

Dog Ordinance

DIVISION 1 – GENERALLY

Sec. 4-47 – Number of dogs limited

- (a) It shall be unlawful for any person to keep more than two dogs over four months of age in town.
- (b) Any person who, on the date of enactment of this ordinance, was lawfully keeping more than the number of dogs permitted by this section shall be entitled to continue to keep all such dogs, so long as they are duly licensed and inoculated in accordance with the law. However, it shall be unlawful for any such person to keep any dog acquired after Date of ordinance adoption unless the total number of dogs kept by the person does not exceed the number of dogs permitted by subsection (a) of this section.
- (c) Upon the death or other disposition of any dog in excess of the number permitted under subsection (a) of this section, the owner shall not replace the dog.
- (d) The structure or building in which any dogs are confined and the lot, compound or enclosure in which they are penned shall be kept in sanitary condition so as not to cause offensive odors or attract flies or other insects.
- (e) This section shall not apply to licensed veterinarians, pet shops, or animal shelters.
- (f) No dog house, pen or kennel shall be maintained closer than ten feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which said dogs are kept.
- (g) A violation of this section shall constitute a Class 3 misdemeanor.

DIVISION 2 – CARE AND CONTROL

Sec. 4-50 – Dogs running at large.

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

Dog means every dog, regardless of sex, size or age and specifically including hybrid animals produced from any crossbreed with any dog.

Owner means every person who alone or in conjunction with another owns, keeps or harbors a dog, has a right of property in a dog in his custody or acts as a custodian of a dog.

To run at large means to roam, loiter, walk, run, destroy or disturb property of another (such as garbage cans, gardens, flowers, shrubs, etc.) or be off the premises of the owner without being caged, physically carried or held by leash by a person thoroughly capable of both physically or mentally controlling the dog.

- (b) It shall be unlawful for the owner of a dog, whether licensed or not, to allow such dog to run at large at any time within the town limits.
- (c) It shall be unlawful for the owner of a dog to allow, cause or permit such dog to enter any public building, office or store during the time that such business establishments are open for public business unless the dog is on a leash or is otherwise under the immediate control of the owner.
- (d) This section shall not apply to professionally trained guide animals for handicapped individuals while such animals are in such person's immediate custody and control.
- (e) This section shall not apply to professionally trained animals owned by or used by law enforcement officials, while actually in performance of their duties.
- (f) The Lunenburg County Animal Control Officer is also hereby authorized to enforce the provisions of this section.

Sec. 4-51. – Animal waste.

It shall be unlawful for any owner or person in control of any dog to allow the dog to defecate on the property of other persons without their consent or that of the authorized agent or person having control of the premises or on public property. Immediate removal and sanitary disposal of the defecated matter shall not constitute a violation of this section. The defecated matter shall be placed in a container and disposed of in a proper waste receptacle. A violation of this section shall constitute a Class 3 misdemeanor.

Sec. 4-52. – Dogs as a public nuisance.

- (a) Any dog 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 or property shall be deemed a public nuisance. The term “public nuisance,” as used in this article, shall mean and include, but is not limited to:
 - (1) Dogs repeatedly found at large;
 - (2) Dogs damaging the property of anyone other than its owner;
 - (3) Dogs excessively making disturbing noises, including but not limited to continued and repeated barking, howling, whining or other utterances causing unreasonable

annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored;

- (4) Dogs causing fouling air by odor and thereby causing unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored; or
 - (5) Dogs causing unsanitary conditions in enclosures or surroundings where the dog is kept or harbored upon property owned and/or occupied by someone other than the owners of the dog.
- (b) Violation of this article shall constitute a Class 4 misdemeanor, and, in addition, any such violation is hereby declared a public nuisance, and any person suffering injury or damage therefore may seek the correction, removal or abatement of such nuisance through appropriate suit in equity.

Secs. 4-53 – Dangerous Dogs.

- (a) As used in this section, "dangerous dog" means:
- (1) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that (i) no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack-occurred on the property of the attacking or biting dog's owner or custodian; or
 - (2) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.
- (b) No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.
- (c) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog may apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact 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 dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict

rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia, 1950, as amended. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

- (d) 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.
- (e) 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.
- (f) The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$150.00, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be 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 Virginia Dangerous Dog Registry.
- (g) 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 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 \$100,000.00, 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 \$100,000.00.

- (h) 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. When so confined within the structure, the animal shall be provided for according to § 3.2-6503 of the Code of Virginia, 1950, as amended. 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.
- (i) The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.
- (j) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten 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.
- (k) 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; or
 - (2) Class 1 misdemeanor—If the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the

animal is a police dog that is engaged in the performance of its duties at the time of the attack.

- (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.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by the local governing body pursuant to § 3.2-6562 of the Code of Virginia, 1950, as amended or (ii) grant the owner up to 30 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 of the Code of Virginia, 1950, as amended. 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.

- (m) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and 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 locality for the purpose of paying the expenses of any training course required under § 3.2-6556 of the Code of Virginia, 1950, as amended.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540.

Secs. 4-53 – Vicious Dogs.

- (a) As used in this section:

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

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

- (b) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a vicious dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or

custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceedings and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.2-6562 of the Code of Virginia, 1950, 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 Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia, 1950, as amended. 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 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.

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6540.1.