization located in the City or an adjacent county, at least 30 days prior to the requested date, the City Manager may issue a permit of not more than 24 hours duration allowing the applicant to bring into the City, keep and display one or more animals otherwise prohibited by Section 4-3 or 4-6 of this article at a designated location in the City for education or other non-profit purposes. The City Manager shall not issue the permit if he finds that the requested activity due to size, nature or location or for any other reason would be reasonably expected to cause danger, constitute a nuisance or otherwise adversely affect the welfare and tranquility of the City and its citizens. The permit shall contain the date and times during which it is applicable; the type of activity in which the animal(s) will be involved; the location at which the permitted activity is to occur; the numbers and types of animals covered; the manner in which such animals will be transported, kept, displayed and controlled; the name, address and telephone number of the permittee and the same information for the permittee's representative who will be responsible for the activity; and such other conditions as the City Manager shall deem reasonably necessary to assure the safety and welfare of the City's citizens. The City Manager shall have full authority to revoke the permit at any time that he determines that it has been violated. Before and as a condition of permit issuance, the City Manager may require that the applicant place in force general liability insurance covering the permitted activity, written by an insurer licensed to

do business in Virginia, covering the applicant and the City for at least \$1,000,000.00. In such case, the applicant shall cause a certificate issued by the insurer certifying that such insurance is in force to be delivered to the City Manager, which certificate shall require 30 days' written notice to the City before policy amendment or cancellation. Such insurance shall be in full force and effect at the time of the permitted activity or the permit shall be null and void.

**Secs. 4-14—4-35. - Reserved.**

## **ARTICLE 2 – DANGEROUS AND VICIOUS DOGS AND OTHER ANIMALS.**

### **DIVISION 1. – DANGEROUS DOGS, VICIOUS DOGS AND HYBRID CANINES.**

#### **Sec. 4-36. Control of dangerous dogs; penalties.**

(a) Definitions. As used in this section:

*Dangerous dog* means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (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) If both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. 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 that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

(b) Any law enforcement officer or Animal Control Officer who has reason to believe that a canine or canine crossbreed within the City is a dangerous dog shall apply to a magistrate serving the City 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 City 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 person harboring the animal to produce the animal. 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 person harboring 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. 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. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

- (c) 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. 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.
- (d) 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.
- (e) The owner of any animal found to be a dangerous dog shall, within 45 days of such finding, obtain a dangerous dog registration certificate from the City's Animal Control Officer or Department of Finance for a fee of \$150, in addition to other fees that may be authorized by law. The Animal Control Officer or Department of Finance 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 updated and renewed for a fee of \$85 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.
- (f) All dangerous dog registration certificates or renewals thereof required to be obtained under this Section shall only be issued to persons 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 primary 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 (i) 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 (ii) 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.

- (g) 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 (the "primary enclosure") 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 primary enclosure, the animal shall be provided for according to § 3.2-6503 of the Virginia Code. 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.
- (h) The owner shall cause the City's 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.
- (i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately upon learning of same, cause the City's Animal Control Officer to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (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.
- (j) 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; or

- (3) Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal 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 bodily injury to any person.
- (k) 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.
- (l) 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 is guilty of a Class 1 misdemeanor.
- (m) 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 person harboring the animal to produce the animal.
- (n) Upon conviction, the Court may: (i) order the dangerous dog to be disposed of by the City pursuant to Virginia Code § 3.2-6562 or (ii) grant the owner up to 45 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 Virginia Code § 3.2-6562. 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.
- (o) All fees collected pursuant to this Section, less the costs incurred by the City and its Animal Control Officer in producing and distributing the certificates and tags required by this Section and 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.

**State law reference.** Code of Va. § 3.2-6540

**Sec. 4-37. 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 other canine crossbreed, or a hybrid canine, 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, or hybrid canine within the City is a vicious dog shall apply to a magistrate serving the City 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 animal and the relevant facts pertaining to his belief that the animal 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 person harboring 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. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or person harboring 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. The Commonwealth 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, other than a hybrid canine, 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.
- (d) Any owner or custodian of a canine, hybrid canine or other canine crossbreed or other animal whose willful act or omission in the care, control, or containment of a canine, hybrid canine, other canine crossbreed, or other animal is so gross, wanton, and

culpable as to show a reckless disregard for human life and is the proximate cause of such animal attacking and causing serious injury to any person is guilty of a Class 6 felony. 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.

**State law reference.** Code of Va. § 3.2-6540.1

**Sec. 4-37.1. Hybrid canines prohibited; penalties.**

- (a) The keeping of a hybrid canine within the City is prohibited.
- (b) Penalties. Any person, whether an owner, agent, custodian or employee, who violates, causes, or permits the violation of this section shall be guilty of a Class 1 misdemeanor. The Court may order the owner or custodian of a hybrid canine to surrender the animal for euthanasia in accordance with the provisions of Virginia Code § 3.2-6562.

**State law reference** - Authorization to prohibit keeping of hybrid canines, Code of Va. § 3.2-6582 D

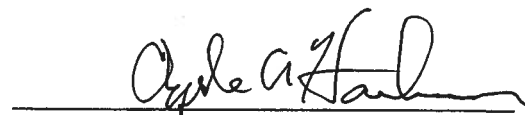
**Sec. 4-38. - Violations; penalties.**

Any person who shall make a false statement in order to secure a dog license to which he is not entitled shall, upon conviction, be guilty of a Class 4 misdemeanor. Any person failing to pay the license tax prior to February 1 of any year or as otherwise provided in this chapter on any dog owned by him shall, upon conviction, be guilty of a Class 4 misdemeanor. In addition, any person required to obtain a license on such dog shall be required to obtain the proper license forthwith. If the violator is a kennel dog, the license may be revoked if the law appears to the General District Court to have been violated by reason of carelessness or negligence on the part of the owner, who shall thereupon be required to secure an individual license on each dog. Any other violation of this Chapter for which specific penalty is not provided shall be punishable as a Class 4 misdemeanor pursuant to Code of Virginia, § 3.1-796.129(A)(9). All fines collected from any person for violating any of the provisions of this article, upon conviction thereof, shall be credited to the General Fund of the City and deposited by the Director of Finance in the same manner as that prescribed for other City monies.

**EXCEPT**, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: December 10, 2015

Attest:   
Gerry S. Walton, Deputy Clerk of Council

  
Clyde A. Haulman, Mayor