

**CHAPTER 5**

**ANIMALS AND FOWL**

- Art. I. In General, §§5-1--5-20
- Art. II. Dogs, §§5-21--5-27
- Art. III. Migratory and Nonmigratory Waterfowl, §§5-40 --5-43

**ARTICLE I. IN GENERAL**

**SECTION 5-1. VIOLATIONS OF CHAPTER.**

Except as otherwise specifically provided, any person violating any provision of this chapter shall be guilty of a Class 4 misdemeanor. (Code 1978, §4-1).

**SECTION 5-2. REPEALED.**  
(Ord. No. 003-85, 3-12-85)

**SECTION 5-3. REPEALED.**  
(Ord. No. 003-85, 3-12-85)

**SECTION 5-4. LIVESTOCK OR FOWL RUNNING AT LARGE.**

It shall be unlawful for any person to permit any livestock or fowl owned or kept by him to run at large within the corporate limits of the City.  
(Code 1959, §§4-1, 4-4; Ord. No. 003-85, 3-12-85)

**State Law References--**Authority to prohibit animals and fowl running at large, Code of Virginia, §15.1-870; strays, §55-202, *et seq.*

**SECTION 5-5. STOPPING OR PARKING CONVEYANCE CARRYING LIVE ANIMALS RESTRICTED.**

Except in instances of actual breakdown or refueling, it shall be unlawful for any person driving any conveyance carrying livestock or fowl to park or stop such conveyance at the curb of the street or upon any driveway within the City.  
(Code 1959, §4-8; Ord. No. 003-85, 3-12-85).

**Cross reference--**Application of traffic regulations to persons riding or driving animals, §14-7.

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**State Law Reference**--General authority of city to regulate animals and fowl, Code of Virginia, §15.1-870; 3.2-6544.

### **SECTION 5-6. CRUELTY TO ANIMALS GENERALLY.**

- (a) Any person who mistreats or neglects any animal as hereinafter described shall be guilty of a Class 1 misdemeanor.
  - 1. Overdrives, overloads, tortures, ill-treats, abandons (except as provided in Section 5-7 of this chapter); willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to; cruelly or unnecessarily beats, maims, mutilates, or kills any animals, whether belonging to himself or another; deprives any animal of necessary sustenance, food, drink, shelter; or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or being the owner of such animal deprives any animal of emergency veterinary care; or
  - 2. Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or
  - 3. Carries or causes to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering.
- (b) The word "animal" as used in this section shall be construed to include birds and fowl.
- (c) Nothing in this section shall be construed as prohibiting the dehorning of cattle. (Code 1959, §4-5; Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

**State Law References**--Similar provisions, Code of Virginia, §§18.2-403.1, 3.1-796.122; authority for this section and Section 5-6.1 and 5-6.2, §15.1-870.

### **SECTION 5-6.1. SHELTER REQUIRED.**

It shall be unlawful for any person to keep a dog or other animal outdoors without providing the animal with shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather. This shelter shall be of adequate size for the dog or other animal for which it is intended, shall be constructed with a solid base, and shall be of material which will repel the elements and help maintain the body temperature of the dog or other animal.

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Uninsulated metal barrels shall not be deemed to provide adequate shelter as required herein.

(Ord. No. 003-85, 3-12-85).

**State Law Reference**--Similar provisions, Code of Virginia, §3.1-796.122.

### **SECTION 5-6.2. MEANS OF SECUREMENT.**

It shall be unlawful for any person to fasten any dog or other animal outdoors with chains unless the chains are so placed or attached, with a swivel or otherwise, so that they cannot become entangled with themselves or other objects or with the chains of other dogs. Such chains shall be of a type commonly used for the size of dog involved, and shall be attached to the dog by means of a well fitted collar. Such chains shall be at least three times the length of the dog, or other animal as measured from tip of nose to base of tail, and shall allow the animal convenient access to adequate shelter as required by Section 5-6.1.

(Ord. No. 003-85, 3-12-85)

### **SECTION: 5-6.3 CONFINEMENT OF DOMESTIC ANIMALS IN VEHICLES PROHIBITED**

- (a) Any person having charge or custody of an animal, as owner or otherwise, who places or confines such animal or allows such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death shall be guilty of a Class 3 Misdemeanor.
- (b) Any person having dominion or control over a motor vehicle, as owner or otherwise, who places or confines an animal or allows an animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability, or death shall be guilty of a Class 3 Misdemeanor.
- (c) If the treatment described in paragraphs (a) or (b) of this section result in injury to the animal requiring care from a veterinarian including but not limited to treatment from heat stress, which treatment shall be deemed necessary as determined by the Animal Control Officer, the punishment for a violation of paragraphs (a) or (b) shall be elevated to a Class 1 Misdemeanor. The owner and/or custodian found to be in violation of this section shall be responsible for all costs associated with the foregoing treatment.

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- (d) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.  
(Ord. No. 2012-04, 4-10-12)

### **SECTION 5-7. ABANDONING DOMESTIC ANIMAL.**

Any person who shall abandon any dog, cat, or other domesticated animal in any public place, including the right-of-way of any public highway, road, or street, or on the property of another, shall be guilty of a Class 3 misdemeanor.  
(Ord. No. 003-85, 3-12-85)

**State Law References--**Similar provisions, Code of Virginia, §§3.1-796.122, 18.2-403.2.

### **SECTION 5-8. SHOOTING, ETC., BIRDS AND WATERFOWL, ETC.**

It shall be unlawful for any person to shoot; discharge, launch or throw a projectile at; trap; or willfully harm any migratory or non-migratory birds and fowl or its nest and eggs, except the English sparrow, the starling, and the pigeon, within the corporate limits of the City.  
(Code 1959, §4-6, Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

**Cross reference--**General prohibition against discharging firearms, §16-7.

### **SECTION 5-9. DEPOSITING DEAD ANIMAL ON STREET OR SIDEWALK OR ALLOWING IT TO REMAIN UNBURIED.**

If any person casts or otherwise deposits any dead animal into a road, alley or sidewalk, or other public property, or knowingly permits any dead animal to remain unburied upon his property when offensive to the public, such person shall be guilty of a Class 3 misdemeanor.  
(Code 1959, §4-7; Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

**Cross reference--**Littering streets and sidewalks, §11-3.

**State Law References--**Similar provisions, Code of Virginia, §§18.2-403.3, 18.2-323; disposal of dead dogs, §3.1-796.121; burial or cremation of dead animals generally, §18.2-510.

### **SECTION 5-10. RABIES EMERGENCY DECLARED.**

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A rabies emergency is hereby declared in the City of Winchester, and shall be deemed in existence until such time as the health director determines based on medical evidence that the emergency no longer exists.

(Ord. No. 007-83, 3-08-83)

**State Law Reference**--Control of Rabies, Code of Virginia, §32.1-48.1, *et seq.*

### **SECTION 5-11. RABIES VACCINATION OF CATS.**

- (a) It shall be unlawful for any person to keep, harbor, or have in his custody or control for longer than fourteen (14) days any cat over the age of four (4) months, unless such cat has been vaccinated with a rabies vaccine licensed for use by the United States Department of Agriculture Veterinary Biologics Section. Such vaccinations must have been performed within the time span for which the vaccine is licensed.
- (b) Rabies vaccination receipts, issued by a licensed veterinarian at the time of vaccination, shall be carefully preserved by the owner or custodian of a cat and exhibited promptly upon request for inspection by any animal warden or any other law enforcement officer.
- (c) This section shall remain in effect so long as the rabies emergency declared by Section 5-10 of this chapter remains in effect.  
(Ord. No. 007-83, 3-08-83; Ord. 007-89, 2-14-89)

**State Law Reference**--Similar provisions, Code of Virginia, §3.1-196.97:1.

### **SECTION 5-12. UNVACCINATED ANIMALS - IMPOUNDMENT.**

Any dog, cat, or other domesticated animal found in the City who has not received a rabies vaccination as provided by this chapter which bites any other domesticated animal or any person shall be impounded by any law enforcement officer, and shall be held for a period of ten (10) days.

Upon expiration of the ten (10) day period referenced herein, any animal not claimed by its owner may be disposed of by giving it into the possession of the Society for the Prevention of Cruelty to Animals (S.P.C.A.).

(Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

### **SECTION 5-13. EXOTIC ANIMALS WITHIN THE CITY LIMITS.**

- (a) For the purposes of this section, the term "exotic animal" refers to birds of prey, ferrets, lizards, snakes, and weasels.

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- (b) It shall be unlawful for any person who owns, possesses, or has control of an exotic animal to permit such animal to be on the public sidewalks and streets located in the City of Winchester except for the following:
  - (1) Any animal in an escape-proof container.
  - (2) Any animal used as a part of a display, act, circus, parade or similar event for which an approved event permit issued by the City has been issued or any other event of a public nature which has the prior approval of the City. (Ord. No. 026-93, 9-14-93; Ord. No. 2011-21, 10-11-11)

Note: This section was designated Section 5-14 by Ord. No. 026-93, but has been renumbered Section 5-13.

### **SECTION 5-14. KEEPING LIVESTOCK AND FOWL WITHIN THE CITY LIMITS.**

- (a) For the purposes of this section:
  - (1) The term "livestock" refers to all breeds of cattle, goats, horses, llamas, sheep, and swine, including miniatures of each.
  - (2) The term "fowl" refers to all breeds of chickens, ducks, geese, guineafowl, peafowl, swans, and turkeys.
- (b) It shall be unlawful for any person to raise or keep livestock or fowl within the City with the exception of the following:
  - (1) The property on which the livestock or fowl is kept is at least two acres in size, and
  - (2) The livestock or fowl are securely fenced or are otherwise prevented from escape.
- (c) On properties of two or more acres, one animal unit is allowed for each acre in the property which is set aside for animal use.
  - (1) An animal unit consists of:
    - (a) one (1) bull, cow, llama, or steer; or
    - (b) three (3) horses; or
    - (c) six (6) goats, sheep, or swine or any combination thereof; or
    - (d) twelve (12) chickens, ducks, geese, guineafowl, peafowl, or swans or any combination thereof.
  - (2) For horses, goats, sheep, swine, chickens, ducks, geese, guineafowl, peafowl or swans the number of animals shall be rounded to the next higher whole unit.

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- (3) For the purposes of subsection (c), an animal shall not be counted until it reaches the age of eight months.
- (d) Animals' owners shall be subject to the City sound restrictions (Chapter 17 of this Code) with regard to noises.  
(Ord. No. 026-93, 9-14-93)

Note: This section was designated as Section 5-15 by Ord. No. 026-93, but has been renumbered to Section 5-14.

### **SECTION 5-15. ANIMALS PROHIBITED IN FESTIVAL AREA DURING SPECIFIED EVENTS.**

- (a) In furtherance of the protection of public safety, the Chief of Police may prohibit animals from entering designated areas on the "Downtown Mall" (which is defined as the area north of Cork Street, south of Fairfax, east of Braddock and west of Cameron St. inclusive of the named streets) during festivals and events wherein it is determined by the Chief that the high volume of pedestrians attending the event may be endangered by the presence of animals or where it is believed that the animal could suffer injury due to the high volume of attendees.
- (b) Two weeks prior to imposing the restrictions, the Chief of Police shall publish, in a paper of general readership within the City, a Notice identifying the dates, time and location of the restriction. During the event, the Chief shall have posted signs clearly identifying the boundaries and restrictions imposed pursuant to this section.
- (c) This Section shall not apply to service animals or vendors who have obtained written authorization from the Chief of Police to have animals in the designated area during the restriction period.
- (d) Residents living within the designated area shall be permitted to walk their animals to and from their residence during periods of restriction, and may be required to show proof of residency while walking their animals through designated areas.  
(Ord. No. 2011-05, 4-12-11)

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### SECTIONS 5-16 - 5-20. RESERVED.

## ARTICLE II. DOGS

### SECTION 5-21. LICENSE TAX.

- (a) A license tax is hereby imposed on dogs required to be licensed under Section 3.2-6528 of the Code of Virginia, in the following annual amounts:
- |     |                                   |         |
|-----|-----------------------------------|---------|
| (1) | Males and females                 | \$ 8.00 |
| (2) | Neutered males and spayed females | \$ 4.00 |
| (3) | Replacement tag for lost tag      | \$ 1.00 |
- (b) The owner of any dog not paying the license tax herein imposed by April 30th of any year or as otherwise provided in subsection (c) or in section 5-23, shall pay two dollars (\$2.00) per dog in addition to the rate prescribed by subsection (a) above. (Ord. No. 008-97, 4-8-97)
- (c) The additional license tax after April 30th of any year imposed by paragraph (b) of this section shall be waived upon presentation to the City Treasurer of a statement, signed by the owner of the dog under penalty of perjury, certifying that the dog was not owned by him or her in the Commonwealth of Virginia prior to May 1st of the license year; or that the dog was obtained after April 30th of the license year, but not earlier than thirty days prior to making application for license; or that the dog was not four (4) months old or older prior to May 1st of the license year. (Ord. No. 026-79; Code 1978, §4-21; Ord. No. 003-85, 3-12-85; Ord. No. 007-89, 2-14-89; Ord. No. 038-90, 11-13-90; Ord. No. 025-91, 5-14-91; Ord No. 009-96, 05-14-96; Ord. No. 2011-21, 10-11-11)

**State Law Reference--**Duty of City to prescribe dog license tax, Code of Virginia, §§3.7-796.87; 3.2-6528.

### SECTION 5-22. RABIES VACCINATION - REQUIRED.

- (a) It shall be unlawful for any person to own, keep, hold or harbor any dog over the age of four (4) months within the City, unless such dog shall have been vaccinated with a type of rabies vaccine which is approved by the state department of health. Dogs vaccinated under the age of four (4) months must be revaccinated within twelve (12) months. Vaccinations may be given for twelve (12) to thirty-six (36) months. (Ord. No. 008-97, 4-8-97)
- (b) Any person transporting a dog into this City from some other jurisdiction shall conform with the requirements of this section within thirty (30) days.

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(Code 1959, §4-10; Ord. of 7-11-78; Ord. No. 003-85, 3-12-85; Ord. No. 007-89, 2-14-89)

**State Law References**--Control of Rabies, Code of Virginia, §32.1-48.1, *et seq*; Similar provision as to licensing, §3.1-796-85.

### **SECTION 5-23. SAME - CERTIFICATE AND TAG.**

- (a) At the time of vaccination of a dog pursuant to Section 5-22, a suitable and distinctive collar tag and certificate of vaccination shall be issued to the dog owner. The collar tag shall be affixed to the dog's collar and must be worn at all times when the dog is not on the owner's property or in the immediate control of a responsible person.
- (b) The certificate of vaccination issued under this section shall be signed by a licensed veterinarian and shall certify that the dog has been vaccinated in accord with the provisions of Section 5-22 of this chapter. The certificate shall show the date of the vaccination; the type of vaccine used; the rabies collar tag number; a brief description of the dog, including its sex and breed; and the name of the dog's owner.
- (c) Upon presentation to the Treasurer of a current vaccination certificate and payment of the license tax, the Treasurer shall issue a dog license. The license shall be for a period of twelve (12) months, beginning April 1 of the year of application. The Treasurer may issue a dog license for a maximum of three (3) years upon presentation of a multi-year vaccination certificate and the payment of the annual tax for the period of the dog license, so long as the license period does not exceed the vaccination certificate effective period. When the dog license has been issued, the certificate of vaccination shall be so marked and returned to the dog owner. (Ord. No. 008-97, 4-8-97)
- (d) It shall be unlawful for any person to present a certificate of vaccination pursuant to subsection (c) above for a dog other than the dog for which it was issued. (Code 1959, §§4-11, 4-14, 4-15; Code 1978, §4-23; Ord. No. 003-85, 3-12-85; Ord. No. 025-91, 5-14-91)

**State Law Reference**--Evidence of vaccination prerequisite to issuance of dog license, Code of Virginia, provisions similar to subsection (d) above, Similar provision, Code of Virginia, §3.1-796.97.

**Note:** Ordinance No. 008-97 effective May 1, 1997.

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### SECTION 5-24. RUNNING AT LARGE.

- (a) It shall be unlawful for any person to permit his or her dog to run at large as hereinafter defined. For the purpose 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 physical control. Physical control shall mean that the animal is controlled by a physical restraint including but not limited to a fence, leash, or other restraining device.
- (b) It shall be the duty of every law enforcement officer to apprehend any dog found running at large contrary to the provisions of this section and to impound such dog in the City pound or other suitable place. The law enforcement officer upon receiving any dog shall make complete registry, entering the breed, color, and sex of such dog and whether licensed. If licensed, law enforcement officer shall enter the name and address of the owner and the number of the license tag.  
(Ord. of 2-11-75; Code 1978, §4-24; Ord. No. 026-79, 11-13-79; Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

**State Law References**--Authority, Code of Virginia, §3.1-796.93, §3.1-796.98, §3.1-796.100.

#### SECTION 5-24.1. DURATION OF IMPOUNDMENT; DISPOSITION OF UNCLAIMED DOGS.

It shall be the duty of the animal warden or other designated law enforcement officer to keep all dogs impounded in accordance with Section 5-24 of this chapter until redeemed or for a period of seven (7) days. If at the expiration of seven (7) days from the date of notice to the owner or the posting of notice as provided by Section 5-24.1 such dog shall not have been redeemed, it may be disposed of in a humane manner or given into the possession of the Society for the Prevention of Cruelty to Animals (S.P.C.A.).  
(Ord. No. 003-85, 3-12-85; Ord. No.043-95, 9-12-95)

**State Law Reference**--Code of Virginia, §3.1-796.96.

#### SECTION 5-24.2. NOTICE TO OWNER OF IMPOUNDED DOG; REDEMPTION.

The operator or custodian of the pound shall make a reasonable effort to ascertain if the animal has a tag, license, is tattooed or has other means of identification. If such identification is found on the animal, a reasonable effort shall be made to return the animal to its owner. If the owner cannot be found, the operator or custodian shall attempt to place the animal for adoption before humanely destroying the animal. Such identified animal shall be held for a minimum of five (5) additional days beyond the period set out in Section 5-24.1. If the rightful owner of any animal confined may be readily identified,

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the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight (48) hours following its confinement. If the owner cannot be reasonably located, written notice shall be posted for two (2) days at two (2) or more conspicuous locations in the City describing the dog and the time and the place the dog was apprehended. In the event any animal confined pursuant to Section 5-24 is claimed by its rightful owner, the owner shall be charged as follows:

For impounding any dog	\$ 10.00
For keeping any dog	\$ 5.00 per day
For posting notice	\$ 3.00

(Ord. No. 043-95, 9-12-95; Ord. No. 049-95, 10-17-95; Ord. No. 2011-21, 10-11-11)

**State Law Reference**--Code of Virginia, §3.1-796.96.

### **SECTION 5-25. QUARANTINE IN CASE OF EMERGENCY.**

When in the judgment of the health director an emergency shall be deemed to exist in the City or any section thereof due to a widespread rabies epizootic, for the protection of the public health the health director may declare a quarantine in the City or section thereof as may be affected, and restrict all animals to the owners' premises or to the immediate custody of a responsible person for the duration of such emergency as it is set forth. (Code 1959, §4-16; Code 1978, §4-25; Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

**State Law Reference**--Authority of Council to adopt ordinances to prevent spread of rabies, Code of Virginia.

### **SECTION 5-26. BARKING OR HOWLING DOGS.**

- (a) The harboring or keeping of any dog which, by loud, frequent, habitual barking or howling, causes annoyance and disturbs the peace and quiet of any person or neighborhood shall be unlawful.
- (b) Any person annoyed by such loud, frequent, or habitual barking or howling may enter his own written complaint by summons returnable to the general district court. (Code 1959, §4-22; Code 1978, §4-26; Ord. No. 026-79, 11-13-79; Ord. No. 003-85, 3-12-85; Ord. No. 2011-21, 10-11-11)

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### SECTION 5-27. DANGEROUS OR VICIOUS DOGS.

- (a) The provisions of Section 3.2-6540 of the Code of Virginia are hereby incorporated mutatis mutandis as though each and every word of said Section is set forth fully herein.  
(Ord. No. 020-99, 7-13-99; Ord. No. 034-2006, 11-14-06; Ord. No. 2011-21, 10-11-11)

**State Law Reference**--Code of Virginia, § 3.1-796.93:1.

### ARTICLE III. MIGRATORY AND NONMIGRATORY WATERFOWL

#### SECTION 5-40. INTENT.

- (a) The large number of fowl attracted by feeding and baiting in and around Winchester increases the presence of harmful bacteria, which present a threat to public health and well being. Fecal matter from waterfowl contributes to the nutrient loading of water bodies thereby resulting in lessened water quality. Large numbers of waterfowl feeding, trampling and defecating cause damage to terrain and constitute a nuisance and health hazard to citizens, and a danger to the animals and environment.
- (b) The purpose of this article is to control the feeding and baiting of migratory and nonmigratory waterfowl (hereinafter referred to as "fowl") in order to protect the public health and property and the water quality of lakes, ponds, rivers and streams in Winchester by reducing the amount of fecal matter from these fowl deposited in the water and on the adjacent shoreline and waterfront property caused in part by the feeding and baiting of these fowl by the public.
- (c) This article is adopted under the authority granted pursuant to §29.1-527.1 of the Code of Virginia with strict compliance with the requirements including but not limited to notification prior to adoption of this article to the Department of Game and Inland Fisheries.

#### SECTION 5-41. PROHIBITION.

It shall be unlawful for any person upon public property in the City of Winchester in areas designated by appropriate signage erected at the discretion of the City Manager to:

- (a) Feed or bait any migratory or non-migratory waterfowl.
- (b) Create any condition which results in a congregation of migratory or non-migratory waterfowl on public property which:

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- (1) Results in an accumulation of waterfowl feces or droppings;
- (2) Results in damage to flora, fauna or public property or safety or welfare;
- (3) Results in a threat or nuisance to the public health, safety or welfare; or
- (4) Results in a threat to the health, safety or welfare of said migratory or non-migratory waterfowl.

(c) This article shall not apply upon lands within a national or state park or forest or wildlife management area.

### **SECTION 5-42. DEFINITIONS.**

The following definitions shall apply unless the context clearly indicates another meaning:

*FEEDING and BAITING* -- The placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked, wheat or other grains, breads, salt or any other feed or nutritive substance, in any manner or form, so as to lure, attract or entice fowl to, on or over any such areas where such feed items and/or materials have been placed, exposed, deposited or scattered.

*WATERFOWL and FOWL* – Any waterfowl of the family Anatidae (ducks and geese) either migratory, nonmigratory or resident fowl.

### **SECTION 5-43. VIOLATIONS AND PENALTIES.**

Any person violating any provisions of this article shall, upon conviction, pay a civil penalty not less than \$5 or more than \$50, and shall pay the cost of prosecution. For each subsequent offense, he shall pay a civil penalty of not less than \$25 or more than \$50 and shall pay the cost of prosecution.

(Ord. No. 2008-43, 10/14/08)

**State Law Reference** – Code of Virginia §29.1-527.1.

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