

Vicious or Merely Dangerous? Preparing and Trying the Dog Bite Case



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Vicious or Merely Dangerous? Preparing and Trying the Dog Bite Case

By

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I. SOURCES OF DUTY

A. Common Law.

1. At common law, a dog was permitted to run free unless the owner knew or should have known that his dog might cause injury; in that case, the owner was required to exercise ordinary care to prevent injury to others.
 - a. Commonly referred to as the “one-bite” rule, though behavior short of biting may constitute notice. See Burton v. Walmsley, 9 Va. Cir. 309 (Richmond, 1967) (court cited Domm v. Hollenbeck, 259 Ill. 382, 102 N.E. 782 (Ill. 1913), which held a jury issue on owner’s ordinary care where dog had bared teeth and snarled at another person on one occasion and, on another, when dog had jumped against window causing witness to be apprehensive). But see Crocker-Sanford v. Landrum, 40 Va. Cir 282 (Va. Beach, 1996) (in dicta, court stated that “a potential defendant is not on notice unless an animal has previously bitten or attacked another person.”).
 - b. In Burton v. Walmsley, 9 Va. Cir. 309 (Richmond, 1967), court upheld verdict for plaintiff in case where plaintiff, a delivery person, was bitten upon entering defendant’s home, under circumstances similar to a bite suffered by another delivery person two years earlier.

B. State and Local Law.

1. Va. Code § 3.2-6538 provides cities, counties, and towns may enact ordinances prohibiting the running at large of animals.
 - a. Most local governments have ordinances prohibiting owners from allowing their dogs to run free, though there is little uniformity in these ordinances.
 - b. Even in jurisdictions which have passed ordinances prohibiting dogs from running at large, it is unclear whether a breach of the ordinance constitutes

negligence *per se*.

- (1) In Butler v. Frieden, 208 Va. 352, 158 S.E.2d 121 (1967), a dog running at large bit the plaintiff who sued the owner for violating Norfolk's leash law. The court observed that the violation of the statute was negligence *per se*.
- (2) In Stout v. Bartholomew, 261 Va. 547, 544 S.E.2d 653 (2001), however, the court rejected plaintiff's argument that defendant violated Arlington's running at large ordinance. It distinguished Butler by noting the defendant in Butler didn't contest the statutory violation; the court also noted the Arlington ordinance relied on by plaintiff was not enacted for the public safety and that it must be construed in conjunction with the remaining animal control ordinances. Another ordinance, the one the court felt was applicable, prohibited an owner from "permitting" his dog to run at large. Evidence did not support a finding that the owner "permitted" his dog to run free.

c. Points to remember.

- (1) Carefully read the language of the ordinances. Laws making it a violation for owners to "permit" their dogs to run free require a showing that the owner failed to use ordinary care in restraining the dog. See Stout v. Bartholomew, 261 Va. 547, 544 S.E.2d 653 (2001); Rice v. Turner, 191 Va. 601, 62 S.E.2d 24 (1950) (where an owner used ordinary care to contain domestic animal, he did not "permit" animal to run at large). See Parham v. Albert, 244 Va. 73, 418 S.E.2d 866 (1992) (although no ordinance was cited, court's discussion may be instructive on this point).
- (2) Be sure the ordinance relied upon is included in the scheme of the locality's animal control laws and that it harmonizes with the other ordinances.
- (3) Always check to see if the ordinance defines "running free" or "at large."

d. Included at Exhibit A are copies of ordinances from a number of localities. Ordinances from many of Virginia's localities can be found at www.municode.com.

- (1) Arlington County.
- (2) City of Richmond.
- (3) City of Roanoke.

- (4) City of Virginia Beach.
- (5) City of Norfolk.
- (6) Cumberland County.

II. THE DANGEROUS/VICIOUS DOG STATUTE

Va. Code § 3.2-6540 Dangerous Dog Statute – Text in Appendix B

A. Definitions.

- 1. **“Dangerous Dog”** – any dog that has bitten, attacked or inflicted injury on a person or companion animal, or killed a companion animal that is a dog or cat.
- 2. **“Vicious Dog”** – any dog that has
 - a. killed a person;
 - OR
 - b. inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function;
 - OR
 - c. 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 local ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

B. Exceptions.

- 1. A dog is **NOT dangerous OR vicious** if the *victim* of the dog was:
 - a. committing, at the time, a crime upon the premises occupied by the animal’s owner or custodian,
 - b. committing, at the time, a willful trespass upon the premises occupied by the animal’s owner or custodian,
 - OR
 - c. provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

2. A dog is **NOT dangerous** for attacking a companion animal if:
 - a. 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,

OR
 - b. both animals are owned by the same person,

OR
 - c. such attack occurs on the property of the attacking or biting dog's owner or custodian,

OR
 - d. the attack or bite was for other good cause as determined by the court.
3. A dog is NOT dangerous or vicious
 - a. the dog is a police dog in performance of its duties

OR
 - b. it is responding to pain or injury, or protecting itself, its kennel, its offspring, a person, or the property of its owner or custodian.
4. A dog is **NOT dangerous OR vicious** based on breed alone.

C. Consequences of the Findings.

1. Vicious dogs are euthanized.
2. Dangerous dogs require that owner:
 - a. REGISTER and TAG the dog.

To obtain the registration certificate, the owner must provide proof:

- (1) of the animal's current rabies vaccination, if applicable;
- (2) the animal has been neutered or spayed;
- (3) 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; 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;

- (4) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation;

AND

- (5) of **liability insurance coverage, to the value of at least \$100,000**, that covers animal bites **OR** bond in surety to the value of at least \$100,000.

- b. CONFINE and LEASH and MUZZLE the dog.
- c. REGISTER with Commonwealth of Virginia Dangerous Dog Registry Va. Code § 3.2-6542.
- d. Dog must wear tag and collar identifying it as dangerous.
- e. NOTIFY local animal control officer of the following:
 - (1) the names, addresses, and telephone numbers of all owners;
 - (2) all of the means necessary to locate the owner and the dog at any time;
 - (3) of any complaints or incidents of attack by the dog upon any person or cat or dog;
 - (4) any claims made or lawsuits brought as a result of any attack;
 - (5) tattoo or chip identification information or both;
 - (6) proof of insurance or surety bond;
 - (7) the death of the dog;
 - (8) if the dog is loose or unconfined;
 - (9) if the dog bites a person or attacks another animal;
 - (10) if the dog is sold, given away, or dies;
 - (11) if the owner relocates to a new address, within 10 days of relocating, provide written notice to the appropriate local animal control authority of both the old and new addresses of the dog.

D. Procedure for Finding a Dog Dangerous or Vicious.

1. Law enforcement officer apply to magistrate for summons. Summons given to owner to appear before General District Court.

2. Dog confined by animal control until verdict rendered.
3. General District Court has original jurisdiction.
4. Appellate procedure same as other misdemeanors.

E. Criminal Penalties.

1. Class 2 misdemeanor if dog previously declared dangerous for injuring a companion animal;
2. Class 1 misdemeanor if dog previously declared dangerous for biting a human;
3. Class 6 felony if owner's care, control or containment of dog is so gross, wanton and culpable as to show reckless disregard for human life and is the proximate cause of the dog attacking;
4. Class 1 misdemeanor for failure to comply with requirements.

III. OTHER IMPORTANT STATUTES

A. Va. Code § 3.2-6552—Dogs Killing, Injuring, or Chasing Livestock or Poultry.

1. Officer or person finding dog killing, injuring or chasing livestock or poultry may seize or kill the dog on sight. A court may order the dog killed if it is a "confirmed livestock or poultry killer."

B. Va. Code § 3.2-6571—Animal Fighting, Penalty.

1. Penalties increased after Michael Vick case.
2. It is illegal to knowingly:
 - a. Promote, prepare for, engage in, or be employed in animal fighting;
 - b. Attend an animal fighting exhibition;
 - c. Allow animal fighting on one's premises;
3. It is a Class 6 Felony to do one of the above if:
 - a. One of the animals is a dog;
 - b. A device or substance is used to enhance the animal's ability to fight;
 - c. Money or anything of value is wagered or paid and received for admission;

- d. When an animal is possessed, owned, trained, transported, or sold with the intent to engage in fighting;

OR

- e. When a minor is in attendance.

C. Va. Code § 3.2-6586. Dog Injuring or Killing Other Companion Animals.

- a. owner entitled to recover damages if injury occurred on owner of companion animal's property, and owner of offending dog did not have permission to be on the property.

IV. LOCAL GOVERNMENT

A. Va. Code § 3.2-6538– Local Government Entitled to Prohibit Dogs from Running at Large.

B. Va. Code § 3.2-6541– Local Government Entitled to Prohibit Training of Attack Dogs.

C. Code § 3.2-6539 – Local Government Entitled to Require Leashes.

V. INSURANCE ISSUES

A. Homeowner/Renters/Landlords/Business Insurance Coverage Issues.

1. Refusal to write/renew for owners of certain breeds, prior history of bites.
2. Coverage exclusions for certain breeds or coverage only for extra premium.
3. Legislation preventing dropping of coverage/denials because of breed of dog.
4. Is there an opportunity for carriers to provide breed specific liability coverage?

VI. TRIAL ISSUES

A. Is There an Applicable Ordinance?

If so, consider negligence per se. See *Butler v. Frieden* and *Stout v. Bartholomew*, supra.

B. Early Investigation.

1. Ownership.

- a. Defendant's statements at the scene – "Buster, stop that!!"
 - b. Collar identification.
 - c. Divorced or separated couples: who has "custody"? See Whitmore v. Whitmore, 2011 WL 588497 (Va. App. Feb. 22, 2011).
 - d. Other Evidence: Testimony from neighbors regarding ownership or collars found at owner's home. See Large v. Virginia, 2007 WL 3144037, Record No. 1027-06-2 (Va. Cir. Ct. Oct. 30, 2007).
2. Prior history.
 - a. Prior complaints to law enforcement.
 - b. Neighbors' complaints about barking / growling.
 3. Canvass scene.
 - a. Warning signs on owner's premises (invisible fence).
 - b. Dog houses, dog runs or other evidence of habitation/confinement.
- C. Was the Dog Confined?
1. Strength/adequacy of the enclosure?
 2. Escape from inside home?
 3. Local leash laws that require control at time of bite?
- D. Prior Bites/Attacks.
1. 911 calls to address.
 2. Complaints of neighbors/USPS/ UPS/FedEx/utility, gas, water, lawn care workers.
 3. Homeowner's association records of neighborhood complaints.
 4. Animal Control officer records.
 5. Dog trainer.
- E. Expert Witnesses on Dog Behavior.
1. Veterinarians.
 2. Animal Control officers.

F. Legal Status of Plaintiff.

1. Was the plaintiff an invitee, licensee, or trespasser?
2. Was the plaintiff a veterinarian treating the dog?
3. Did the plaintiff provoke the attack?
4. Was the dog assisting the police or military at the time of the bite?

G. Contributory Negligence.

1. Did plaintiff ask for the bite by taunting the dog?
2. Was the dog protecting its owner, owner's property, its territory, or its food?
3. Was plaintiff aware of dog's propensities – prior warnings by owner?
4. Did plaintiff intervene in a dog fight and attempt to protect plaintiff's dog?

H. Discovery.

1. Records from local veterinarians.
2. Photographs of the dog with family members.
3. Breeding records, if pure bred.
4. Ownership history/SPCA/rescue society.
5. Witnesses to the bite.
6. Animal Control/911/police department.

I. Punitive Damages.

1. Willful and wanton violation of the statute.

Appendix A

ARLINGTON COUNTY

§ 2-10. Vicious or dangerous dogs.

(a) Definitions. For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

Dangerous dog: A canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal.

Vicious dog: A canine or canine crossbreed which:

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

(b) Impoundment; euthanization. Any animal warden that has reason to believe that a canine or canine crossbreed within the County is a dangerous or vicious dog shall apply to a magistrate 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 or custodian of the name of the proceeding and the matters at issue. The animal warden or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered, if the animal poses a substantial risk to humans or other animals. If the animal does not pose such a risk or if the owner or custodian can adequately confine the animal without risk of its escape, the animal warden or police officer shall order the owner or custodian to keep the animal confined inside a dwelling or adequate structure so constructed to prevent its escape. Until such time as evidence may be heard and a verdict rendered, the animal may not be removed from the owner's or custodian's immediate property and must be secured on a leash no longer than six (6) feet when not confined indoors or locked within an adequate structure. Failure to comply with such an order shall be a violation of this Section. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing evidence, the court finds the animal is a dangerous dog, the court shall order the animal's owner or custodian to comply with the provisions of Subsection (d). If, after hearing the evidence, the court finds the animal is a vicious dog, the court shall order the animal euthanized by the animal warden, in accordance with state law.

(c) Exceptions. No animal shall be found to be a dangerous or vicious dog solely because it is a particular breed. No animal shall be found to be a dangerous or vicious dog if the threat, injury or damage was sustained by a person who was:

- (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
- (2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or
- (3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

No police dog which was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous or 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/custodian or owners/custodian's property, shall be found to be a dangerous or vicious dog.

(d) Responsibilities owners or custodians of dangerous dogs.

(1) The owner or custodian of any animal found by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal warden for a fee of fifty dollars (\$50.00), in addition to other fees that may be authorized by law. The animal warden shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner or custodian 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 paragraph shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. If the owner fails to obtain such a certificate within the time allotted, the animal warden shall have the power to seize the animal and euthanize the animal in accordance with State law.

(2) Certificates shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

- a. The animal has a current rabies vaccination, if applicable;
- b. The animal is and will be confined in a proper enclosure designed to prevent its escape or is and will be confined inside the owner's or custodian's residence or is and will be muzzled and confined in the owner's or custodian's fenced-in yard with adequate shelter until the proper enclosure can be constructed

In addition, owners or custodians 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:

- a. 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
- b. The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implant.

(3) While on the property of its owner or custodian, an animal to be found by the court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design, with adequate shelter, to prevent its escape and to prevent direct contact with or entry by minors, adults or animals. When off its owners or custodian's property, an animal found by a court to be a dangerous dog shall be caged or kept securely on leash no longer than six (6) feet 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.

(4) If the owner or custodian of a dangerous dog is an unemancipated minor, the custodial parent or legal guardian shall be responsible for complying with all the requirements of this Section.

(5) After an animal has been found by a court to be a dangerous dog, the animal's owner or custodian shall, upon learning of same, immediately notify the animal warden if the animal;

- a. Is loose or unconfined;
- b. Bites or attacks either a person or other animal;
- c. Is sold, given away or dies; or
- d. Has been moved to a different address.

(e) Penalty. The owner or custodian of any animal who fails to comply with the requirements of this Section shall be guilty of a Class 1 misdemeanor.

(8-9-7.5; 11-14-81; Ord. No. 96-16, 10-26-96)

CUMBERLAND COUNTY

ARTICLE II. DOGS

DIVISION 3. DANGEROUS AND VICIOUS DOGS

Sec. 10-81. Regulation.

All dangerous and vicious dogs in the county shall be subject to the following regulations:

(1) Any animal control officer who has reason to believe that a canine or canine crossbreed within the county is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before the county general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer or owner 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 dangerous dog, the court shall order the animal's owner to comply with the provisions of this division. 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 Code of Virginia, § 3.1-796.119. Notwithstanding the foregoing provisions of this subsection, any 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.

(2) 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:

- a. Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
- b. Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or
- c. 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.

(3) 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 \$200.00 in addition to other fees that may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a

dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(4) All certificates or renewals required to be obtained under this division shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination, if applicable, and 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 under this section shall not be issued a certificate or renewal unless they present satisfactory evidence that 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 the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(5) 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.

(6) 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 division.

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

- a. Is loose or unconfined;
- b. Bites a person or attacks another animal;
- c. Is sold, given away or dies; or
- d. Has been moved to a different address.

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

(9) All fees collected pursuant to this article, less the costs incurred by the county in producing and distributing the certificates and tags required by this article, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.1-796.105.

(10) All certificates or renewals required to be obtained under this division shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

(11) All certificates or renewals required to be obtained under this division 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.

(12) Notwithstanding the provisions of subsection (1) of this section, the animal control officer, in his discretion, 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.

(Code 1990, § 3-14; Ord. of 9-10-1997; Ord. of 11-12-2003(1); Ord. of 1-20-2004(1))

CITY OF NORFOLK

Sec. 6.1-79. - Animals at large.

(a) It shall be unlawful for the owner, custodian or other person in charge or control of any animal to permit or allow such animal to be at large within the city limits or to negligently fail to prevent such animal from being at large within the city limits. Animals are prohibited from being at large in trailer coach parks, mobile home parks, and apartment complexes and must be maintained in accordance with lease provisions. This section does not apply to law-enforcement animals.

(b) For the purpose of this section, an animal is deemed to be at large while roaming, running, flying or self-hunting off the property of its owner or custodian and not under the owner's or custodian's immediate leashed or lead control or secured in an appropriate animal carrier. An owner or custodian of an animal which has completed a certified off-leash obedience class may acquire an animal off-leash permit from the animal control officer. The animal control officer shall require proof of such class. Said permit shall be carried by the owner or custodian when the animal is off the owner's or custodian's premises. Said permit shall not apply to those public parks surrounding or adjacent to schools during days and hours that on-leash animals are prohibited pursuant to chapter 25.2 of this Code, 1979, as amended. Said permit shall not be needed when the animal is confined within an area designated by the city manager for having animals off leash. The requirements of this subsection relating to leash control shall not apply to cats.

(c) Animals are prohibited at public swimming pools.

(d) Any animal picked up or detained by any city employee or on city property at any time shall become the custodial property of the city. If, after a five-day period commencing the day after it is impounded, an animal is not redeemed by the owner, the animal shall become the property of the city for disposition, except that certain wildlife or non-native species may be delivered to the zoological park for proper care and disposition. Such animals may be retained by the zoological park for display, exchange or may be reintroduced to the wild if such action is appropriate.

(e) The first violation of this section shall constitute a class 4 misdemeanor. The second violation on the same animal shall constitute a class 3 misdemeanor and subsequent violations on the same animal shall constitute a class 2 misdemeanor. Any owner cited for three (3) violations of this section may have his animals impounded or spayed and neutered at the owner's or custodian's expense. Costs for spaying or neutering shall be borne by the owner or custodian.

(Ord. No. 39,717, § 2, 8-31-99; Ord. No. 43,299, § 1, 11-25-08)

Sec. 6.1-80. - Dangerous animals.

(a) It shall be unlawful for any person to keep, harbor or maintain within the city a dangerous animal as defined in this chapter unless authorized pursuant to this section.

(b) The owner or custodian of any animal found to be a dangerous animal shall obtain a dangerous animal registration certificate from the animal control officer. Such registration shall be obtained within ten (10) working days of the determination. The fee for such registration shall

be fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The registration certificate shall be renewed annually. If the owner or custodian of an animal found pursuant to this section to be a dangerous animal is a minor, the custodial parent or legal guardian shall be responsible for obtaining the necessary certificates and complying with the terms of this section.

(c) The animal control officer shall provide the owner or custodian with a tag which identifies the animal as a dangerous animal. The owner or custodian shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. Failure to display the tag as required herein shall constitute a violation.

(d) All certificates or renewals which are required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence of all of the following:

(1) The animal's current rabies vaccination and that the animal has been spayed or neutered;

(2) 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. Such enclosure shall be a secure and locked structure of sufficient height and design to prevent escape or direct contact with or entry by minors, adults or other animals. Such structure shall provide the animal with shelter from the elements of nature;

(3) That the owner's residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous animal on the property;

(4) That the animal shall be kept muzzled and on a leash in such a manner as not to cause injury to people, other animals or itself whenever the animal is off the owner's property;

(5) That the animal has been permanently identified by a means of a tattoo on the inside thigh or by electronic implantation, or other appropriate method; and

(6) That the owner will immediately upon learning of any of the following incidents, notify the animal control officer or his designee if the animal:

- a. Is loose or unconfined;
- b. Bites a person or attacks another animal;
- c. Is sold, given away or dies; or
- d. Has been moved to a different address.

Failure to perform each of the above items, shall constitute a violation of this section.

(e) No animal shall be found to be dangerous for any of the following reasons:

- (1) Solely because it is a particular breed or species;
- (2) If the injury, damage or threat was sustained by a person or animal who was, at the time:
 - a. Committing a crime upon the premises occupied by the owner or custodian; or
 - b. Committing a willful trespass or other tort upon the owner or custodian's premises; or

c. Provoking, tormenting, or physically abusing the animal or can be shown to have repeatedly provoked, tormented abused or assaulted the animal in the past; or

d. A law enforcement animal which is engaged in the performance of its duties at the time of the acts.

(f) The finding of any court as to the guilt of the owner or custodian of the animal under the provisions of this section shall not be construed in any way to affect the decision of the court as to the disposal of the animal in cases where the court may consider disposal advisable. Where an animal is dangerous without the knowledge of the owner, the court may order the animal destroyed without penalizing the owner. The owner or custodian shall bear the cost of impoundment and disposal of such animal.

(g) Notwithstanding the provisions of this chapter, upon the hearing or trial of any person charged with owning or having custody of a dangerous animal, the animal welfare board or the court in its discretion may find the person not guilty of this section, but guilty of nuisance animal, section 6.1-76.

(Ord. No. 39,717, § 2, 8-31-99; Ord. No. 40,089, § 3, 8-22-00; Ord. No. 42,466, § 10, 11-21-06)

Sec. 6.1-81. - Vicious animal.

(a) It shall be unlawful for any person to keep, harbor or maintain within the city a vicious animal as defined in this chapter.

(b) No animal shall be found to be vicious for any of the following reasons:

(1) Solely because it is a particular breed or species; or

(2) If the injury, damage or threat was sustained by a person or animal who was at the time:

a. Committing a crime upon the premises occupied by the owner or custodian; or

b. Committing a willful trespass or other tort upon the owner's or custodian's premises; or

c. Provoking, tormenting, or physically abusing the animal or can be shown to have repeatedly provoked, tormented abused or assaulted the animal in the past; or

d. A law enforcement dog which is engaged in the performance of its duties at the time of the acts.

(c) Any animal found to be a vicious animal shall be euthanized in accordance with the appropriate state code provisions.

(d) The finding as to the guilt of the owner or custodian of the animal under the provisions of this section shall not be construed in any way to affect the decision of a court as to the disposal of the animal in cases where the court may consider disposal advisable. Where an animal is vicious without the knowledge of the owner, the court may order the animal destroyed without penalizing the owner. The owner or custodian shall bear the cost of impoundment and disposal of such animal.

(e) Upon trial or hearing of any owner or custodian charged with a violation of this section, animal welfare board or the court, in its discretion, may find the owner or custodian not guilty of this section but guilty of dangerous animal section 6.1-80.

(Ord. No. 39,717, § 2, 8-31-99)

Sec. 6.1-81.1. - Procedural requirements to obtain summons for dangerous and vicious animals.

Any animal control officer or any deputy animal control officer who has reason to believe that a canine or canine crossbreed within the city is a dangerous or vicious animal as defined in this chapter shall apply to a magistrate of the city for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner or custodian 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 public safety, he may permit the owner or custodian to confine the animal until such time as the evidence is heard and verdict rendered. The court hearing the case, 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 animal, the court shall order the animal's owner or custodian to comply with the provisions of section 6.1-80. If after hearing the evidence, the court finds that the animal is a vicious animal, the court shall order the animal euthanized pursuant to the requirements of section 6.1-81(c).

(Ord. No. 39,770, § 1, 11-9-99; Ord. No. 40,089, § 4, 8-22-00)

CITY OF RICHMOND

DIVISION 3. - CONTROL REGULATIONS

Sec. 10-171. - Dangerous dogs and vicious dogs.

(a) An animal control officer who has reason to believe that a dog within the animal control officer's jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer or owner 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 dangerous dog, the court shall order the animal's owner to comply with this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with Code of Virginia, § 3.2-6562. If, after hearing the evidence, the court finds that the animal is a dangerous or vicious dog, the court 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.

(b) No dog shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of dog prohibited. 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:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or

(3) Provoking, tormenting, or physically abusing the animal or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

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) The owner of any animal found by a court 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 as set forth in appendix A to this Code 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 shall ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(d) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination, if applicable, and 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, any owner who applies for a certificate or renewal thereof under this section shall not be issued a certificate or renewal thereof unless the owner presents satisfactory evidence that:

(1) The owner's 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

(2) The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(e) While on the property of its owner, an animal found by a court 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 by a court to be a dangerous dog shall be kept on a leash and muzzled in such manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but to prevent it from biting a person or another animal.

(f) If the owner of an animal found by a court 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.

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

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal;

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

(4) Has been moved to a different address.

(h) The owner of any animal which has been found by a court to be a dangerous dog who willfully fails to comply with the requirements of this section shall, upon conviction, be guilty of a class 1 misdemeanor.

(i) All fees collected pursuant to this section, less the costs incurred by the animal control officer in producing and distributing the certificates and tags required by this chapter, shall be paid into a special dedicated fund in the city treasury for the purpose of paying the expense of any training course required under Code of Virginia, § 3.2-6556.

(Code 1993, § 4-61; Ord. No. 2010-110-116, § 1 , 6-28-2010)

CITY OF ROANOKE

DIVISION 1. - GENERALLY

Sec. 6-22. - Definitions.

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

Dangerous dog: A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous:

- (1) If no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite;
- (2) If both animals are owned by the same person;
- (3) If such attack occurs on the property of the attacking or biting dog's owner or custodian; or
- (4) For other good cause as determined by the court.

No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Dog: A carnivorous domestic mammal of the family Canidae, including hybrids and crosses within this family.

Domestic: Those species of animals that normally and customarily share a human habitat or which are dependent on humans for food and shelter, including, but not limited to, dogs, cats, cattle, horses, sheep and goats.

Farm: Any parcel of land three (3) acres in size or larger, regardless of zoning, devoted to production for sale of plants or animals or to production for sale of plant or animal products useful to man.

Owner: Every person having a right of property in a dog, or who keeps or harbors a dog, or who has a dog in his care, or who acts as a custodian of a dog, or who permits a dog to remain on or about any premises occupied by him. In the case of a minor who owns, keeps, harbors or acts as custodian of a dog, the parent or parents or other lawful guardian of such minor shall be deemed to be the owner of the dog.

To run at large or running at large: A dog shall be deemed to run at large or to be running at large while off the property of its owner or custodian unless such dog is under direct physical restraint

by a leash, cage or similar effective device which restrains and controls the dog or is securely confined within a motor vehicle or securely confined by a fence or other secure enclosure. If the secure enclosure is an effective, working invisible fence, then there shall be a visible, permanent sign upon the premises stating that there is an invisible fence. Exempted from this definition shall be dogs that are participating in organized obedience training, training classes, field trials or shows sponsored by recognized kennel clubs; dogs that are participating in search and rescue operations carried out in conjunction with any governmental public safety agency; dogs that are participating in pet therapy programs in hospitals, hospices, clinics, nursing homes, elderly facilities and similar institutional facilities; dogs that are being trained as service dogs by a certified service dog trainer; and dogs that are being employed by law enforcement agencies in law enforcement operations.

Vicious dog. A canine or canine crossbreed that has (1) killed a person; (2) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (3) continued to exhibit the behavior that resulted in a previous finding by a court, or on or before July 1, 2006, by an animal control officer, in accordance with this article that the animal is a dangerous dog, provided that its owner has been given notice of that finding.

Wound: Any physical injury which results in a laceration, puncture wound or broken or fractured bone.

(Code 1956, Tit. XXI, Ch. 2 , § 1 ; Ord. No. 30945, § 1 , 4-6-92; Ord. No. 31168, § 1 , 8-24-92; Ord. No. 34298, § 2 , 6-7-99; Ord. No. 34917, § 1 , 7-3-00; Ord. No. 36557, § 1 , 12-1-03; Ord. No. 37437, § 1 , 6-19-06)

Sec. 6-23. - Running at large prohibited.

It shall be unlawful for the owner of any dog to allow, cause or permit such dog to run at large, at any time, within the city, even though such dog is both lawfully licensed and vaccinated.

(Code 1956, Tit. XXI, Ch. 2 , § 3

CITY OF VIRGINIA BEACH

DIVISION 2. - DANGEROUS AND VICIOUS DOGS

Sec. 5-520. - Definitions, as used in this division.

(a) “Dangerous dog” means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous: (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog’s owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

(b) “Vicious dog” means a canine or canine crossbreed that 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 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.

(Ord. No. 3072, 3-24-09)

Sec. 5-521. - Enforcement procedures.

Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the city is a dangerous dog or vicious dog shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the 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 bureau of animal control and inform them of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. An 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. 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 the Code of Virginia § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in the Code of Virginia, Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

Sec. 5-522. - Exceptions to enforcement procedures.

No canine or canine crossbreed shall be found to be a dangerous dog or 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 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 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 or 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 dangerous dog or a vicious dog.

(Ord. No. 3072, 3-24-09)

Sec. 5-523. - When dog owner is a minor.

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.

(Ord. No. 3072, 3-24-09)

Sec. 5-524. - Registration procedures.

(a) The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the bureau of animal control for a fee of fifty dollars (\$50.00), in addition to other fees that may be authorized by law. The bureau of animal control 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. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian.

(b) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (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 a tattoo on the inside thigh or by 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, of at least one hundred thousand dollars (\$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 one hundred thousand dollars (\$100,000.00).

(c) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established by the Code of Virginia § 3.2-6542, within forty-five (45) days of such a finding by any appropriate court. The owner shall also cause the Bureau of Animal Control 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) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(Ord. No. 3072, 3-24-09)

Sec. 5-525. - Confinement of court-designated dangerous dogs.

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.

(Ord. No. 3072, 3-24-09)

Sec. 5-526. - Dangerous dog status notification requirements.

After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the bureau of animal control to be notified if the animal: (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(Ord. No. 3072, 3-24-09)

Sec. 5-527. - Penalty.

(a) 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.

(b) 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.

(c) 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.

(Ord. No. 3072, 3-24-09)

Appendix B

CODE OF VIRGINIA

§ 3.2-6540. Control of dangerous or vicious dogs; penalties.

A. As used in this section:

"Dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous: (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite; (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

"Vicious dog" means a canine or canine crossbreed that 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 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 dangerous dog or vicious dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. 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. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.2-6562. The court, upon finding the animal to be a dangerous or vicious 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 procedure for appeal and trial shall be the same as

provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. No canine or canine crossbreed shall be found to be a dangerous dog or 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 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 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 or 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 dangerous dog or a vicious dog.

D. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

E. The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$50, 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. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

F. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence: (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper 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. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

G. While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure 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.

H. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under § 3.2-6542, within 45 days of such a finding by any appropriate court.

The owner shall also 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) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

I. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal: (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

J. Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

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.

K. 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.

L. 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, 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](#).

M. The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous and vicious dogs. No locality may impose a felony penalty for violation of such ordinances.

(1993, c. 977, § 3.1-796.93:1; 1994, c. 115; 1997, cc. 582, 892; 1998, c. 817; 2000, cc. 11, 727; 2003, cc. 785, 841; 2006, cc. 837, 864, 898; 2008, cc. 360, 551, 691, 860; 2009, c. 377.)

§ 3.2-6542. Establishment of Dangerous Dog Registry.

The Commissioner shall establish the Commonwealth of Virginia Dangerous Dog Registry to be maintained by the Department, Office of Veterinary Services. Each owner of any canine or canine crossbreed found by any appropriate court to be a dangerous dog shall be required to register the animal as a dangerous dog within 45 days of such finding. The State Veterinarian shall receive, post, and maintain the information provided by the owner, animal control officers, and other such officials statewide on a website. All information collected for the Dangerous Dog Registry shall be available to animal control officers via the website. Registration shall include the name of the animal, a photograph, sex, age, weight, primary breed, secondary breed, color and markings, whether spayed or neutered, the acts that resulted in the dog being designated as dangerous and associated trial docket information, microchip or tattoo number, address where the animal is maintained, name of the owner, address of the owner, telephone numbers of the owner, and a statement that the owner has complied with the provisions of the dangerous dog order. The address of the owner along with the name and breed of the dangerous dog, the acts that resulted in the dog being deemed dangerous, and information necessary to access court records of the adjudication shall be available to the general public. By January 31 of each year, until such time as the dangerous dog is deceased, the owner shall submit a renewal registration that shall include all information contained in the original registration and any updates. The owner shall verify the information is accurate by annual resubmissions. The owner shall submit to the State Veterinarian a \$100 initial registration fee and a \$35 renewal registration fee. In the event that the dangerous dog is moved to a different location, or contact information for the owner changes in any way at any time, the owner shall submit a renewal containing the address of the new location or other updated information within 10 days of such move or change. There shall be no charge for any updated information provided between renewals. Any funds collected pursuant to this section shall be used by the State Veterinarian to maintain the registry and website. The website list shall be known as the Virginia Dangerous Dog Registry.

Actions of the Department relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under this section shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.).

Copies of all records, documents, and other papers pertaining to the Dangerous Dog Registry that are duly certified and authenticated in writing on the face of such documents to be true copies by the State Veterinarian or the Dangerous Dog Registry administrator shall be received as evidence with like effect as the original records, documents, or other papers in all courts of the Commonwealth.

(2006, cc. [837](#), [864](#), [898](#), § 3.1-796.93:3; 2008, c. [860](#); 2009, c. [354](#).)