

Chapter 60

ANIMALS AND FOWL

[HISTORY: Adopted by the Town Council of the Town of Pennington Gap as indicated in article histories. Amendments noted where applicable.]

§60.1 amended December 21, 2020 from cattle, horses, mules to hooved animals

§60.14 adopted April 19, 2019 Leash Law by ordinance 2019-1

GENERAL REFERENCES

Noise — See Ch. 124.

Nuisances — See Ch. 129.

ARTICLE I

General Provisions

[Adopted 3-14-1985 (Ch. 3 of the 1985 Code)]

§ 60-1. Animals at large.

- A. It shall be unlawful for any person, firm or corporation, who or which owns, or has in his or its care, possession any hooved animals, to allow or permit them either in the day- or nighttime to roam, graze, range or run at large, in or along any street, avenue, alley or unenclosed lot of land within the corporate limits of the Town.
- B. Any firm, corporation or person violating the provisions of this section on conviction shall be guilty of a Class 4 misdemeanor and subject to a fine of not more than \$250.
- C. A conviction of the violation of this article shall not stop or preclude any persons injured thereby from damages done by such cattle, horses or mules from the owner, caretaker or possessor of the same.
- D. This article shall not be construed to make it unlawful for any person, firm or corporation to drive, keep or conduct, if properly and adequately, under reasonable circumstances, hooved animals in, or and along the streets, avenues, alleys and unenclosed lots of land within the corporate limits of said Town.

§ 60-2. Animal nuisances.

- A. It shall be the duty of the owner of any of the aforesaid animals who maintains them within the corporate limits to keep the land on which the animals run or occupy in a clean and sanitary condition so as not to become offensive to occupants of any dwelling house on lots in close proximity thereto or to persons passing on the sidewalks or streets or highways.
- B. It shall be the duty of the owners to so maintain the aforesaid animals so that flies and other noxious insects shall not gather in the vicinity of the animals.
- C. For any violation of this section, the person so offending shall be guilty of a Class 4 misdemeanor and subject to a fine of not more than \$250; and every day such condition continues to exist, after notice from the Mayor or Town Manager, shall be deemed a separate offense.
- D. Violations of this section shall be tried before the Lee County General District Court or other presiding justice as determined by law. In lieu of a criminal warrant being taken, upon application of any three persons in writing, the Mayor or Town Manager shall notify the owner or person having the controlling custody of the aforesaid animals that

the keeping of the animals constitutes a nuisance to persons as aforesaid, and that the owner shall have 10 days to abate the nuisance or criminal action under this section will be taken. In the event the nuisance is abated within the period as aforesaid, then the abatement of the nuisance shall be a bar to any further criminal liability under this section. [Amended 10-9-1967]

§ 60-3. Dead animals. [Amended 5-7-1947]

When any horse, cow, mule, chicken or other fowl or other animal shall die within the corporate limits, and shall be not immediately removed by the owner thereof, it shall be the duty of the Superintendent of Public Works or designee to notify the owner thereof, and the Mayor and Town Manager, and if the owner does not forthwith cause the same to be removed and buried or burned, it shall be the duty of the Superintendent of Public Works or designee to remove and bury the same at the expense of the Town. Where the owner of said animal shall fail to remove the same after notice of its death, and it has become necessary to have the same removed at the expense of the Town, such owner shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500 for each offense, and taxed with the costs of such removal, which shall be made part of the fine.

§ 60-4. Keeping hogs.

- A. It shall be unlawful for any person to keep any live hogs or live pigs within the corporate limits of the Town, except for immediate shipment or slaughter. [Amended 5-5-1997]
- B. Any person violating this section shall be guilty of a Class 4 misdemeanor and subject to a fine of not more than \$250 for each such hog or pig so kept by him, and each day such violation is continued shall be deemed a separate offense.

§ 60-5. Keeping fowl.

- A. It shall be unlawful for any person to keep any live fowl, with the exemption of pet birds such as canaries or parrots that are kept inside the family dwelling, within the corporate limits of the Town, except for immediate shipment or slaughter.
- B. Any person violating this section shall be guilty of a Class 4 misdemeanor and subject to a fine of not more than \$250 for each such fowl so kept by him, and each day such violation is continued shall be deemed a separate offense.

ARTICLE II

Dogs Running at Large

[Adopted 5-22-2001 by Ord. No. 1-2001]

\$60.14 Leash Law adopted April 19, 2019 by Ord. 1-2019

§ 60-6. Allowing dogs to run at large prohibited.

It shall be unlawful for the owner or custodian of any dog to permit said dog to run at large within all areas of the corporate limits of the Town of Pennington Gap, Virginia. For purposes of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the

property of its owner or custodian and not under its owner's or custodian's immediate control.

§ 60-7. Owners responsible for compliance.

All persons who are the owners or custodians of dogs within the corporate limits of the Town of Pennington Gap, Virginia shall at all times take all appropriate and necessary steps to confine, restrict, or pen said dogs so as not to violate the provisions of this article. Any person who permits his dog to run at large or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this article.

§ 60-8. Violations and penalties.

Any person who shall violate or fail to comply with any of the provisions of this article shall be guilty of a Class 3 misdemeanor and fined an amount of not more than \$500.

ARTICLE III

Identification of Dogs and Cats
[Adopted 6-16-2003 by Ord. No. 1-2003]

§ 60-9. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as set forth below, except where the context clearly indicates a different meaning:

AT LARGE —% Any dog or cat shall be deemed to run, go or be "at large" while roaming, running or self-hunting off the property of its owner or custodian and not under the direct and immediate control of the owner or custodian.

OWNER —% Any person having a right of property in a dog or cat and any person who keeps or harbors a dog or cat or has it in his care or who acts as custodian and any person who permits a dog or cat to remain on or about any premises occupied by such person.

§ 60-10. Identification tags required.

It shall be unlawful for the owner or custodian of any dog or cat to allow such dog or cat to go, run or be at large in the Town without an identification tag securely fastened to a substantial collar and worn by such a dog or cat indicating the owner's name and address whether on public or private property. Any dog or cat without such tag shall be considered to be a stray animal and subject to be removed by the Dog Warden as such.

§ 60-11. Exceptions.

The owner of a dog or cat may remove the collar and identification tag required by this article when the dog is competing in a dog show; when the dog has a skin condition which would be exacerbated by the wearing of a collar; when the dog is confined; or when the dog is under the immediate control of its owner.

§ 60-12. Violations and penalties.

Any person found to be in violation of this article shall be guilty of a Class 4 misdemeanor and subject to a fine of not more than \$250 for each separate violation.

§ 60-13. Hybrid Canines.

{HISTORY: Adopted by the Town Council on October 20, 2014}

It shall be unlawful for any person to own or possess a hybrid canine in the Town of Pennington Gap, Virginia unless such person shall first have obtained a permit from the Town Manager to ensure the adequate confinement and responsible ownership of said hybrid canine as required by the provisions of this division. (Ord. No. 7A-22, 11-26, 11-26-13)

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

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 31st of each year. Such permit will expire on December 31st 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 Town Manager an application form, supplied by the Town Manager, which shall include the following information, along with evidence and documentation satisfactory to the animal control officer:
 - (1) The full name of the applicant;
 - (2) The applicant's street and mailing address, legal (permanent) location;
 - (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, and sheltered;
 - (6) Name of the legal owner of the property upon which the hybrid canine will be kept, confined, or sheltered;
 - (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 \$100,000.00 per incident to cover any claims for injuries or damages 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 canine 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 on property occupied by the owner custodian 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 inors, adults or other animals.

(1) The pen or enclosure shall contain at least 1,600 square feet of space.

(2) 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.

(3) 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.

(4) Any fencing used in the construction of the pen or enclosure shall be of 11 gauge wire or its equivalent.

(5) 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 the 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) The 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 Town shall provide notice of the issuance will be kept.

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

Permit fee.

There is hereby imposed an annual hybrid canine permit fee upon all persons owning or possessing hybrid canines in the Town 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.

Penalties.

Any person, whether an owner, agent or employee, violating, causing, or permitting the violation of this article for 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 the 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).

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 a 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 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 poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbor 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 a reason to believe than 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 the hybrid canine be: (i) killed immediately by the animal control officer or other 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 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 \$400.00 per animal or \$10.00 per fowl if:

(1) The claimant has furnished evidence with 60 days of discovery of the quantity and value of the dead or injured livestock and the reason the claimant believes that the 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 Town shall be subrogated to 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.

§ 60-14. Dogs to be kept on a leash or otherwise restrained.

All dogs within the boundaries of the Town of Pennington Gap, Virginia shall be kept on a leash or otherwise restrained.

A violation of this ordinance is a Class 4 misdemeanor.

[enabling statute is Code of Virginia §3.2-6539 (1950, as amended)]

[punishment statute is Code of Virginia §3.2-6587 (1950, as amended)]