AN ORDINANCE AMENDING CHAPTER 3, ENTITLED ANIMALS
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA
BY AMENDING SECTION 3-50 THROUGH 3-55 AND
BY ADDING SECTION 3-56 IN ORDER TO COMPLY WITH STATE LAW CHANGES
CONCERNING DANGEROUS AND VICIOUS DOG ENABLING LEGISLATION

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 3, entitled Animals Section 3-50 through 3-56 shall be amended, added and reordained as follows:

Sec. 3-50. – ~~Definitions~~Control of dangerous dogs.

For the purpose of this article ~~the following words and phrases~~ dangerous dog shall have the meaning~~s~~ respectively ascribed ~~to them~~ by 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~~, however,~~. ~~w~~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:~~

~~(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 as authorized by the provisions of section 3-51(b) that it is a dangerous dog, provided that its owner has been given notice of that finding.~~

Sec. 3-51. - Finding of dangerous ~~or vicious~~ dog.

(a) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within Montgomery County 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 Montgomery County 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. If a law enforcement officer successfully makes an application for the issuance of a summons, he or she shall contact the local animal control officer and inform him or her of the location of the dog and the relevant facts pertaining to his or her 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 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, the animal control officer may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.

(b) The court, through its contempt powers, may compel the owner, custodian or harborer 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 article ~~and to pay any impound fees to the County of Montgomery for confining the animal until the hearing. 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, § 3.2-6562, as amended~~. The court upon finding the animal to be a dangerous ~~or vicious~~ dog, may order the owner, custodian or harborer 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 Court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner.

Sec. 3-52. - Dangerous dog certificate.

(a) The owner of any animal found to be a dangerous dog shall, within ~~ten (10)~~ forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of ~~fifty~~ one hundred fifty dollars ($~~50.00~~150.00). The animal control officer shall 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. By January 31 of each year, until such time as the dangerous dog is deceased, ~~A~~all certificates obtained pursuant to this article shall be updated and renewed annually for ~~the same~~ a fee of eighty-five dollars ($85.00) 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. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

(b) All certificates or renewals thereof required to be obtained under this article shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

(1) The animal has been neutered or spayed and has a current rabies vaccination;

(2) 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;

(3) The owner has liability insurance coverage, to the value 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);

(4) 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

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

(c) 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 article.

Sec. 3-53. - Requirements for dangerous dogs.

(a) 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.~~ While so confined within the structure, the animal shall be provided for according to Section 3.2-6503 of the 1950 Code of Virginia, as amended.

(b) 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.

(c) After an animal has been found to be a dangerous dog, the animal's owner shall immediately upon learning of same cause the animal control officer to be notified if the animal:

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal; or

(3) Is sold, given away or dies.

(d) Any owner of a dangerous dog who relocated to a new address shall, within ten (10) days of relocating, provide written notice to the animal control officer as to where the animal has been moved and notify the appropriate animal control officer where the animal has been moved if that address is outside of Montgomery County.

(e) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § 3.2-6542, within forty-five (45) days of such a finding by the court of competent jurisdiction. The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses, and telephone number 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 such~~; (vi) proof of insurance or a surety bond; and (vii) the death of the dog.

Sec. 3-54. - Exemptions.

(a) 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 be prohibited.

(b) 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 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.

(c) 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 dog ~~or a vicious dog~~.

(d) 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, a person or its owner's or custodian's property, shall be found to be a dangerous dog ~~or a vicious dog~~.

Sec. 3-55. - Penalties.

The owner of any animal which has been found to be a dangerous dog, who willfully fails to comply with the requirements of this article shall be guilty of a class 1 misdemeanor ~~and the animal which has been found to be a dangerous dog may be ordered by the court to be euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562, as amended or ordered removed from the county and prohibited from returning to the county. Any animal which has been found to be a dangerous dog and ordered removed from the county which is later found in the county shall be ordered by the court to be euthanized immediately.~~ Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this article, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The Court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal.

Upon conviction, the Court may (i) order the dangerous dog to be disposed of by animal control pursuant to §3.2-6562 of the 1950 Code of Virginia, as amended, or (ii) grant the owner up to forty-five (45) days to comply with the requirements of this article, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the Court, the Court shall order the dangerous dog to be disposed of by animal control pursuant to §3.2-6562 of the 1950 Code of Virginia, as amended. The Court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time

the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

Any owner or custodian of a canine or canine crossbred 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 article 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 article, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

Sec. 3-56. – Vicious Dogs.

(a) As used in this section:

"Serious injury" means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, 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 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 vicious. The animal control officer 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 harborer of the animal to produce the animal. 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 of the 1950 Code of Virginia, as amended. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harborer thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is

taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors.

(c) No canine or canine crossbreed shall be found to be a 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 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 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 vicious dog.