

## CHAPTER 4<sup>1</sup>

### ANIMALS AND FOWL

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<sup>1</sup> **State law references**-Comprehensive Animal Laws, Code of Virginia, § 3.1-796.66 et seq.; Authority of county to adopt certain ordinances, Code of Virginia, § 3.1-796.94; County Health Regulations, Code of Virginia, § 15.1-510. Amended by County Ordinance 5-11-04.

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## 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:

*Agricultural animals* mean all livestock and poultry.

*Animal* means any nonhuman vertebrate species except fish.

*Animal Control Officer* means any animal control officer and any deputy animal control officers appointed under this Code and in accordance with Section 3.1-796.104 of the 1950 Code of Virginia, as amended.

*Companion animal* means any domestic or feral dog, domestic or feral cat, non-human 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 which 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.

*Euthanasia* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

*Game* means wild animals and wild birds that are commonly hunted for sport or food.

*Game Warden* means supervising wardens, and regular and special game wardens.

*Kennel* pursuant to the provisions of this Chapter means any establishment in which 5 or more canines, or crossbreed thereof, or 5 or more felines, are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

*Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except common companion animals.

*Nuisance Animal* is an animal which interferes with the use and enjoyment of a property by the owner, user, or other person, organization, or entity lawfully in possession of such property. The following acts shall be deemed to interfere with the use and enjoyment of a property: alteration to the landscape or garden, jumping, nipping, biting, barking, running or any other similar activity which threatens, intimidates, harasses, or otherwise causes a person to alter his use and enjoyment of the property; and any other activity which reasonably causes a person to alter his use and enjoyment of the property.

*Other Officer* includes all other persons employed or elected by the people of Bath County or the Board of Supervisors of Bath County, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

*Owner* means any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his or her care, or (iv) acts as a custodian of an animal.

*Poultry* includes all domestic fowl and game birds raised in captivity.

*Treasurer* shall mean the Treasurer of Bath County or the Treasurer's deputy or deputies. **(Ordinance adopted 6-28-63)**

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

**State law reference**-Similar provisions, Code of Virginia, §§ 3.1-796.66 et seq.

**Sec. 4-2. Authority and duties of Animal Control Officer.**

In accordance with § 3.1-796.104 of the 1950 Code of Virginia, there is hereby created the position of *Animal Control Officer* who shall have the power to enforce this Chapter, all amendments to this Chapter, and all laws for the protection of domestic animals. The Board of Supervisors of Bath County may also appoint one or more deputy animal control officers to assist the Animal Control Officer in his duties under this Chapter. Such Animal Control Officer and deputy animal control officers shall have a knowledge of the animal control and protection laws which they are required to enforce. They shall avail themselves of at least one training course offered by the Commonwealth of Virginia for law enforcement officers or for humane investigators, or any animal control officer, humane officer, or law officer workshop approved by the State Veterinarian. When in uniform or upon displaying a badge or other credentials of office, the Animal Control Officer and deputy animal control officers shall have the power to issue a summons to any person found in the act of violating any such law. **(Ordinance adopted 6-28-63)**

**ARTICLE II. DOGS AND CATS<sup>2</sup>**

**DIVISION 1. GENERALLY**

**Sec. 4-3. Dogs killing or injuring sheep or other livestock or poultry.**

It shall be the duty of any Animal Control Officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this Section, shall have the right to kill such dog on sight as shall any owner of livestock or his or her agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the Animal Control Officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry

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<sup>2</sup> **State law references**-General powers of Counties relating to dogs, Code of Virginia, § 3.1-796.84 et seq.

killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the dog.

Any Animal Control Officer or other person who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any Animal Control Officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned herein, shall apply to a magistrate, who shall issue a warrant requiring the owner or custodian, if known, to appear before the general district court at the time and place named therein, at which time evidence shall be heard, and if it shall appear that such a dog is a livestock killer, or has committed any of the depredations mentioned here, the general district court shall order that the dog shall be (i) killed immediately by the Animal Control Officer or other officer designated by the court or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

**(Ordinance adopted 6-28-63)**

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.116; Authority for enactment by County, Code of Virginia, § 3.1-796.94.

**Sec. 4-4. Compensation for livestock and poultry killed by dogs.**

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400.00 per animal or \$10.00 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock or poultry and the reasons the claimant believes that death or injury was caused by a dog; (ii) the Animal Control Officer or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this Section is sought. Exhaustion of legal remedies shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

Upon payment under this Section the County shall be subrogated, to the extent of compensation paid, to the right of action of the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.118.

**Sec. 4-5. County pound.**

A County pound shall be maintained in Bath County in accordance with guidelines issued by the Virginia Department of Agriculture and Consumer Services, and shall require companion animals in violation of this Chapter to be confined therein. The pound shall be accessible to the public at reasonable hours during the week.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.96.

**Sec. 4-6. Authority of Animal Control Officer to capture and confine stray animals.**

(a) The Animal Control Officer, his or her deputies and any other official designated by the Board of Supervisors of Bath County, are hereby empowered to capture and impound, any dog found within the County of Bath, not wearing a collar, or not wearing a collar with a county license tag securely attached if a license is required under Section 4-10, or any companion animal otherwise found to be in violation of this Chapter. Any person other than those described above who captures, confines with the intent to permanently deprive from its rightful owner, or delivers to any pound other than set out in Section 4-5 of this Chapter, SPCA, animal shelter, boarding establishment, humane society or other similar facility shall be in violation of this Section.

(b) All drugs and drug administering equipment, or other means of capture used by animal control officers or other officers to capture dogs or other companion animals pursuant to this Chapter shall have been approved by the State Veterinarian.

**State law reference**-Similar provisions, Code of Virginia, Section 3.1-796.96, 3.1-796.119.

**Sec. 4-7. Disposition of stray and unwanted animals.**

(a) An animal confined pursuant to Section 4-6 shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined in the pound, unless sooner claimed by the rightful owner thereof.

(b) The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight hours following its confinement.

(c) If any animal confined pursuant to this Section is claimed by its rightful owner, such owner shall produce reasonable proof of ownership, a County license tag, and proof of rabies inoculation for such animal as required by law, pay an impoundment fee of \$5.00, together with a penalty of \$2.00 per day for each day such animal has been impounded.

(d) If an animal confined pursuant to this Section has not been claimed upon expiration of the appropriate holding period as provided by Subsection A, it shall be deemed abandoned and become the property of the County. If such abandoned animal did not when delivered to the pound bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:

(1) Sale or gift to a federal agency, State-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;

(2) Delivery to any humane society or animal shelter within the Commonwealth;

(3) Adoption by any person who is a resident of Bath County or of an adjacent political subdivision and who will pay the required boarding fee of \$2.00 per day for each day the animal has been impounded not to exceed a total of \$12.00, together with the required County license fees as set out in Section 4-12.

(4) Delivery, for the purposes of adoption or euthanasia only, to a humane society or any animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter; (i) maintains records which would comply with Section 3.1-796.105 of this Code of Virginia; (ii) requires that adopted dogs and cats be sterilized; and (iii) has been approved by the State Veterinarian or his or her designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia.

If such abandoned animal when delivered to the pound bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subdivision 2 or 3 of this Subsection.

The Bath County Animal Shelter shall not deliver more than two animals or a family of animals during any thirty day period to any one person under subdivision 3 or 4 of this Subsection.

(e) Nothing in this Section shall prohibit the immediate destruction of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal destroyed pursuant to the provisions of this Chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

(f) Nothing in this Section shall prohibit the immediate destruction or disposal by the methods listed in subdivisions 2 through 4 of Subsection (d) of an animal that has been delivered voluntarily or released to the County pound, or Animal Control Officer by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement (i) certifying that no other person has a right or property in the animal and (ii) acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subdivisions 2 through 4 of Subsection (d).

(g) Nothing in this Section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written certification of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Section 3.1-796.105 of the Code of Virginia. For the purposes of this Subsection, a disinterested person shall not include a person releasing or reporting the animal to the pound.

(h) For the purposes of this Section:

*Animal* shall not include agricultural animals.

*Rightful owner* means a person with a right of property in the animal.

*Humane society* when referring to an organization within the Commonwealth, means any nonprofit organization organized for purpose of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.

**State law reference-**§ 3.1-796.96.

**Sec. 4-8. Confinement of biting dogs.**

(a) If any dog shall bite any person, the owner thereof shall confine such dog in an enclosure approved by the Health Officer, or his agent, for such period of time required by the Health Officer, and if such owner shall fail to adequately confine such dog, then and in that event, the Health Department of Bath County shall take possession of such dog and shall arrange for its confinement, at the expense of the owner, if known, and if unknown, at the expense of the County.

(b) If the owner of any dog so biting any person shall fail or refuse to restrain such dog in adequate confinement, as prescribed by the Health Department, or shall fail to deliver such dog to the duly authorized representative of the Health Department, such person shall be guilty of a Class 4 Misdemeanor and, upon conviction, shall be fined not more than two hundred fifty dollars (250.00).

**Cross reference-**Penalty for a Class 4 misdemeanor, § 1-14. **State law reference-** Authority to adopt ordinance, Code of Virginia, §§ 3.1-796.97, 15.1-839.

**Sec. 4-9. Nuisance Animals.**

(a) It shall be unlawful for the owner or custodian of an animal to allow his animal or animals to enter onto the property of another if such owner or custodian has received notice as set forth in Subsection 4-9(b) that any one or more of his animals is a nuisance animal. A nuisance animal shall be any animal which enters onto the property of a person who is not the owner or custodian of such animal, and shall interfere in any way with the use and enjoyment of such other property by its owner, lessee, or other person, organization, or entity lawfully having possession or use of such other property. The following acts shall be deemed to interfere with the use and enjoyment of a property: alteration to the landscape or garden; jumping, nipping, biting, barking, running or any other similar activity which threatens, intimidates, harasses, or otherwise causes a person to alter his use and enjoyment of the property, and any other activity which reasonably causes a person to alter his use or enjoyment of the property. It shall be the duty of the Animal Control Officer to enforce the provisions of this Section.

(b) If an animal is a nuisance animal, the owner, lessee, or other person, organization, or entity lawfully in possession or use of a property (hereinafter referred to as the "Property Owner") on which the animal is a nuisance shall notify the Animal Control Officer. Such notice

shall include the name of the owner or custodian of such nuisance animal and such other information as may be required by the Animal Control Officer. Upon receipt of such notice, the Animal Control Officer shall provide written notice to the owner or custodian of the nuisance animal that he will be in violation of this Section if he thereafter allows the nuisance animal to enter upon the property of the Property Owner.

**State law reference**-Similar provisions, Code of Virginia § 3.1-796.93.

## **DIVISION 2. DOG AND CAT LICENSE<sup>3</sup>**

### **Sec. 4-10. Required.**

(a) It shall be unlawful for any person to own a dog or cat four months old or older in the County, unless such animal is currently licensed under the provisions of this Article.

(b) The provisions of this Chapter 4 with respect to licensing requirements for cats shall become effective January 1, 1998.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.85.

### **Sec. 4-11. How to obtain license.**

Any resident of this County may obtain a dog or cat license by making oral or written application to the Treasurer, accompanied by the amount of the license tax and certificate of rabies vaccination. The Treasurer shall have authority to license only dogs or cats of resident owners and may require information to this effect of any applicant. Upon receipt of a proper application, the amount of the license tax, and the certificate of rabies vaccination, the Treasurer shall issue a license receipt for the amount of the license tax, on which the Treasurer shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed, female or kennel, and deliver the metal license tags or plates herein provided for. If, however, the certificate of rabies vaccination expires prior to the expiration date of the license for which application has been made, a license shall not be issued.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.86.

### **Sec. 4-12. Tax imposed.**

(a) An annual license tax on the ownership of dogs and cats in the County of Bath is hereby imposed in the following amounts:

- (1) For male dogs or cats, two dollars (\$2.00).
- (2) For unsexed female dogs or cats, two dollars (\$2.00).
- (3) For female dogs or cats, five dollars (\$5.00).
- (4) For a kennel,

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<sup>3</sup> **State law reference**-Dog License, Code of Virginia, § 3.1-796.85 et seq.; **County Ordinance**-Ordinance adopted 6-28-63 (pertaining to license tax on dogs).

For a kennel block of up to 10 dogs or cats - (\$10.00)  
For a kennel block of up to 11 to 50 dogs or cats -  
(\$10.00 plus \$2.00 for each dog or cat in excess of 10)

A kennel license shall not be issued for more than fifty dogs or fifty cats. Furthermore, any person applying for a kennel license shall obtain from the official charged with enforcement of the County's Land Use Regulations a certification that the land of the person applying for a kennel license is properly zoned for that of the establishment of a kennel as defined in 4-1 of this Chapter. The Treasurer shall issue a kennel license only after receipt of such certification.

(b) No license tax shall be levied under this Section on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person. As used in this Section, *hearing dog* means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.87.

**Sec. 4-13. When and where license tax payable.**

The license tax imposed by this Article shall be due and payable at the office of the Treasurer as follows:

(a) Beginning January 1 of each year, and not later than January 31 of each year, the owner of any dog or cat four (4) months old or older shall pay a license tax as prescribed in the preceding Section.

(b) If a dog or cat becomes four months of age, or, if a dog or cat over four months of age not licensed by this County comes into the possession of any person in this County, between January 1 and October 31 of any year, a license tax for the current calendar year shall be paid forthwith by the owner.

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.88.

**Sec. 4-14. What license shall consist of.**

A license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show the sex of the animals, the calendar year for which issued and bear a serial number. The license tag for a kennel shall show the number of dogs or cats authorized to be kept under such license and have attached thereto a metal identification plate for each of such animals, numbered to correspond with the serial number of the license tag.

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.90.

**Sec. 4-15. Duplicate license tags.**

If a license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the Treasurer who issued the same for a duplicate license tag, presenting the original receipt. Upon affidavit of the owner or custodian sworn to before the Treasurer that the original license

tag has been lost, destroyed, or stolen, the Treasurer shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The Treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag shall be one dollar (\$1.00).

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.91.

**Sec. 4-16. Displaying receipts; dogs to wear tags.**

Dog and cat license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag, except that when (i) the dog is engaged in lawful hunting, (ii) the dog is competing in a dog show, (iii) the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) the dog is confined, or (v) the dog is under the immediate control and supervision of the owner or custodian, the collar and tag may be temporarily removed.

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.92.

**Sec. 4-17. Regulating kennel dogs.**

The owner of a kennel shall securely fasten the license tag in full view in the area where the kennel animals are kept and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to any animal warden or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the enclosure but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show. A kennel shall not be operated in such manner as to defraud the County of the license tax applying to dogs which cannot be legally covered thereunder or to in any manner violate other provisions of this Chapter.

**State law reference**-Authority of County to adopt certain ordinances, Code of Virginia, § 3.1-796.94.

**Sec. 4-18. Disposition of funds.**

The Treasurer shall deposit all money collected for dog and cat license taxes in the general fund. The County shall use the funds for the following purposes:

- (a) The salary and expenses of the animal warden and necessary staff;
- (b) The care and maintenance of a pound;
- (c) The maintenance of a rabies control program;
- (d) Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of the license tax as provided by ordinance;
- (e) Payments for compensation as provided in § 4-5; and

- (f) Efforts to promote sterilization of dogs and cats.

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.101.

### **ARTICLE III. RABIES CONTROL<sup>4</sup>**

#### **Sec. 4-19. Vaccination or inoculation required.**

(a) The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner 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 an animal warden, humane investigator, law-enforcement officer, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

(b) Any person, firm or corporation bringing a dog or cat into the County from some other jurisdiction shall be required to conform with the provisions of Subsection (a) hereof within fifteen (15) days subsequent to bringing such dog or cat into the County.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.97:1.

#### **Sec. 4-20. Rabid animals.**

(a) When there is sufficient reason to believe that a rabid animal is at large, the Board of Supervisors shall have the power to pass an emergency ordinance which shall become effective immediately upon passage, requiring owners of all dogs and cats therein to keep the same 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 the provisions of this section shall be operative for a period not to exceed thirty days unless renewed by the Board of Supervisors.

(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 § 4-34 of this Chapter.

(c) Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the local Health Department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

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<sup>4</sup> **State law reference**-State control of rabies, Code of Virginia, § 32.1.1 et seq.; local control of rabies, Code of Virginia, § 3.1-796.97 et seq.; **County ordinance - Ordinance adopted 1-11-55**; Control of 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 County 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 § 4-34 of this Code. 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 County Health Department, for a period of ninety days.

(e) At the discretion of the County Health Officer, any animal which has bitten a person shall be confined under competent observation for such period of time as required by the Health Officer, 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 § 4-34 of this Chapter and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services, or the County 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 County Health Officer in a manner approved by the Health Department or humanely euthanized as provided in § 4-34 of this Chapter and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the County 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 County Health Officer in a manner approved by the Health Department or humanely euthanized.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.98.

**Sec. 4-21. Certificate of inoculation and vaccination.**

(a) No license tag shall be issued for any dog or cat unless there is presented, to the Treasurer at the time application for license is made, evidence satisfactory to him or her showing that such dog or cat has been inoculated or vaccinated against rabies by a currently licensed veterinarian or currently licensed veterinary technician who was under the immediate and direct supervision of a licensed veterinarian on the premises. On all certificates of rabies vaccination shall be recorded the breed, color, sex and approximate weight of the dog or cat, the date of vaccination, the name and address of the owner of said dog or cat and the vaccination number. The Treasurer shall record on the certificate the date the license tag is issued, the year for which it is issued and the serial number of the license tag issued, before affixing his signature.

(b) Rabies clinics, approved by the Bath County Department and Board of Supervisors shall be held at least once per year if the Board of Supervisors finds that the number of resident veterinarians is otherwise inadequate to meet the need.

(c) All certificates of rabies vaccination accepted by the Treasurer must be executed by such person or persons as are recommended by the Health Officer and appointed by the Board of Supervisors to administer rabies vaccination to dogs and cats in the County. Such person so authorized must be a veterinarian licensed as such in the State of Virginia. The certificate will be furnished by the owner for signature by the Treasurer, after which the certificate will be returned to the owner.

**State law reference-**Evidence showing inoculation for rabies prerequisite for obtaining dog license, Code of Virginia, § 3.1-796.97.

#### **ARTICLE IV. BOUNTY FOR COYOTES**

##### **Sec. 4-22. Payment of bounty for coyotes.**

(a) The killing of coyotes within the boundaries of Bath County is permitted; provided, however, that such permission shall not authorize trespass or entry upon land the entry onto which is otherwise unlawful, and shall not authorize the killing of coyotes or carrying of weapons upon land owned by the United States Forest Service unless permitted by the United States Forest Service. Upon proper proof, as specified in subsection (b) of this Sec. 4-22, and subject to the annual limitation as specified in subsection (c) of this Sec. 4-22, a bounty of \$50.00 may be paid by the County of Bath to Bath County residents and landowners for each coyote killed within the boundaries of Bath County as provided herein.

(b) The entire coyote shall be presented during regular business hours at the Bath County Animal Control Office to qualify for payment of the bounty. Upon provision by the individual who presents such coyote of adequate information (to include a picture) of his or her identity and geographic and mailing address, and signature on a sworn statement (on a form to be furnished by the Bath County Animal Control Office) that the coyote was killed within the boundaries of Bath County in accordance with subsection (a) of this Sec. 4-22, the Animal Control officer shall clip both ears of the coyote and present the claim to the Bath County Board of Supervisors for approval.

(c) The Board of Supervisors may appropriate coyote bounty program funds in the amount it determines, from time to time and at any time it determines appropriate. The Board of Supervisors, in appropriating coyote bounty program funds to the County budget, is not bound by a base or cap amount or any predetermined amount for the coyote bounty program.

(d) It shall be unlawful for any person to present a false claim or to receive payment of a bounty on a false claim under this Article IV. Violation of this subsection (d) of Sec. 4-22 of the Bath County Code shall constitute a Class 1 misdemeanor, punishable by a fine not to exceed \$2,500.00 and/or confinement in jail for a period not to exceed one year.

**State law reference-** Authorization for a locality to pay a bounty for coyotes killed within its boundaries, Code of Virginia, § 15.2-926.1.

*After a duly advertised public hearing, on February 12, 2008, the Board of Supervisors on a 5-0 revised Section 4-22(a) to include a Fifty Dollar (\$50.00) coyote bounty instead of a One-Hundred Dollar (\$100.00) coyote bounty. It also revised Section 4-22(c) to remove any set amount of coyote bounty in the County budget, but instead to allow the Board to appropriate funds for the program in the amounts it deems fit, and when and as it deems fit, so that the program funds may be adjusted by the Board of Supervisors at any time. The Board of Supervisors instructed that a \$100.00 coyote bounty be paid through the end of February 2008, with adequate proof by the hunter presenting the animal to meet the ordinance, and after that time, the coyote bounty amount to be paid for an animal would be \$50.00. The ordinance changes were to take effect the night of February 12, 2008.*

## **ARTICLE V. DANGEROUS AND VICIOUS DOGS**

### **Sec. 4-23. Definitions.**

*Dangerous dog or dogs* means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, 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 other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

*Vicious dog or dogs* means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court or an Animal Control Officer under Section 4-24(c) of the Bath County Code that it is a dangerous dog, provided that its owner has been given notice of that finding.

**State law reference**-Similar provisions, Code of Virginia, § 3.1-796.93:1.

### **Sec. 4-24. Proceedings for dogs believed to be vicious or dangerous.**

(a) In the event the Animal Control Officer has reason to believe that a canine or canine crossbreed in Bath County, Virginia, is a dangerous dog or vicious dog, he or she shall 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 specified date and 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 the provisions of this Chapter. 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 Sec. 3.1-796.119 of the Code of Virginia or Sec. 4-34 of the Bath County Code.

(b) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed. 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.

(c) Notwithstanding the provisions of Sec. 4-24(a), 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 the provisions of this Article. 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.

**State law reference**-Authority for enactment by County, Code of Virginia, § 3.1 -796.93 :1.

**Sec. 4-25. Certificates and provisions regulating dangerous dogs.**

(a) 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 fifty dollars 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 Subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(b) All certificates or renewals thereof required to be obtained under this Section shall only be issued to persons eighteen 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, 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 a tattoo on the inside thigh or by electronic implantation.

(c) 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.

(d) All certificates or renewals thereof required to be obtained under this Article shall only be issued to persons eighteen years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

(e) 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.

(f) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local Animal Control Officer if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

(g) The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of this Chapter shall be guilty of a Class 1 misdemeanor.

(h) All fees collected pursuant to the Article, less the costs incurred by the Animal Control Officer in producing and distributing the certificates and tags required by this Chapter, shall be paid into a special dedicated fund in the treasury of Bath County for the purpose of paying the expenses of any training course for the Animal Control Officer required under Virginia Code Sec. 3.1-796.104:1.

**State law reference**-Authority for enactment by County, Code of Virginia, § 3.1-796.93:1.

## **ARTICLE VI. HYBRID CANINES<sup>5</sup>**

### **Sec. 4-26. Definitions.**

As used in this article:

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<sup>5</sup> **State law reference** - Similar provisions and authority of County to adopt, Code of Virginia, § 3.1-796.126:18 et seq.

"Adequate confinement" means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to Virginia Code § 3.1-796.93:1, or Sec. 4-24 of the Bath County Code, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

"Hybrid canine" means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law enforcement officer, Animal Control Officer, humane investigator, officer of the Department of Health, or compliance officer who is under the direction of the State Veterinarian.

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

**Sec. 4-27. Hybrid canine ordinance; penalty.**

(a) It shall be unlawful for any person to own or bring into the County any hybrid canine four months or older unless such animal is currently licensed under the provisions of this Article.

(b) Any resident of the County may obtain a license for a hybrid canine by making written application to the Treasurer, accompanied by the amount of the license tax, a copy of the vaccination records, if any, for the past two years for the animal, a written description of adequate confinement for the hybrid canine and method for handling the animal when not on the property of the owner to be employed by the applicant. The Treasurer shall have authority to license hybrid canines of resident owners only and may require information to this effect of any applicant. Upon receipt of a proper application, the amount of the license tax, and the vaccination records, the Treasurer shall issue a license receipt for the amount of the license tax, on which the Treasurer shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tax, whether male, unsexed, or female, and any identifying marks of the animal, and deliver the metal license tags or plates herein provided for.

(c) No resident shall own or be issued a license for more than two hybrid canines during any one period of time.

(d) An annual license tax on the ownership of hybrid canines in the County of Bath is hereby imposed in the same amount as the license tax under Sec. 4-12 applicable to dogs, and shall be due and payable as provided under Sec. 4-13 for dogs.

(e) The provisions of Sections 4-14, 4-15, 4-16, and 4-18, which govern what a license shall consist of, issuance of a duplicate license, display of receipts and tags, and disposition of funds, shall apply to hybrid canines in the same manner as they apply to dogs.

(f) Violation of this Article VI, Chapter 4 of the Bath County Code shall be a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or a subsequent violation. In addition, any owner or custodian who violates this Article VI shall surrender the hybrid canine for euthanasia in accordance with Virginia Code § 3.1-796.119 or Sec. 4-34 of the Bath County Code.

**Sec. 4-28. Hybrid canines killing, injuring or chasing livestock.**

(a) It shall be the duty of any Animal Control Officer or other officer who may find a hybrid canine in the act of killing or injuring livestock or poultry to kill such hybrid canine forthwith, whether such hybrid canine bears a tag or not. Any person finding a hybrid canine committing any of the depredations mentioned in this section shall have the right to kill such hybrid canine on sight as shall any owner of livestock or his agent finding a hybrid canine chasing livestock on land lawfully utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the Animal Control Officer or other officer to kill any hybrid canine known to be a confirmed livestock or poultry killer, and any hybrid canine killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the hybrid canine to produce the hybrid canine.

(b) Any Animal Control Officer who has reason to believe that any hybrid canine is killing livestock or poultry shall be empowered to seize such hybrid canine solely for the purpose of examining such hybrid canine in order to determine whether it committed any of the depredations mentioned herein. Any Animal Control Officer or other person who has reason to believe that any hybrid canine is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate for the county, city or town wherein such hybrid canine may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it appears that the hybrid canine is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the hybrid canine be (i) killed immediately by the Animal Control Officer or other officer designated by the court or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any hybrid canine ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

**Sec. 4-29. Compensation for livestock and poultry killed by hybrid canines.**

(a) Any person who has any livestock or poultry killed or injured by any hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400 per animal or \$10 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a hybrid canine; (ii) the Animal Control Officer or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the hybrid canine upon which an execution has been returned unsatisfied.

(b) Upon payment under this Section Bath County shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the hybrid canine and may enforce the same in an appropriate action at law.

## **ARTICLE VII. LAWFUL FENCES<sup>6</sup>**

### **Sec. 4-30. Trespassing or running at large - unlawful.**

It shall be unlawful for any person, firm or corporation to allow or permit any horse, mule, cattle, hog, sheep, or goat to trespass or run at large upon the public highway, or to enter upon any grounds enclosed by a lawful fence, unless such animal is under the immediate control of its owner or custodian.

### **Sec. 4-31. Lawful fence. (Repealed by County Ordinance 10-14-97).**

### **Sec. 4-32. Violation of Article.**

Any person, firm or corporation violating the provisions of this Article shall be guilty of a Class 4 misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars (\$250.00).

## **ARTICLE VIII. MISCELLANEOUS PROVISIONS**

### **Sec. 4-33. Licensed dogs and domestic cats deemed personal property.**

(a) All dogs and cats in this County which are licensed, and all dogs under four (4) months of age, whether licensed or not, shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of any such dogs or cats, or injury thereto, or unlawful detention or use thereof as in the case of other personal property.

(b) It shall be unlawful for any person to administer poison to any such dog or cat or to disfigure, disable, or kill any dog or cat except as otherwise provided in this Chapter. The owner of any dog or cat which is injured or killed contrary to the provision of this Chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.

(c) An Animal Control Officer or other officer finding a stolen dog or cat, or a dog or cat sold or detained contrary to law, shall have the authority to seize and hold such dog or cat pending action before any court of the County or other jurisdiction. If no such action is instituted within five (5) days, the Animal Control Officer or other officer shall deliver the dog or cat to its owner.

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<sup>6</sup> **State law references**-No-fence Law, Code of Virginia, § 55-310 *et seq.*; trespass in crossing lawful fence, Code of Virginia, § 55-306 *et seq.*; impounding animals, Code of Virginia, § 55-308. **Contents of this Article are based on the following County ordinance - Ord. of 1-13-53;** pertaining to Stock law.

(d) The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of such premises, but it shall be the duty of the owner of the premises to notify the Animal Control Officer, and the Animal Control Officer shall take the dog or cat into his or her possession and shall notify the legal owner, if known, to remove such dog or cat. The legal owner of the dog or cat shall pay a reasonable charge for the keep of such dog or cat while in possession of the Animal Control Officer. **(Ordinance adopted 6-28-63)**

**State law reference**-Similar provision, Code of Virginia, § 3.1-796.127.

**Sec. 4-34. Euthanizing companion animals by animal control officer.**

Any animal destroyed pursuant to the provisions of this Chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian. No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes. Neither shall any provision in this Chapter prohibit the destruction, for humane purposes, or any animal not weaned, whether or not the animal is critically injured or critically ill. Any person, Animal Control Officer, or other officer euthanizing a companion animal under this Chapter shall cremate, bury, or sanitarily dispose of the same. For purposes of this section, the term "animal" shall not include agricultural animals.

**State law references**-Similar provisions, Code of Virginia, §§ 3.1-796.96, 3.1-796.119.

**Sec. 4-35. Disposal of dead companion animals.**

The owner of any companion animal that has died from disease or other causes shall forthwith cremate, bury, or sanitarily dispose of same. If, after notice, any owner fails to do so, the Animal Control Officer or other officer shall cremate, bury, or sanitarily dispose of the companion animal, and he may recover on behalf of Bath County, from the owner, his cost for his services. If the owner of any dead companion animal is not known, the Animal Control Officer or other officer shall be entitled to recover the sum from the dog fund. **(Ordinance adopted 6-28-63)**

**State law reference**-Similar provisions, Code of Virginia, §§ 3.1-796.119, 3.1-796.121.

**Sec. 4-36. Disposal of other dead animals or grown fowl.**

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 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 recovery from the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars, and from the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed five dollars, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this Section shall be guilty of a Class 4 misdemeanor.

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.

**State law reference**-Code of Virginia 18.2-510.

**Sec. 4-37. 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 herself or another; or (ii) deprives any animal of necessary sustenance, food, drink or shelter; or (iii) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (iv) 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 (v) 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 Section shall commence within five (5) years after commission of the offense. Prosecutions of this Section regarding agricultural animals, as defined in § 4-1, shall commence within one (1) year after 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 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 word animal shall be construed to include birds and fowl.

**Cross reference**-Penalty for misdemeanors, § 1-14. **State law reference**-Similar provisions, Code of Virginia, § 3.1-796.122.

**Sec. 4-38. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.**

(a) The Animal Control Officer, his or her deputies, or any other law enforcement official designated by the Bath County Board of Supervisors may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or that is suffering from an apparent violation of this Chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. Upon seizing or impounding the animal, such person shall petition the general district court of Bath County for a hearing. The hearing shall be not more than ten business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

(b) The Animal Control Officer, his or her deputies, or any other law enforcement official designated by the Bath County Board of Supervisors shall cause to be served upon the person with a right of property in the animal or the custodian of the animal of the hearing. If such

person or the custodian is known and residing within Bath County, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of Bath County, written notice by any method or service of process as is provided by the Code of Virginia, shall be given. If such person or custodian is not known, the animal warden, his or her deputies, or other designated law enforcement official shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the courthouse wherein such hearing shall be held.

(c) The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code Sec. 19.2-260 et seq. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(d) The Animal Control Officer, his or her deputies, or other law enforcement official designated by the Bath County Board of Supervisors shall provide for such animal until the court has concluded the hearing. If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care, then the court shall order that the animal be: (i) sold by a local governing body; (ii) humanely destroyed, or disposed of by sale or gift to a federal agency, state supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth; or (iii) delivered to any local humane society or shelter, or to any person who is a resident of Bath County or an adjacent county or city in the Commonwealth and who will pay the required license fee, if any, on such animal, or (iv) delivered to the person with a right of property in the animal as provided in subsection (e).

(e) In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care; however, the court shall direct that the animal be delivered to the person with the right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

(f) The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

(g) The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this Chapter or other laws prohibiting cruelty to animals or pertaining to the care and treatment of animals and the owner's mental and physical condition.

(h) If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating Virginia Code Sec. 3.1-796.73 or Sec. 3.1-796.122. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

(i) Any person who is prohibited from owning or possessing animals pursuant to Subsections (g) or (h) may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

(j) When a sale occurs, the proceeds shall first be applied to the costs of the sale, then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund of the state treasury.

(k) Nothing in this Section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement official, animal control officer, or licensed veterinarian.

(l) The provisions of this Section which address whether an animal has been provided with or deprived of adequate care shall apply only with respect to companion animals.

**State law reference** - Similar provisions, Code of Virginia, Section 3.1-796.115.

**Sec. 4-39. Unlawful acts; penalties.**

(a) The following shall be unlawful acts and constitute Class 4 misdemeanors punishable by a fine of not more than two hundred fifty dollars (\$250.00).

(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 his 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 his 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 licensed tag from a dog, without the permission of the owner or custodian.

(4) *Concealing a dog.* For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep the same from being killed.

(5) *License application.* For any person to make a false statement in order to secure a dog license to which he is not entitled.

(6) *License tax.* For any dog owner to fail to pay any license tax required by this Chapter before February 1 for the year in which it is due. Payment of such tax subsequent to issuance of a summons to appear in court for failure to pay such license tax within the time required shall not operate to relieve the owner of the dog from the penalties provided for such failure. In addition, the court may order the confiscation of the dog or such other disposition as may be appropriate.

(7) *Dead companion animal.* For any owner to fail to dispose of the body of his companion animals in accordance with § 4-35 of this Code.

(8) *Rabies regulations.* For any person to fail to obey an ordinance passed pursuant to §§ 3.1-796.98 and 3.1-796.100.

(9) *Venomous reptiles and spiders.* For any person to bring into or harbor within the County any venomous reptiles or spiders.

(10) *Tampering with Animal Control Officer equipment.* For any person to remove, relocate, tamper or otherwise interfere with any equipment, including traps, used by the Animal Control Officer in the performance of his duties under this Chapter or the Code of Virginia.

(11) *Other violations.* Any other violation of this Chapter for which a specific penalty is not provided.

(b) For any person to present a false claim or to receive any money on a false claim under the provisions of this Chapter shall constitute a Class 1 misdemeanor. (**Ordinance adopted 6-28-63**)

**Cross reference-Penalty** for Class 1 misdemeanor, § 1-14. **State law reference-Similar provision,** Code of Virginia, § 3.1-796.128.

#### **Sec. 4-40. Jurisdiction of general district court; right of appeal.**

Unless otherwise provided, the provisions of this Article may be enforced by the General District Court. Every such offender shall have the right of appeal to the Bath County Circuit Court.

## ARTICLE VIII. MISCELLANEOUS PROVISIONS

### Sec. 4-41. Running at large<sup>7</sup>

(a) Any dog in the County of Bath shall be deemed to be running at large when off its owner's or custodian's property either running, self hunting, being a traffic hazard, roaming or being a nuisance or showing aggression towards humans or other animals. This ordinance shall be in effect for the whole county on public property and private property.

(b) No hunting dog shall be deemed to be running at large while a legal hunting or training season is in effect. All hunting dogs shall have some type of identification on, whether it be a collar with the owner's name, address and phone number or tracking collar, tattoo, or a microchip implant.

(c) Any citizen who has a complaint about a dog or dogs running at large shall file a written complaint with the Bath County Animal Control Department or the Bath County Sheriff's Office. Once a written complaint is filed an investigation shall be done. The person or persons making the written complaint will need to be present and apply to a magistrate for a summons or warrant to be issued and shall be required to testify in any court action.

(d) After the investigation is complete and no evidence is found that would constitute charges being filed, this matter will no longer be pursued.

(e) Anyone in violation of this chapter shall be guilty of a Class 4 misdemeanor. This chapter shall be enforced by any Animal Control Officer or Law Enforcement Officer in Bath County.

### Sec. 4-42. Enforcement authority.

The provisions of this Chapter shall be enforceable by the Animal Control Officer and his or her deputies, game warden, sheriff and deputies, and any other persons designated by the Board of Supervisors.

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<sup>7</sup> The "Running at Large" amendment to Chapter 4, "Animals and Fowl", Article VIII Miscellaneous Provisions, was heard by the Board of Supervisors at a duly advertised public hearing on Tuesday, March 8, 2011. On motion by the Hon. Jon R. Trees, to adopt the amendment, it passed with a vote of 4 in favor, 1 opposed (the Hon. Stuart Hall), and no absent.