

## Chapter 10

### ANIMALS\*

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\* **Charter References:** Authority of council to prevent animals or fowl from running at large and to subject such animals or fowl to confiscation, etc., and authority of council to impose taxes on animals within the town and to prohibit cruelty to animals or fowl, § 26.

**Cross References:** Environment, ch. 26; noisy animals and birds, § 26-30; health and sanitation, ch. 34; weapons; vicious animals, § 58-150; riding bicycles or mopeds; riding or driving animals, § 66-5; driving or standing vehicle or animal on sidewalk, § 66-24.

**State Law References:** Livestock and poultry, Code of Virginia, § 3.1-723 et seq.; comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.; ordinances prohibiting cruelty to animals, Code of Virginia, § 3.1-796.94; general authority of town to regulate animals and fowl, Code of Virginia, § 3.1-796.94:1(B); cruelty to animals, Code of Virginia, § 3.1-796.122 et seq.; dogs and cats deemed personal property, rights relating thereto, Code of Virginia, § 3.1-796.127; penalties for offenses involving animals, Code of Virginia, §§ 3.1-796.128, 18.2-403.1 et seq.; diseased animals, dead animals, etc., Code of Virginia, §§ 18.2-323, 18.2-510; game, inland fisheries and boating, Code of Virginia, title 29.1; hunting near public

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**ARTICLE I.**

**IN GENERAL**

**Sec. 10-1. Certain animals, poultry and fowl running at large.**

It shall be unlawful for any person owning, harboring or having in his charge or custody any hog, sheep, mule, horse, pony, donkey, goat or other like animal or any poultry or fowl to permit or suffer any such animal, poultry or fowl to run at large within the town.

(Code 1992, § 3-1)

**State Law References:** Authority of town to prohibit the running at large of animals and fowl, Code of Virginia, § 3.1-796.94:1.

**Sec. 10-2. Certain animals and fowl prohibited.**

(a) It shall be unlawful for any person to keep any horse, mule, donkey, pony, cattle, swine, chicken, duck, turkey, goat or sheep in the town.

(b) Subsection (a) of this section shall not apply to the owner of any such animal or fowl who lawfully had such animal or fowl in the town on or before May 28, 1974. However, if

such animal or fowl is not maintained within the town for a period of 30 days, this section shall also be applicable to such owner.

(Code 1992, § 3-2)

**Sec. 10-3. Construction, alteration and enlargement of pens, coops, structures and enclosures.**

It shall be unlawful for any person within the town to erect, construct, install, alter or enlarge any pen, coop or other structure or to set off or enclose any place for the purpose of maintaining any hog, fowl or poultry. Pens, coops, structures and enclosures lawfully existing and in use on February 25, 1992, for the maintenance of fowl or poultry shall thereafter be maintained in conformity with section 10-4.

(Code 1992, § 3-3)

**Sec. 10-4. Maintenance of pens, coops, structures and enclosures.**

Each person owning or having the custody or control of an animal or fowl within the town shall provide therefor a suitable pen, coop or other enclosure or place of habitation. It shall be his duty to maintain such place at all times in a safe, clean and sanitary condition, free of excrement and other unsanitary or offensive substances, liquids or odors, and so as not to constitute a hazard to the health or safety of any person or to become a nuisance.

(Code 1992, § 3-4)

**Sec. 10-5. Location of stables.**

There shall not be erected within 150 feet of any dwelling any stable of any description without the consent in writing of all adjacent landowners and the town council.

(Code 1992, § 3-5)

**Sec. 10-6. Cruelty to animals; penalty.**

- (a) For the purposes of this section, the word "animal" shall be construed to include

birds and fowl.

(b) Any person shall be guilty of a class 1 misdemeanor if the person:

(1) 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;

(2) Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;

(3) Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;

(4) 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

(5) Causes any of the things stated in this subsection or, being the owner of such animal, permits such acts to be done by another.

(c) 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.

(d) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(e) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under the Code of Virginia, including but not limited to Code of Virginia, title 29.1, or to farming activities as provided under Code of Virginia, title 3.1, or regulations promulgated thereto.

(f) In addition to the penalties provided in subsection (b) of this section, the court may, in its discretion, require any person convicted of a violation of subsection (b) of this section 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.

(g) 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 shall constitute a class 1 misdemeanor.

(Code 1992, § 3-6)

**State Law References:** Similar provisions, Code of Virginia, § 3.1-796.122 et seq.

#### **Sec. 10-7. Burial or cremation after death.**

(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. If he fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any 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 the cremation or burial, not to exceed \$75.00, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed \$5.00, to be recovered in the same manner as officers' fees

are recovered, free from all exemptions in favor of such owner. Any person violating this subsection shall be guilty of a class 4 misdemeanor.

(b) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

(Code 1992, § 3-7)

**State Law References:** Similar provisions, Code of Virginia, § 18.2-510; disposal of dead companion animals, Code of Virginia, § 3.1-796.121; violation of same, Code of Virginia, § 18.2-403.3(3).

## **Sec. 10-8. Kennels.**

(a) As used in this section, the word "kennel" means any premises on which are housed, boarded or harbored more than four animals that are more than six months of age.

(b) Kennels are prohibited in the town.

(c) This section shall not apply to:

(1) Kennels in existence on February 25, 1992.

(2) Any facility licensed to house, board or harbor animals.

(Code 1992, § 3-8)

**Secs. 10-9--10-35. Reserved.**

## **ARTICLE II.**

## DOGS AND CATS\*

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\* **State Law References:** Sale of dogs and cats by dealers, Code of Virginia, § 3.1-796.78 et seq.; authority of local governing bodies and licensing of dogs and cats, Code of Virginia, § 3.1-796.84 et seq.; local animal control ordinances, Code of Virginia, § 3.1-796.94.

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## DIVISION 1.

## GENERALLY

### Sec. 10-36. Violations and penalties.

Any person who shall violate any section of this article shall be guilty of a class 4 misdemeanor.

(Code 1992, § 3-30)

**Sec. 10-37. Dogs running at large.**

(a) It shall be unlawful, during all the months of the year, for the owner of any dog to allow such dog to go upon any public street or square or to go upon the private property of another person, unless accompanied and held in leash by a responsible person.

(b) Members of the police department shall have power to seize any dog found off the premises of the owner of such dog unless such dog is accompanied and held in leash by a responsible person, as required by subsection (a) of this section.

(Code 1992, § 3-26)

**State Law References:** Governing body of town may prohibit dogs from running at large, Code of Virginia, § 3.1-796.93; local animal control ordinances, Code of Virginia, § 3.1-796.94; referendum on ordinance requiring dogs to be kept on leash, etc., Code of Virginia, § 3.1-796.95.

**Sec. 10-38. Dangerous or vicious dogs.**

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

*Dangerous dog* means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal.

*Vicious dog* means a canine or canine crossbreed which has:

(1) Killed a person;

(2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or

(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.

(b) Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of 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. 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. 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 this section. 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 Code of Virginia, § 3.1-796.119.



(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the town council prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or 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 or other tort 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 which 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 or a vicious dog. No animal 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 or owner's property shall be found to be a dangerous dog or a vicious dog.

(d) The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of \$50.00 in addition to other fees that may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which 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. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(e) All 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, and (ii) 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, the owner who applies for a certificate or renewal thereof under this section shall not be issued a certificate or renewal thereof unless he presents satisfactory evidence that (i) his 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 a tattoo on the inside thigh or by electronic implantation.

(f) 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. The structure shall be designed to provide the animal with shelter from the elements of nature. 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.

(g) 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.

(h) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of the finding, notify the animal control authority if the animal:

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal;

(3) Is sold, given away, or dies; or

(4) Has been moved to a different address.

(i) All fees collected pursuant to this section, less the costs incurred by the animal control officer in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the town treasury for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.1-796.104:1.

(j) Each certificate or renewal thereof required to be obtained under this section shall only be issued to a person 18 years of age or older who presents satisfactory evidence that the animal has been neutered or spayed.

(k) Each certificate or renewal thereof required to be obtained under this section

shall only be issued to a person who presents satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$50,000.00, that covers animal bites.

(l) Notwithstanding subsection (b) of this section, the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with this section. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

(m) The owner of any animal which 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.

(Code 1992, § 3-27)

**State Law References:** Similar provisions, Code of Virginia, § 3.1-796.93:1; running at large of vicious or destructive dogs, Code of Virginia, § 3.1-796.100; dogs killing domestic animals, Code of Virginia, §§ 3.1-796.116, 3.1-796.117, 3.1-796.118.

**Sec. 10-39. Miscellaneous unlawful acts.**

The following shall be deemed unlawful acts under this article:

(1) *Diseased dogs and cats.* For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from its premises, if such disease is known to the owner.

(2) *Female dog in season.* For the owner of any female dog to permit such dog to stray from its premises while such dog is known to such owner to be in season.

(3) *Removing collar and tag.* For any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian.

(4) *Concealing unlicensed or rabid dog.* For any person to conceal or harbor any dog on which no license tax as imposed by the county has been paid, or to conceal a rabid dog to keep it from being killed or confined as provided by law.

(Code 1992, § 3-28)

**State Law References:** Similar provisions, Code of Virginia, § 3.1-796.128.

**Sec. 10-40. Rabid animals.**

(a) When there is sufficient reason to believe that a rabid animal is at large, the town council shall have the power to pass an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all dogs and cats in the town to keep the dogs and cats confined on their premises unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten by the rabid animal. Any such emergency ordinance enacted pursuant to this section shall be operative for a period not to exceed 30 days unless renewed by the town council.

(b) Dogs or cats showing active signs of rabies or suspected of having 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, § 3.1-796.96.

(c) Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department the existence of such

animal; the place where seen; the owner's name, if known; and the symptoms suggesting rabies.

(d) Any dog or cat, for which no proof of current rabies vaccination is available and which is 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 months at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian as provided in Code of Virginia, § 3.1-796.96. A rabies vaccination shall be administered 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 valid rabies vaccination shall be revaccinated immediately following the bite and shall be confined to the premises of the owner or other site as may be approved by the health department for a period of 90 days.

(e) At the discretion of the health director, any animal which has bitten a person shall be confined under competent observation for ten days, unless the animal develops active symptoms of rabies or expires before that time. A seriously injured or sick animal may be humanely euthanized as provided in Code of Virginia, § 3.1-796.96, and its head sent to the division of consolidated laboratory services of the state department of general services or the local health department for evaluation.

(f) When any potentially rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite or through saliva or central nervous system tissue in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of the health director in a manner approved by the health department or humanely euthanized as provided in Code of Virginia, § 3.1-796.96 and its head sent to the division of consolidated

laboratory services of the state department of general services or the health department for evaluation.

(g) When any animal, other than a dog or cat, is 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, that newly exposed animal shall be confined at the discretion of the health director in a manner approved by the health department or humanely euthanized as provided in Code of Virginia, § 3.1-796.96.

(Code 1992, § 3-29)

**State Law References:** Similar provisions, Code of Virginia, § 3.1-796.98; regulations to prevent the spread of rabies, Code of Virginia, § 3.1-796.100.

**Secs. 10-41--10-65. Reserved.**

## **DIVISION 2.**



## RABIES INOCULATION\*

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\* **State Law References:** Rabies prevention ordinances, Code of Virginia, § 3.1-796.100; inoculation of dogs and domesticated cats, Code of Virginia, § 3.1-796.97:1.

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### Sec. 10-66. 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:

*Currently vaccinated* and *currently vaccinated or inoculated* mean vaccinated or inoculated with a rabies vaccine or serum, and the time of the effectiveness of such rabies vaccine or serum vaccination or inoculation shall have not expired.

(Code 1992, § 3-46)

**Cross References:** Definitions generally, § 1-2.

**Sec. 10-67. Rabies inoculation of dogs and domesticated cats; availability of certificate.**

The owner or custodian of every dog or domesticated cat four months of age and older shall have it 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 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 animal control officer, humane investigator, law-enforcement officer, state veterinarian's representative, or official of the state 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.

(Code 1992, § 3-47)

**State Law References:** Similar provisions, Code of Virginia, § 3.1-796.97:1.

**Sec. 10-68. Cat running at large.**

It shall be unlawful for any person to allow any cat owned, kept, held or harbored by such person to run at large in the town, other than on the property owned or rented by such person, when such cat has not been currently vaccinated or inoculated against rabies. This shall be a separate offense from section 10-67.

(Code 1992, § 3-48)

**Sec. 10-69. Failure to prove vaccination.**

Failure of a person who owns, keeps, harbors or holds a dog or cat in the town to produce a certificate of vaccination or inoculation for rabies for such dog or cat, upon request by the animal control officer, a law-enforcement officer or the health director, which shows that such dog or cat is currently vaccinated or inoculated shall create a rebuttable presumption that such dog or cat has not been currently vaccinated or inoculated as required by this division, as the case may be.

(Code 1992, § 3-49)

**State Law References:** Animal control officers, Code of Virginia, § 3.1-796.104 et seq.