

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

READING FILE

November 26, 2013

FOR YOUR INFORMATION

1. Clean Copy - Ordinance to Amend and Reordain Chapter 3, Animal Laws

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMAL LAWS OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 3-1, DEFINITIONS; AND BY ADDING ARTICLE II, DOGS, DIVISION 3. HYBRID CANINES, BY ADDING SECTION 3-40, HYBRID CANINE PERMIT REQUIRED; SECTION 3-41, HYBRID PERMIT REQUIREMENTS; SECTION 3-42, PERMIT FEE; SECTION 3-43, PENALTIES; AND SECTION 3-44, HYBRID CANINES KILLING, INJURING, OR CHASING OF LIVESTOCK AND POULTRY; COMPENSATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animal Laws, is hereby amended and reordained by amending Section 3-1, Definitions; and by adding Article II, Dogs, Division 3, Hybrid Canines, by adding Section 3-40, Hybrid canine permit required; Section 3-41, Permit requirements; Section 3-42, Permit fee; Section 3-43, Penalties; and Section 3-44, Hybrid canines killing, injuring, or chasing of livestock and poultry; compensation.

Chapter 3. Animal Laws

Article I. In General

Section 3-1. Definitions.

Adequate confinement. 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 Section 3-8, 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. Any animal that 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, official of the Department of Health, or State Veterinarian's representative.

Responsible ownership. 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.

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

State law references – Similar provisions, Code of Va., § 3.2-5900; § 3.2-6500; § 3.2-6581.

Article II. Dogs

Division 3. Hybrid Canines

Section 3-40. Hybrid canine permit required.

It shall be unlawful for any person to own or possess a hybrid canine in the County unless such person shall have first obtained a permit from James City County Animal Control to ensure the adequate confinement and responsible ownership of said hybrid canine as required by the provisions of this division.

State law references – Authorization to establish hybrid canine permitting process by ordinance, Code of Va., § 3.2-6582.

Section. 3-41. Permit requirements.

- (a) Any person owning or possessing a hybrid canine shall obtain an annual, non-transferable permit from the animal control officer no later than January 31 of each year. Such permit will expire on December 31 of each year and may be renewed upon submission of a new application. Permits may be revoked or renewal refused based on violations of this division.
- (b) To obtain a hybrid canine permit or renewal, the owner of such animal shall file with the animal control officer an application form, supplied by the animal control officer, which shall include the following information, along with evidence and documentation satisfactory to the animal control officer:
- (1) The full legal name of the applicant;
 - (2) The applicant's street and mailing addresses, legal (permanent) and local;
 - (3) The applicant's telephone numbers, permanent and local;
 - (4) The full legal name of the person who is primarily responsible for the day-to-day care and confinement of the hybrid canine, if different from the applicant; such custodian's street and mailing address, legal (permanent) and local; and such custodian's telephone numbers, permanent and local;
 - (5) Location, including street and mailing addresses, where the hybrid canine will be kept, confined, or sheltered;
 - (6) Name of the legal owner of the property upon which the hybrid canine will be kept, confined or sheltered, and a brief description of the property which may include amount of acreage, tax map identification number, etc.;
 - (7) Name of the hybrid canine along with its sex, color, height, age, vaccination records, length, and any identifying marks;
 - (8) A color photograph clearly showing the animal;
 - (9) Certification that the hybrid canine has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation;

- (10) Certification that the property where the hybrid canine will be kept has liability insurance coverage in an amount not less than \$100,000 per incident to cover any claims for injuries or damage arising from the keeping of the hybrid canine on such property; and
 - (11) An executed consent form authorizing the animal control officer to inspect the premises where the hybrid is confined on an annual basis for the sole reason of ensuring that the owner is in compliance with the permit and this division.
- (c) A hybrid canine shall at all times be confined in a humane manner in a proper enclosure or structure in such a location and of such sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals.
- (1) The pen or enclosure shall be located on property zoned A-1, General Agricultural, except for those A-1 areas in platted subdivisions consisting of five or more lots, of which at least three lots have occupied dwellings or in manufactured home parks.
 - (2) The pen or enclosure shall contain at least 1,600 square feet of space.
 - (3) Any fencing used in the construction of the pen or enclosure shall be at least eight feet in height, with an additional overhand of fencing or barbed wire angling a minimum of three feet into the pen or enclosure.
 - (4) To prevent digging out along the fence, concrete footers at least one foot wide and six inches deep shall be installed along the perimeter of the pen or enclosure.
 - (5) The pen or enclosure shall be surrounded by a chain-link fence at least four feet in height and no closer than six feet to the pen or enclosure.
 - (6) Any fencing used in the construction of the pen or enclosure shall be of 11 gauge wire or its equivalent.
 - (7) The property on which the hybrid canine is kept shall be posted with clearly visible signs warning both minors and adults of the presence of a hybrid canine on the property.
- (d) A hybrid canine shall not be allowed to run unleashed outside of its cage or enclosure or to roam or self-hunt on the property of its owner or custodian.

- (e) When off of its owner's or custodian's property a hybrid canine shall be kept under the direct supervision and immediate control of its owner or custodian. Such control shall include, but not be limited to, keeping the hybrid canine on a leash and muzzling the animal 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.
- (f) The owner or custodian of a hybrid canine shall immediately notify the animal control officer if the hybrid canine is (a) loose or not confined; (b) bites or attacks a person or another animal; (c) dies; or (d) has been moved to a different location.
- (g) No permit holder shall own or possess more than two (2) hybrid canines. A separate permit shall be obtained for each hybrid canine owned or possessed by the permit holder.
- (h) The animal control officer shall provide the owner or custodian with a uniformly designed tag which identifies the animal as a hybrid canine and 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.
- (i) This division shall exclude and not apply to educational, commercial, or scientific organizations including but not limited to theme parks, zoos, circuses, licensed research or medical institutions, and wildlife refuges.
- (j) The county shall provide notice of the issuance of a permit to all owners of property adjoining the property where the hybrid canine will be kept.

State law references – Authorization to establish hybrid canine permitting process by ordinance, Code of Va., § 3.2-6582.

Section 3-42. Permit fee.

There is hereby imposed an annual hybrid canine permit fee upon all persons owning or possessing hybrid canines in the county as follows: \$100.00 per year. A hybrid canine permit obtained pursuant to this division shall be renewed annually for the same permit fee and in the same manner as the initial permit was obtained.

State law references - Authorization to establish a permit fee to cover the cost of the permitting process, Code of Va., § 3.2-6582.

Section 3-43. Penalties.

Any person, whether an owner, agent or employee, violating, causing, or permitting the violation of this article or the conditions of the permit shall be guilty of a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or subsequent violation. The court may order the owner or custodian of a hybrid canine to surrender the animal for euthanasia in accordance with the provisions of Code of Virginia § 3.2-6562.

State law references - Authorization to establish hybrid canine permitting process by ordinance, Code of Va., § 3.2-6582(B).

Section 3-44. Hybrid canines killing, injuring or chasing of livestock and poultry; compensation.

- (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 may kill such hybrid canine on sight as may 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 may 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 that kills poultry for a 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 serving the locality where 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 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 that does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any hybrid canine ordered removed from the Commonwealth that is later found in the Commonwealth shall be ordered by a court to be killed immediately.

- (c) 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 if:
- (1) the claimant has furnished evidence within 60 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;
 - (2) the animal control officer or other officer shall have been notified of the incident within 72 hours of its discovery; and
 - (3) 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.
- (d) Upon payment under this section the 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.

State law references – Seizure for examination of hybrid canine suspected of killing livestock or poultry,
Code of Va., § 3.2-6583; Compensation for livestock and poultry killed, Code of Va., § 3.2-6584.

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