

ORDINANCE 2007-5

ANIMAL AND FOWL ORDINANCE OF WYTHE COUNTY, VIRGINIA

WHEREAS, The Wythe County Board of Supervisors, with the adoption of this ordinance, are re-enacting Ordinance No 91-5, and amendments thereto, as Ordinance 2007-5, “Animal and Fowl Ordinance of Wythe County, Virginia.”

Article I—Title, Authority, and Jurisdiction

- 1.1 Title. This ordinance shall be known as the “Animal and Fowl Ordinance of Wythe County Virginia, Ordinance 2007-5.
- 1.2 Authority. This ordinance is adopted pursuant to the authority of Title 3.1, 55 and 15.2 of the Virginia Code.
- 1.3 Jurisdiction. The provisions of this ordinance shall apply to all land within Wythe County including the incorporated municipalities.

Article II—Purpose

- 2.1 This Ordinance is adopted to promote and protect the public safety, health, welfare, convenience, and enjoyment of Wythe County citizens, by establishing the position of Animal Warden, licensing and control of dogs, preventing rabies, disposition of dead animals, handling of damage caused by dogs, to regulate dangerous and vicious dogs, and to provide penalties for the violations of this Ordinance.

Article III—Definitions

The words and phrases used in this Ordinance shall have the meanings respectively ascribed to them in the Code of Virginia, title 3.1, unless otherwise defined in this Ordinance.

Article IV—Burial or cremation of animals or fowls that have died

- 4.1 When the owner or custodian of any animal or grown fowl, including a companion animal, that has died knows of such death, such owner shall forthwith have its body cremated, buried or disposed of in a sanitary manner and, if he fails to do so, any judge of the general district court of the county, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated, buried or disposed of in a sanitary manner by an officer or other person designated for that purpose. Such officer or other person shall be entitled to

recover from the owner of every such animal or fowl so cremated, buried or disposed of in a sanitary manner the actual cost of the cremation, burial or sanitary disposal, 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 Article shall, upon conviction, be guilty of a Class 4 misdemeanor. Nothing in this Article shall be deemed to require the burial, cremation or sanitary disposal of the whole or portions of any animal or fowl, which is to be used for food or in any commercial manner.

- 4.2 The owner of any companion animal, which has died from disease or other cause, shall forthwith cremate, bury, or sanitarily dispose of the animal. If, after notice, any owner fails to do so, the animal control officer or other officer shall bury, cremate or sanitarily dispose of the companion animal, and he may recover on behalf of the county from the owner his cost for this service.
- 4.3 Casting a carcass on a road; permitting a carcass to remain unburied. Any person casting any dead animal or fowl into a road or knowingly permits any dead animal or fowl to remain unburied on his property when offensive to the public, or having in custody any maimed, diseased, disabled, or infirm animal or fowl, leave it to lie, or be in a street, road, public way or public place, or placed in a solid waste container shall be guilty of a Class 3 misdemeanor.

Article V—Dogs

- 5.1 Dogs running at large prohibited. The running at large of dogs in the county is prohibited. For the purposes of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property (or place of residence) of its owner, or custodian and not under its owner's or custodian's immediate control. The owner and/or custodian of any dog found running at large shall be deemed to have violated the provisions of this Article.
- 5.2 Rabies inoculation of dogs; availability of certificate. The owner or custodian of all dogs 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 or custodian of the dog with a certificate of vaccination. The owner or custodian of the dog shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law enforcement officer or official of the department of health, the certificate of vaccination for such dog. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

Article VII—Intentional interference with a guide or leader dog; penalty

- 6.1 For purposes of this Article the term “guide or leader dog” means a dog that:
- (1) Serves as a dog guide for a blind person as defined in Code of Virginia, Section 63.1-142 or for a person with a visual disability;
 - (2) Serves as a listener for a deaf or hard-of-hearing person as defined in Code of Virginia Section 63.1-85.3:1; or
 - (3) Provides support or assistance for a physically disabled or handicapped person.
- 6.2 It is unlawful for a person to, without just cause, willfully impede or interfere with the duties performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. Any person who violates this subsection shall, upon conviction, be guilty of a Class 3 misdemeanor.
- 6.3 It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has reason to believe the dog is a guide or leader dog. Any person who violates this subsection shall, upon conviction, be guilty of a Class 1 misdemeanor.

Article VIII—Unlawful acts; penalties

- 7.1 The following shall be unlawful acts and constitute a Class 4 misdemeanor:
- (1) License application. For any person to make a false statement in order to secure a dog license to which he is not entitled.
 - (2) License tax. For any dog owner to fail to pay any license tax required by this Ordinance before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.
 - (3) Permits. For any person to fail to secure and exhibit the permits required by this Ordinance.
 - (4) Dog running at large. For any dog owner to allow his dog to run at large in violation of this Ordinance.
 - (5) Rabies regulations. For any person to fail to have his dog vaccinated in accordance with section 5.2 of this Ordinance.
 - (6) Dead animals. For any owner to fail to dispose of the body of his animal in accordance with Article IV of this Ordinance.

- (7) 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.
 - (8) Concealing a dog. For any person to conceal or harbor any dog on which any required license tax has not been paid.
 - (9) Removing collar and tag. For any person, except the owner or custodian, to remove a legally acquired license tag from a dog without the permission of the owner or custodian.
 - (10) Other violations. Any other violation of this chapter for which a specific penalty is not provided.
- 7.2 Any person who presents a false claim or receives any money on a false claim under the provisions of this Ordinance, or who impersonates a humane investigator shall be guilty, upon conviction, of a Class 1 misdemeanor.

Article IX—Disposition of funds and fines

- 8.1 The Wythe County Treasurer shall keep all money collected by him/her for dog licenses taxes in the general fund and designate these funds to a separate line item that shall be known as the Wythe County Dog Tax Fund and these funds shall be used for the following purposes:
- (1) The salary and expenses of the animal control officer and necessary staff;
 - (2) The care and maintenance of a dog pound/animal shelter;
 - (3) The maintenance of a rabies control program;
 - (4) Payment as a bounty to any person neutering or spaying a dog the amount of one year of license fee as provided by this ordinance;
 - (5) Payment for the compensation for livestock and/or poultry killed by dogs as provided by this Ordinance.
- 8.2 The Wythe County Board of Supervisors may supplement the Wythe County Dog Tax Fund with other funds as they consider appropriate, but they shall do so to the extent necessary to provide for 1, 2, and 3 of subsection 9.1.

Article X—Dog Licenses

- 9.1 It shall be unlawful for any person to own a dog four months old or older in the county unless such dog is licensed, as required by the provisions of this Article.

9.2 When license tax payable.

- (1) On January 1 and not later than January 31 of each year, the owner of any dog four months old or older shall pay a license tax as prescribed in section 10.4.
- (2) If a dog four months of age or comes into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid by the owner.
- (3) If a dog becomes four months of age or comes into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner.

9.3 How to obtain license; duty and authority of Treasurer.

- (1) Any person may obtain a dog license by making oral or written application to the treasurer of the county accompanied by the amount of license tax and current certificate of vaccination as required by this Ordinance. The treasurer shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of the county and may require information to this effect from any applicant. Upon receipt of proper application and current certificate of vaccination as required by this section, the treasurer shall issue a license receipt for the amount on which he 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 male, female, unsexed female or kennel, and deliver the metal license tags or plates provided for in this section. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid.
- (2) No license tag shall be issued for any dog unless there is presented, to the treasurer at the time application for license is made, evidence satisfactory to him showing that such dog 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.
- (3) The treasurer may establish substations in convenient locations in the county and appoint agents, and if necessary compensate the appointed agents if approved by the Board of Supervisors, for the collection of the license tax and issuance of such licenses.

9.4 Amount of license tax.

- (1) The license tax imposed by this division per year for each dog is adopted periodically by the Board of Supervisors. The initial license tax is shown in Appendix A to this Ordinance.
- (2) A kennel license may be obtained by the owner and operator of a dog kennel. The initial amount set by the Board of Supervisors is shown in the fee schedule in Appendix A. The Board of Supervisors shall revise these periodically by resolution.
- (3) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person or that is trained and serves as a service dog for a mobility-impaired person. As used in this section the term “hearing dog” means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond, and the term “service dog” means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

9.5 License tags and receipts.

- (1) A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show issuance in the county, and the calendar year for which issued and shall bear a serial number.
- (2) The license tag for a kennel shall be for up to twenty (20) dogs to be kept under such license and shall have attached thereto a metal identification plate for each of such dogs with the serial number of the license tag. Only two kennel license tags can be sold to any one residence.
- (3) Such tags and receipts for each calendar year shall be in serial or numerical order. The tag for each calendar year shall be of a noticeably different design from that for the previous year.

9.6 Duplicate license tags.

If a dog license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent 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 for any dog shall be

initially as provided in the fee schedule in Appendix A to this Ordinance; however, the Board of Supervisors shall periodically revise the rate by resolution.

9.7 Displaying receipts; dogs to wear tags.

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. The owner of the dog may remove the collar and license tag required by this section when:

- (1) the dog is engaged in lawful hunting;
- (2) the dog is competing in a dog show;
- (3) the dog has a skin condition which would be exacerbated by the wearing of a collar;
- (4) the dog is confined; or
- (5) the dog is under the immediate control of its owner.

9.8 Effect of dog not wearing collar as evidence.

Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceedings under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

9.9 Payment of license tax subsequent to summons.

Payment of the license tax subsequent to a summons to appear before a court for failure to pay the license tax within the time required shall not operate to relieve such owner from the penalties provided.

9.10 Kennel dogs.

The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identifications plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to the animal control officer or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the kennel enclosure; but this restriction shall not operate to prohibit dogs being temporarily removed from the kennel while under the control of the owner or custodian to exercise, hunt, breed, show or engage in field trials. A kennel shall not be

operated in any manner to defraud the county of the license tax payable on dogs, which cannot be legally considered as kennel dogs, or in any manner to violate other provisions of this division. If a kennel dog is found to be running at large in violation of this Ordinance, in addition to other penalties provided by this Ordinance, the kennel license of the owner of such dog may be revoked if it appears to the court that the provisions of this section have been violated by reason of carelessness or negligence on the part of such owner, and such owner thereupon shall be required to pay an individual license tax on each dog.

Article XI—Dangerous or vicious dogs

10.1 Definitions.

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

- (1) Dangerous dog means a canine, hybrid canine, or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal other than a dog, or has killed a companion animal.
- (2) Vicious dog—a canine, hybrid canine, or canine crossbreed which has:
 - a. Killed a person;
 - b. Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or
 - c. Continued to exhibit the behavior, which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

10.2 Summons and proceedings; exemptions.

- (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 general district court of the county at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue.
- (2) 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 such animal until such time. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal.

- (3) 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 the Virginia Code §3.1-796.119, as amended.
- (4) No canine, hybrid 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 animals' 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.
- (5) 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 vicious dog.

10.3 Dangerous dogs to be registered.

- (1) 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 county treasurer for a fee as provided in the fee schedule in Appendix A of this Ordinance, or as later amended by resolution of the Board of Supervisors, and in addition to other fees that may be authorized by law. The treasurer 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 tot his section shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

- (2) 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, 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 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.
- (3) 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 that the animal has been neutered or spayed. 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 \$50,000.00, which covers animal bites.
- (4) 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 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.
- (5) If the owner of an animal found by the 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.
- (6) 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:
 - 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.

- (7) 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 be guilty of a Class 1 misdemeanor.
- (8) All fees collected pursuant to this Article, less the costs incurred by the animal control officer in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required under the Virginia Code §3.1-796.104:1.
- (9) Notwithstanding the provisions of sections (1), (2) and (4) of this Article, an 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 Ordinance. 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.

Article XII—Hybrid Canines

11.1 For the purpose of this Article and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

- (1) Adequate confinement shall mean 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 Article XI of this Ordinance, 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.
- (2) Direct supervision and control, for purposes of management of a hybrid canine, shall mean on a leash, lead, rope, or chain and under the immediate control of a competent adult handler.
- (3) Hybrid canine shall mean any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf, coyote, or percentage 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. Hybrid canine shall include, but not be limited to, the offspring resulting from the mating of a domesticated

dog and a wolf, coyote or other similar wild animal as well as their subsequent offspring.

- (4) Responsible ownership shall mean 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 to prevent endangerment by the animal to public health and safety.

11.2 Hybrid canine permit.

- (1) It shall be unlawful for any person to own or to have in a person's custody a hybrid canine, four months or older, in the county, unless such person holds a valid permit for the ownership of such hybrid canine in accordance with the provisions of this article. A separate permit shall be obtained for each hybrid canine, four months or older.
- (2) Any hybrid canine permit issued in accordance with this article shall be valid for a period of no more than one year from the date of issuance. The permittee shall have sole responsibility for ensuring that all permit renewals are timely initiated to ensure that a valid permit is continuously in effect throughout the period of the permittee's ownership of a hybrid canine within the county.
- (3) No permittee shall own more than two hybrid canines, four months or older at any time.
- (4) All permits issued in accordance with this Article shall be subject to the following:
 - a. Each hybrid canine shall wear a collar bearing identification, including the name, address and telephone number of the owner of the hybrid canine.
 - b. Whenever it is on the property of its owner or custodian, each hybrid canine shall be maintained in an adequate confinement while not under the direct supervision and control of its owner or custodian. Direct supervision and control of the hybrid canine, as defined in this article, is required at all times that, such animal is not maintained in an adequate confinement.
 - c. Each hybrid canine shall be muzzled and kept under the control of a competent adult handler, on a leash, lead, rope, chain, or in a crate whenever it is not on the property of its owner or custodian.
- (5) A hybrid canine permit shall be issued or renewed upon review and approval by the chief animal control officer or his designee. The chief

animal control officer or his designee shall determine whether to approve an application for issuance or renewal of a hybrid canine permit based upon the following criteria:

- a. The type, quality and extent of the confinement of the hybrid canine while on the property of its owner or custodian. The chief animal control officer or his designee shall inspect the facility proposed to house the hybrid canine(s) to confirm that such facility meets the requirements of adequate confinement, as defined in this article; and
- b. Ability to handle safely the hybrid canine while not on the property of the owner; and
- c. The knowledge and demonstrated experience of the owner to adequately care for, keep, and handle hybrid canines while on or off the property of the owner.

11.3 Hybrid canine permit application.

- (1) Any person seeking a hybrid canine permit shall complete and submit to the department of animal control an application provided by the department of animal control that requires the following information:
 - a. Name, address, phone number and date of birth of the applicant.
 - b. Species, color, date of birth sex, vaccination history, and origin of the hybrid canine.
 - c. Height at the withers and length of the hybrid canine.
 - d. Photographs of the hybrid canine, current at the time of application or renewal, which shows the size, color and any identifying marks or characteristics of the hybrid canine.
 - e. Information as to identification tags, tattooing or other identifying marks of the hybrid canine.
 - f. An executed consent form authorizing the chief animal control officer or his designee to inspect the premises where the hybrid canine is confined for the purpose to confirm compliance with the permit and this article.
 - g. An executed consent form that if an animal control officer determines the permittee to be in violation of any condition of the permit or of this Article, the animal control officer may take the hybrid canine(s) into custody of the department of animal control pending correction

of the insufficiency within a reasonable time period or for euthanization in accordance with Virginia Code §3.1-796.119, as amended.

- (2) The chief animal control officer or his designee shall review the application and inspect the proposed hybrid canine proposed adequate confinement and determine whether approval is appropriate based on the criteria set forth in this section. The reviewing officer shall indicate approval by certification of the application form.
- (3) Upon submittal of a hybrid canine permit application certified as approved by the department of animal control and the application fee as set forth in Appendix A of this Ordinance; the treasurer of the county shall issue to the applicant a hybrid canine permit.

11.4 Penalty, violations.

- (1) Any person, whether an owner, temporary custodian, agent, or employee, violating, causing, or permitting the violation of this article regarding regulation of hybrid canines or the conditions of a hybrid canine permit shall be guilty of a Class 3 misdemeanor for the first violation and Class 1 misdemeanor for a second or a subsequent violation.
- (2) If the owner or custodian of a hybrid canine fails or refuses to obtain or renew any required permit or violates a provision of this Article or any other law pertaining to the responsible ownership of the hybrid canine, then the department may require the owner to dispose of the hybrid canine or the department may take such hybrid canine into its custody for euthanasia in accordance with Virginia Code §3.1-796.119, as amended.
- (3) In the event that any hybrid canine is found in any condition inconsistent with the requirements set forth in this article, any permit issued for such hybrid canine shall immediately be deemed null and void.
- (4) The animal control department may revoke a permit or deny renewal of the permit if the owner has violated a provision of the permit or this article or any other law pertaining to the responsible ownership of the hybrid canine, including, but not limited to the escape of the animal from the confinement of any death, damage, or injury caused by the hybrid canine, or if the owner has failed to renew any required permit in a timely manner.

Article XIII—Dogs killing, injuring or chasing livestock or poultry.

12.1 Disposition of dogs killing, injuring or chasing livestock or poultry.

- (1) It shall be the duty of any animal control officer or other 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 agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock.
- (2) 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 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 dog to produce the dog.
- (3) Any animal control officer 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 in this section.
- (4) 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 in this section, shall apply to a magistrate of the county, who shall issue a warrant required the owner or custodian, if known, to appear before the general district court of the county at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be killed immediately by the animal control officer or other officer designated by the court or 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.
- (5) All provisions of this section shall apply equally to hybrid canines.

12.2 Compensation for livestock or poultry killed or injured by dogs.

- (1) Any person who has any livestock or poultry killed or injured by any dog or hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400.00 per animal or \$10.00 per fowl, provided that:

- a. 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 dog or hybrid canine.
- b. The animal control officer shall have been notified of the incident within 72 hours of its discovery; and
- c. The claimant first has exhausted his legal remedies against the owner, if known, of the dog or hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog or hybrid canine upon which an execution has been returned unsatisfied.
- d. The animal control officer shall conduct an investigation to determine whether the evidence is sufficient to support the claim. The animal control officer shall submit a report of his investigation to the county administrator that includes the approximate weight, type, breed, sex and approximate age of the livestock or poultry killed or injured, and the fair market value of such livestock or poultry.
- e. Upon payment under this section the board of supervisors 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 dog or hybrid canine and may enforce the action in an appropriate action at law.

Article XIV—Impoundment.

13.1 Definitions

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

- (1) Animal shall not include agricultural animals.
- (2) Humane Society means, when referring to an organization without the Commonwealth, any nonprofit organization organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.
- (3) Rightful owner means a person with a right of property in the animal.

13.2 Operation of animal shelter.

There shall be maintained or caused to be maintained within the county an animal shelter in accordance with the guidelines issued by the state department of agriculture and consumer services. The animal shelter shall be accessible to the public at reasonable hours during the week as determined by the county administrator.

13.3 Impoundment generally; holding period.

- (1) The animal control officer or other officer who finds a dog without the tags required by this chapter, or a dog running at large in violation of this Ordinance, or any other animal in violation of the provisions of this chapter shall impound such animal in the animal shelter.
- (2) An animal confined pursuant to subsection 14.3(1) that does not bear a collar, tag, license, or tattooed identification 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 facility, unless sooner claimed by the rightful owner thereof. Such holding period may be waived if the animal's rightful owner has surrendered all property rights in such animal and has read and signed a statement as required by this Article. After such holding period or surrender of property rights, such animals shall be disposed of as provided in subsection 14.5.
- (3) Any feral dog 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, may be 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 the Virginia Code §3.1-796.105. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal to the facility.
- (4) The operator or custodian of the animal shelter shall make a reasonable effort to ascertain if an animal confined pursuant to this article has a collar, tag, license or tattooed identification. If such identification is found on the animal, a reasonable effort shall be made to notify the owner of the animal's confinement within the next 48 hours following its confinement, and the animal shall be held for not less than ten days, unless sooner claimed by its rightful owner, such period to commence on the day immediately following the day of its confinement.

13.4 Redemption of animal.

If any animal confined pursuant to this article is claimed by its rightful owner, such owner shall only be charged with the actual expenses incurred in keeping the animal impounded, as provided in the fee schedule in Appendix A of this Ordinance or as set periodically by the Board of Supervisors by resolution, for each day that such animal is in the possession of the animal shelter. Either a custodian or an animal or an individual who has found an animal may claim first right to adopt the animal by expressing this desire in writing to adopt the animal at the expiration of the holding period set out in section 14.3, after payment of the adoption fee, as provided in section 14.5. If the rightful owner claims the animal at any time, the custodian or finder shall relinquish possession of the animal to the rightful owner.

13.5 Disposition of unclaimed animals; method of destruction; injured, ill or unweaned animals.

- (1) If an animal confined pursuant to this Article has not been claimed upon expiration of the appropriate holding period, it shall be deemed abandoned and become the property of the pound or shelter. 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:
 - a. Sale or gift to a federal agency, state-supported institution, agency of the state, agency of another state or a licensed federal dealer having its principal place of business located within the state, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;
 - b. Transferred to any humane society approved by Wythe County;
 - c. Adoption by any person who is a resident of the county and who will pay the required license fee, if any, on such animal;
 - d. Adoption by a resident of an adjacent political subdivision of the state;
 - e. Adoption by any other person, provided that no animal may be adopted by any person who is not a resident of the county or of an adjacent political subdivision, unless the animal is first sterilized; or
 - f. Transfer, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter;

- i. Maintains record which would comply with the Virginia Code §3.1-796.105
 - ii. Requires that adopted dogs be sterilized;
 - iii. Has been approved by the state veterinarian or his designee as a facility, which maintains such records, requires adopted dogs to be sterilized and provides adequate care and euthanasia.
- (2) An abandoned animal, even though when delivered to the pound or shelter, bore a collar, tag, license, tattoo, or other form of identification, may be humanely destroyed or disposed of by one of the methods prescribed or approved by the state veterinarian.
- (3) No pound or shelter shall deliver more than two animals or a family of animals during any 30-day period to any one person under subsection 14.5 (c), (d) or (e).
- (4) If an animal is required to be sterilized prior to adoption the pound or shelter may require that the sterilization be done at the expense of the person adopting the animal.
- (5) Any animal destroyed pursuant to the provisions of this Article shall be euthanized by one of the methods prescribed or approved by the state veterinarian.
- (6) No provision in this article shall prohibit the immediate destruction for humane purposes of a critically injured animal, critically ill animal or any animal not weaned, whether or not the animal is critically ill or critically injured.
- (7) Any adoption of an animal from the animal shelter pursuant to this Article shall be only after payment of the adoption fee, as provided in the fee schedule in Appendix A of this Ordinance or as revised in the future by resolution of the Board of Supervisors.

13.6 Voluntary delivery of animal by owner; surrender of owner's rights in animal.

Nothing in this Article shall prohibit the immediate destruction or disposal by the methods listed in subsection 14.5 of an animal that has been delivered voluntarily or released to the animal shelter, animal control officer, or to a humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subsection 14.5.

13.7 Seizure and impoundment of stolen or unlawfully held dogs or cats.

The animal control officer or other officer finding a stolen dog, or a dog held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal control officer or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the animal control officer may take such animal into custody and notify its legal owner to remove it. The legal owner of the animal shall pay to the animal shelter a fee in the amount as provided in the fee schedule in Appendix A to this Ordinance for each day such animal is in the possession of the animal shelter.

Article XV—Sterilization.

14.1 Sterilization of adopted dogs; enforcement; civil penalty.

- (1) Every new owner of a dog adopted as provided in this Ordinance, shall cause to be sterilized the dog pursuant to the agreement required by this subsection.
- (2) A dog shall not be released for adoption from the animal shelter unless:
 - a. The animal has already been sterilized; or
 - b. The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian within 30 days of the adoption, if the animal is sexually mature, or within 30 days after the animal reaches six months of age, if the animal is not sexually mature at the time of adoption or as otherwise allowed in this section.
- (3) The animal shelter may extend for 30 days the date by which a dog must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian may negotiate the terms of an extension of the date by which the animal must be sterilized.
- (4) Nothing in this section shall preclude the sterilization of a sexually immature dog upon the written agreement with the veterinarian and the new owner.
- (5) Upon the petition of an animal control officer, humane investigator, the state veterinarian or a state veterinarian's representative to the district court, the court may order the new owner to take any steps necessary to

comply with the requirements of this section. This remedy shall be exclusive of and in addition to any civil penalty, which may be imposed.

- (6) Any person who violates this Article shall be subject to a civil penalty not to exceed \$50.00.

14.2 Application of article.

This article shall not apply to:

- (1) An owner reclaiming his dog from a releasing agency; or
- (2) A local governing body which has disposed of an animal by sale or gift to a federal agency, state supported institution, agency of the Commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the Commonwealth.

14.3 Sterilization confirmation; civil penalty.

Each new owner who signs a sterilization agreement shall, within seven days of the sterilization, cause to be delivered or mailed written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed \$100.00.

14.4 Notification concerning lost, stolen or dead dogs; civil penalty.

If an adopted dog is lost or stolen or dies before the animal is sterilized and before the date by which the dog is required to be sterilized, the new owner shall, within seven days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death. Any person who violates this section shall be subject to a civil penalty not to exceed \$25.00.

14.5 Civil Penalties.

Any animal control officer, humane investigator, the state veterinarian or state veterinarian's representative shall be entitled to bring a civil action for any violation of this Article, which is subject to a civil penalty. Any civil penalty assessed pursuant to this Article shall be paid into the treasury of the county and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of dogs.

Article XVI—Animal Warden.

Pursuant to the authority contained in Virginia Code §3.1-796.104, as amended, the position of Animal Warden and Deputy Animal Wardens for Wythe County, Virginia, is hereby created and established, also referred to as Animal Control Officers. The Animal

Warden shall discharge the duties and responsibilities as set forth in this Ordinance and in the Virginia Code, and such other duties as may be required by the Board of Supervisors from time to time.

This ordinance was duly considered following a required public hearing held on September 11, 2007, at 7:05 p.m., and adopted on October 29, 2007, the members voting:

<u>NAME</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Susan R. Crigger	x			
Charles S. Dix	x			
Lisa R. Eaton	x			
James E. Hagee	x			
Danny C. McDaniel	x			
Wythe B. Sharitz	x			
Martha P. Umberger	x			

I certify that this is a true and correct copy taken from the October 29th, 2007, minutes of the Wythe County Board of Supervisors meeting.



R. Cellell Dalton, Clerk