

ORDINANCE NUMBER 2021-



**AN ORDINANCE AMENDING CHAPTER 14, ANIMALS,
ARTICLE I, IN GENERAL, AND ARTICLE II, DOGS AND CATS,
OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF WAYNESBORO, VIRGINIA THAT:**

1. Chapter 14, Article I, Animals, of the City Code of the City of Waynesboro, Virginia is deleted in its entirety and readopted and reenacted as follows:

CHAPTER 14, ANIMALS

ARTICLE I. – In General

Sec. 14-1. - 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:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in Section 14.14 of the City Code and Va. Code § 3.2-6503 for a period of four consecutive days.

“Adequate care or care” means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

“Adequate exercise or exercise” means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

“Adequate feed” means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

“Adequate shelter” means the provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

The outdoor tethering of an animal shall not constitute the provision of adequate shelter (a) unless the animal is safe from predators and well suited and well equipped to tolerate its environment; (b) during the effective period for a hurricane warning or tropical storm warning issued for the area by the National Weather Service; or (c)(1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning, unless an animal control officer, having inspected an animal's individual circumstances in clause (c)(1), (2), or (3), has determined the animal to be safe from predators and well suited and well equipped to tolerate its environment.

“Adequate space” means sufficient space to allow each animal to (i) easily stand, sit, lie, turnabout, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means that the tether to which the animal is attached permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness that is configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; is at least 15 feet in length or four times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line or when an animal control officer, having inspected an animal's individual circumstances, has determined that in such an individual case, a tether of at least 10 feet or three times the length of the animal, but shorter than 15 feet or four times the length of the animal, makes the animal more safe, more suited, and better equipped to tolerate its environment than a longer tether; does not, by its material, size, or weight or any other characteristic, cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and does not have weights or other heavy objects attached to it.

The walking of an animal on a leash by its owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom of movement would endanger the animal, temporarily and appropriately restricting the movement of the animal according to professionally accepted standards for the species is considered the provision of adequate space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.

“Adequate water” means the provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size, and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

“Agricultural animals” means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal Control Officer" means a person appointed as an animal control officer or deputy animal control officer as provided in Va. Code § 3.2-6555.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety, or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or any other companion animal in any public place including the right-of-way of any public highway, road, or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

"Fowl" means any domesticated bird, including, but not limited to: chickens, roosters, gamecocks or game hens, ducks, geese, swans, turkeys, guinea fowl, emus, rheas, ostriches, and pigeons.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama or Vicugna; ratites; fish or shellfish in aquaculture facilities, as defined in Va. Code § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"Nuisance birds" means blackbirds, red-winged blackbirds, grackles, cowbirds, pigeons, and starlings, or any other species so declared by regulations of the state board of agriculture and consumer services when causing or about to cause economic losses in the City, becoming detrimental to the public health and welfare, defacing or defiling public or private property, or otherwise creating a public nuisance.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

“Properly cleaned” means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease, and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

“Public animal shelter” means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

“Releasing agency” means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

“Sanitize” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

Sec. 14-2. - Bird sanctuary designated, trapping, hunting, etc., birds and wildfowl.

- (a) The entire area embraced within the corporate limits of the City is hereby designated as a bird sanctuary.
- (b) No person shall trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wildfowl, or rob bird nests or wildfowl nests; provided, that if nuisance birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property and no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such manner as is deemed advisable by such health authorities under the supervision of the Chief of Police of the City.

Sec. 14-3. - Keeping of horses.

Any person who keeps a horse in the City shall have at least three acres, to be used for pasture, plus one additional acre for each additional horse.

Sec. 14-4. – Agricultural Animals running at large.

No person shall permit a horse, mule, cow, fowl, or swine to be at large in the City. Such animals shall be impounded until redeemed, and if not redeemed within five days after an advertisement has been made in a newspaper published in the City, they may be sold by the Chief of Police at fair market value and the proceeds, after deducting the amount of the fine and the costs incurred keeping and caring for the animal and advertising, shall be held by the City Treasurer for the benefit of the owner. No such animal shall be advertised until it has been impounded 48 hours.

Sec. 14-5. - Keeping swine in the City.

No swine shall be kept in the City limits, except for immediate shipment or slaughter. In no event shall they be kept in the City for a longer period than 24 hours. Excepted from this prohibition are legitimate agricultural or farming operations of seven and one-half acres or more and where swine are not kept closer than 100 feet from any adjoining or neighboring residence. Owners of swine currently existing in the City shall have [choose option] one/two/three year(s) from the effective date to come into compliance with this Section.

Sec. 14-6. - Keeping sheep or goats in the City.

- (a) No sheep or goats shall be kept in the City limits, except:
 - (1) for immediate shipment or slaughter.
 - (2) for temporary use to control shrubs, weeds, and undergrowth.
 - (3) In no event shall they be kept in the City for a longer period than 5 consecutive days in a 90-day period.
- (b) Excepted from this prohibition are legitimate agricultural or farming operations of seven and one-half acres or more where the sheep or goats are not kept closer than 100 feet from any adjoining or neighboring residence.

Sec. 14-7. - Nuisance animals - Generally.

- (a) It shall be unlawful for any person own or maintain a nuisance animal in the City. It shall also be unlawful for any person to permit the continuation of a public nuisance after having been served a summons or

a notice to abate such nuisance by a duly authorized law enforcement officer or animal control officer.

- (b) Nuisance Animal Defined. Any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term “nuisance animal” shall mean and include, but is not limited to, any animal that:
- (1) Is repeatedly found at large;
 - (2) Damages the property of anyone other than its owner;
 - (3) Molests or intimidates pedestrians or passersby;
 - (4) Chases vehicles;
 - (5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others close to the premises where the animal is kept or harbored;
 - (6) Causes fouling of the air by body odor and thereby creates unreasonable annoyance or discomfort to neighbors or others close to the premises where the animal is kept or harbored;
 - (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
 - (8) Attacks other domestic animals;
 - (9) Any animal which, on three separate occasions within a 12-month period, has been observed being unrestrained or uncontrolled away from its owner’s or keeper’s premises by the animal control officer or other law enforcement officers, or has been impounded by the animal control officer or other law enforcement officers previously within a 12-month period; or
 - (10) Has been found, after notice to its owner and a hearing by a court of competent jurisdiction, to be a public nuisance animal by virtue of being a danger to the public health, welfare, or safety.

- (c) Whenever a nuisance animal is found to exist within the City and the City elects to seek to abate the same under the following procedure (whether in addition to or as an alternative to any other civil or criminal penalties pursued), the animal control officer or other law enforcement officer of the City shall give written notice to the owner or occupant of the property upon which the nuisance animal is kept or harbored, if such person is known. This may be done notwithstanding the fact that a misdemeanor summons may have been issued by an authorized law enforcement or the animal control officer regarding the same nuisance, and the charge thereunder be pending in any court of competent jurisdiction. If the owner of the nuisance animal fails to abate or cause to be abated the nuisance after receiving reasonable notice of its existence, he shall be deemed to have permitted the continuation of such nuisance.
- (d) The notice to abate a nuisance issued under the provisions of this section shall contain:
- (1) An order to abate the nuisance;
 - (2) The location of the nuisance animal;
 - (3) A description of what constitutes the nuisance;
 - (4) A statement of acts necessary to abate the nuisance and a date by which the nuisance shall be abated;
 - (5) A statement that if the nuisance is not abated as directed, the police department or animal control officer will abate such nuisance by having the animal impounded and/or the owner of the animal charged with a violation of this section, either or both.
 - (6) A statement that the failure to abate a nuisance also constitutes a criminal offense punishable as a Class 3 misdemeanor and, if remedied by the City, the owner shall be liable for all costs incurred, including without limitation, the cost of impoundment.
- (e) The notice to abate a nuisance animal shall be given to the owner, the owner's agent, or person in control of the property on which the nuisance animal is located, kept, or harbored by delivering a copy of the notice to abate in person. If the person named in the notice to abate cannot be

found after a diligent search, such notice shall be sent by registered or certified mail to the last known address of such person and a copy of the notice to abate shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

- (f) If, after such notice, the owner fails to properly control the animal that creates or constitutes the nuisance, the police department or animal control officer shall take the necessary legal action to abate the nuisance by having the animal impounded or the owner of the animal charged with a violation of this section, either or both.
- (g) Notwithstanding the foregoing, however, whenever an immediate threat to the public health, welfare, or safety is posed, the police department and/or animal control officer may have the animal impounded immediately and charges filed hereunder. In such a case, the provisions of Sec. 14-46 shall apply, except that the animal shall remain impounded until disposition of the charges by the court.
- (h) Violation of this section shall constitute a class 3 misdemeanor and be subject to the penalties therefor. In addition, each day a nuisance caused by an animal continues after the date set by the City for its abatement shall constitute a separate offense.

Sec. 14-8. - Adoption of state law.

Pursuant to the provisions of § 3.2-6543 of the Code of Virginia, 1950, as amended from time to time, all of the provisions and requirements of the Comprehensive Animal Laws of the Code of Virginia, except those which by their very nature cannot have application within the City, are hereby adopted and made part of this chapter as if fully set out herein, and are hereby made applicable within the City, unless the subject and content of such state law is specifically addressed in this chapter. It shall be unlawful for any person, within the City, to violate, fail, neglect or refuse to comply with any section of the Comprehensive Animal Laws of the Code of Virginia, as adopted by this section.

Sec. 14.9. –Limitations on keeping fowl.

- (a) It shall be unlawful for any person to keep, permit, or allow any fowl within the corporate limits of the City, or to allow any fowl to run at large within the corporate limits of the City, except as specifically permitted below.
- (b) It shall only be lawful for a person to keep, permit, or allow chickens within the corporate limits of the City on a residentially used property. No chickens shall be allowed on apartments buildings grounds or manufactured housing park properties. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet or less from any poultry processing plant, poultry hatchery, poultry feed mill, poultry truck lot, poultry farm, or from a property where facilities are operated by the Virginia Department of Agriculture and Consumer Services. If any portion of a parcel is located in the prohibited five hundred (500) feet area described above, no chickens shall be kept on that entire parcel. Residents keeping chickens must also abide by the following terms and conditions:
- (1) Chickens allowed under this Section shall only be raised for domestic purposes and no commercial use, such as selling eggs or selling chickens for meat, shall be allowed.
 - (2) No roosters shall be allowed at any given time. Owners of roosters currently existing in the City shall have [choose option] one/two/three year(s) from the effective date to come into compliance with this Section.
 - (3) There shall be no outside slaughtering of chickens.
 - (4) All chickens must be kept at all times in securely and suitably fenced areas. No fenced area or pen for chickens shall be permitted closer than twenty-five (25) feet to any house or other building used for residential purposes by anyone other than the person maintaining such chicken or his immediate family. Chickens must be located in the rear yard. No fenced area or pen for chickens shall be permitted closer than twenty (20) feet from streams, tributaries, ditches, swales, storm-water management facilities,

drop-inlets, or other storm drainage areas that would allow fecal matter to enter any City storm drainage system or stream.

Enclosures for chickens shall be situated at least ten (10) feet from all property lines.

- (5) No free-range chickens shall be permitted.
- (6) Every person maintaining any area for keeping chickens shall keep it in a neat and sanitary condition, free from refuse at all times, and must clean the area on a regular basis so as to prevent offensive odors.
- (7) All feed for chickens shall be kept in a secure container, impenetrable by rats or other animals, or in a location to prevent the attraction of rodents and other animals. The presence of rats or other animals shall be *prima facie* evidence that such area is maintained in violation of this section.
- (8) Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting on-site, collected by a *bona fide* poultry litter service, or bagged and taken to the landfill.
- (9) Any dead chickens shall not be deposited in any trash container that is collected by any public or private waste collector but shall be either composted or buried on-site or taken to the landfill. Further, all unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to composting, burial, or transport to the landfill.
- (10) Any person violating this section shall be guilty of a class 4 misdemeanor.

(State Code reference: Va. Code § 3.2-6544)

Sec. 14-10. – Fighting game chickens or game cocks or other animals; penalty.

- (a) It shall be unlawful for any person to keep, permit, or allow any game chickens or gamecocks within the corporate limits of the City. Any person violating this subsection (a) is guilty of a class 4 misdemeanor.

- (b) It shall be unlawful for any person to:
 - (1) Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport, or gain;
 - (2) Attend an exhibition of the fighting of animals;
 - (3) Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or
 - (4) Aid or abet any such acts.
 - (5) Except as provided in subsection (c), any person violating any provision of this subsection (b) is guilty of a Class 1 misdemeanor.
- (c) Any person violating any provision of subsection (b) in combination with one or more of the following is guilty of a Class 6 felony:
 - (1) When a dog is one of the animals.
 - (2) When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used or possessed with intent to use it for such purpose.
 - (3) When money or anything of value is wagered on the result of such fighting.
 - (4) When money or anything of value is paid or received for the admission of a person to a place for animal fighting.
 - (5) When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engaged in an exhibition of fighting with another animal; or
 - (6) When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.
- (d) Any animal control officer, as defined in Va. Code § 3.2-6500, shall:
 - (1) confiscate any tethered cock or any other animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.
 - (2) upon confiscation of an animal, petition the appropriate court for a hearing for a determination of whether the animal has been, is, or

is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used, and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the City unless the owner posts bond in a surety with the City in an amount sufficient to compensate the City for its cost of caring for the animal for a period of nine months. The owner shall post additional bonds for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to subsection (b) or (c).

- (e) Upon a final determination of guilt by the trial court on criminal charges brought pursuant to subsection (b) or (c), the court shall order that the animal be forfeited to the City. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.
- (f) Any person convicted of violating any provision of subsection (b) or (c) shall be prohibited by the court from possession or ownership of companion animals or fowl.
- (g) In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.
- (h) The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations

promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

Sec. 14-11. –Violation of this section as a nuisance.

In addition to any penalty imposed for a violation of any provision of this Article, such violation is hereby declared a public nuisance and the City may also administer and enforce any violation as a public nuisance and penalty therefor in accordance with Chapter 38, and any person suffering injury or damage by the public nuisance violation may seek the correction, removal, or abatement of such nuisance through the appropriate suit in equity.

Sec. 14-12. – Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

- (a) Any animal control officer, law enforcement officer, or humane investigator may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this article that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety, or health. The seizure or impoundment of an equine resulting from a violation of clause (iv) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.
- (b) Before seizing or impounding any agricultural animal, the animal control officer, law enforcement officer, or humane investigator shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The animal control officer, law enforcement officer, or humane investigator shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The animal control officer, law enforcement officer, or humane investigator may impound the agricultural animal on the land where the agricultural animal is located if:

- (1) The owner or tenant of the land where the agricultural animal is located gives written permission.
 - (2) A general district court so orders; or
 - (3) The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.
- (c) If there is a direct and immediate threat to an agricultural animal, the animal control officer, law-enforcement officer or humane investigator may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.
- (d) Upon seizing or impounding an animal, the humane investigator, law enforcement officer, or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.
- (e) The animal control officer, law enforcement officer, or humane investigator shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the City wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the City, written notice by any method or service of process as is provided by the Code of

Virginia shall be given. If such person or the custodian is not known, the animal control officer, law enforcement officer, or humane investigator shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the City hall or courthouse wherein such hearing shall be held.

- (f) The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 *et seq.*) of Chapter 15 of Title 19.2 of the Code of Virginia.
- (g) The animal control officer, law enforcement officer, or humane investigator shall provide for such animal until the court has concluded the hearing. The owner of any animal held pursuant to this subsection for more than 30 days shall post a bond in a surety with the City for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.
- (h) If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in Sec. 14-1 or Va. Code § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of Sec. 14-10 or Va. Code § 3.2-6571, then the court shall order that the animal may be: (i) sold by the City, if not a companion animal; (ii) disposed of by the City pursuant to Sec. 14-51(o) or Va. Code § 3.2-6546 (D), whether such animal is a companion animal or an agricultural animal; or (iii) delivered to the person with a right of property in the animal as provided in subsection h.

- (i) In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.
- (j) The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this Section, to the provider of such care.
- (k) The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.
- (l) If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating Va. Code § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.
- (m) Any person who is prohibited from owning or possessing animals pursuant to subsection (i) or (k) may petition the court to repeal the prohibition after

two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

- (n) When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.
- (o) Nothing in this Section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

(State Code reference - Va. Code § 3.2-6569)

Sec. 14-13. - Cruelty to animals; penalty.

- (a) Any person who:
 - (1) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another;
 - (2) deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment;
 - (3) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes;
 - (4) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engaging in a rodeo, contest, exhibition,

entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care;

- (5) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;
- (6) carries or causes to be carried by any vehicle, vessel, or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or
- (7) causes any of the above things or being the owner of such animal permits such acts to be done by another, is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(b) Any person who:

- (1) in any way causes, commits, or furthers any act of cruelty to any animal set forth in clauses (i) through (vi) of subsection (a), or being the owner of such animal permits such acts to be done by another; or
- (2) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment and has been within five years convicted of a violation of this subsection or subsection (a), is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection a resulted in the death of an animal or the euthanasia of animal-based on the recommendation of a licensed veterinarian upon the determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection a.

- (c) Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.
- (d) This Section shall not prohibit authorized wildlife management activities or hunting, fishing, or trapping as regulated under other titles of the City Code or the Code of Virginia, including Title 29.1, or to farming activities as provided under the City Code or the Code of Virginia.
- (e) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur, or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.
- (f) Any person who:
 - (1) tortures, willfully inflicts inhumane injury or pain not connected with *bona fide* scientific or medical experimentation or cruelly and unnecessarily beats, maims, or mutilates any dog or cat that is a companion animal whether belonging to him or another; and
 - (2) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon the determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony.
- (g) If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule Sec. 14-51 of the City Code or Va. Code §§ 3.2-6540, 3.2-6540.1, or 3.2-6552.
- (h) Any person convicted of violating this Section may be prohibited by the court from possession or ownership of companion animals.

- (i) For the purposes of this Section, the word "animal" shall be construed to include birds and fowl.

Sec. 14-14. – Care of companion animals by owner, penalty.

- (a) Each owner shall provide for each of his companion animals:
 - (1) Adequate feed.
 - (2) Adequate water that is clean fresh and of a drinkable temperature.
 - (3) Adequate shelter that is thoroughly cleaned.
 - (4) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight.
 - (5) Adequate exercise.
 - (6) Adequate care, treatment, and transportation; and
 - (7) Veterinary care when needed to prevent suffering or disease transmission. The provisions of this Section shall also apply to every public or private animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment.
- (b) This Section shall not require that animals used as food for other animals be euthanized.
- (c) Violation of this Section is a Class 4 misdemeanor. A second or subsequent violation of subdivision (a) (1), (2), (3), or (7) is a Class 2 misdemeanor and a second or subsequent violation of subdivision (a) (4), (5), or (6) is a Class 3 misdemeanor.

(State reference - Va. Code § 3.2-6503)

Sec. 14-15. - Notification by individuals finding companion animals; penalty.

- (a) Any person who finds a companion animal and (i) provides care or safekeeping, or (ii) retains a companion animal in such a manner as to control its activities shall, within 48 hours:
 - (1) Make a reasonable attempt to notify the owner of the companion animal, if the owner can be ascertained from any tag, license, collar, tattoo, or other forms of identification or markings, or if the owner of the animal is otherwise known to the person; and

- (2) Notify the Shenandoah Valley Animal Services Center (SVASC) and provide to such SVASC contact information including at least a name and a contact telephone number, a description of the animal including information from any tag, license, collar, tattoo, or other identification or markings, and the location where the companion animal was found.
- (b) If a person finds a companion animal and (i) provides care or safekeeping, or (ii) retains a companion animal in such a manner as to control its activities, the person shall comply with the provisions of Sec.14-14 and Va. Code § 3.2-6503.
- (c) Any person who violates this Section may be subject to a civil penalty not to exceed \$50.00 per companion animal.

Sec. 14-16. – Disposal of deceased animals.

No person shall place or cause to be placed in or on any street or lot within the City the carcass of any animal or allow any such carcass to remain on any lot owned or held by them. The owner of any agricultural or companion animal shall forthwith cremate, bury, or sanitarily dispose of the animal upon its death. If, after notice, any owner fails to do so, the animal control officer or another officer shall bury or cremate the companion animal, and he may recover on behalf of the City from the owner the actual costs for this service.

Sec. 14-17. – Tethering Animals.

- (a) As authorized by § 3.2-6543, Code of Virginia (1950), as amended; a tethering restriction shall be enforced pursuant to § 3.2-6587, Code of Virginia (1950), as amended. Animal Control Officers or any other officer shall enforce this restriction regarding how animals shall be tethered:
 - (1) No tethering shall be allowed between 10:00 p.m. and 6:00 a.m.
 - (2) No sick, injured, or animals in heat shall be tethered at any time.
 - (3) No animals under six (6) months old shall be tethered at any time.
 - (4) No animals shall be tethered at any time to public utility poles or facilities.

- (b) Tethered animals must be provided adequate shelter, food, and water and must not be left in the elements during periods of extreme heat, extreme cold, thunderstorms, or other weather that constitutes a danger to the animal's life or a severe detriment to the animal's welfare in accordance with this Chapter and Va. Code § 3.2-6500 *et seq.*
- (c) When the police department or animal control officer receives a complaint as to a violation of this Section, and the complaint is found to be warranted, the police department or animal control officer shall notify the person in writing to abate such violation within 10 days. If, after such written notice, the person fails to correct the violation, the police department or animal control officer shall take the necessary legal action to abate the violation by having the animal impounded or the person charged with a violation of this Section, or both.
- (d) The first violation of this Section shall constitute a class 4 misdemeanor. Any subsequent violation shall constitute a class 3 misdemeanor.

Sec. 14-18. – Violation of this chapter.

Except as otherwise specifically provided, any person violating any provision of this chapter shall be guilty of a Class 4 misdemeanor.

Secs. 14-19—14-40. - Reserved.

2. Chapter 14, Article II, Animals, of the City Code of the City of Waynesboro, Virginia is deleted in its entirety and readopted and reenacted as follows:

ARTICLE II. - DOGS AND CATS

State Law reference— Comprehensive animal laws, Code of Virginia, § 3.2-6500 et seq.

Sec. 14-41. – 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:

"Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring provided that a person who breeds an animal regulated under federal law as a research animal shall not be deemed to be a commercial dog breeder.

"Commercial dog handler" shall mean any person who boards, keeps, handles, or walks dogs owned by another person for compensation.

"Dangerous dog" means:

- (a) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (i) 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) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or
- (b) A canine or canine crossbreed that has bitten, attacked or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or another minor injury.

"Dog Exercise Area" shall mean an area of open space, owned or controlled by the City and fenced or unfenced, which has been designed and posted as a dog exercise area by the City manager, pursuant to 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.

Sec. 14-42 Dogs and cats deemed personal property – rights related thereto; penalties.

- (a) All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners may maintain any action for the killing of any such animals, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this title by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.
- (b) An animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or another court. If no such action is instituted within seven days, the animal control officer or other another officer shall deliver the dog or cat to its owner.
- (c) The presence of a dog or cat 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 in charge and notify its legal owner to remove it. The legal owner of the animal shall pay a reasonable charge to the City for the keeping of such animal while in the possession of the animal control officer.
- (d) Any person who shall take any animal, not his own, without the consent of the owner thereof and in the absence of the owner, and with intent temporarily to deprive the owner thereof of his possession thereof, without intent to steal the same, shall be guilty of a Class 1 misdemeanor, provided, however, that if the value of such animal, shall be less than \$1,000, such person shall be guilty of a Class 2 misdemeanor. The consent of the owner of an animal, shall not, in any case, be presumed or implied

because of such owner's consent on a previous occasion to the taking, of such animal, by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in, any such unauthorized taking, shall be subject to the same punishment as if he were the principal offender.

Sec. 14-43. – Enforcement.

- (a) An animal control officer shall be appointed by the Chief of Police and assigned to the police department for supervision. It shall be his/her duty to enforce the provisions of this article, notify dog and cat owners of his/her actions where possible, and investigate complaints connected with this article.
- (b) On the complaint of any person that there has been a violation of any provision of Section 14-46, the animal control officer or another officer, after investigation, shall notify the person that his dog or cat is in violation thereof and must be thereafter confined to the person's premises. If the person permits his dog or cat to repeat or to continue such violation, the person shall be guilty of a Class 4 misdemeanor.
- (c) The court before whom a case involving a second or third violation of Sec. 14-46 is heard shall declare the animal a public nuisance under the provisions set forth in Sec.14-7. Any person convicted of violating any provision of this subsection (c) is guilty of a Class 3 Misdemeanor.
- (d) When the court before whom is a case involving a violation of Sec. 14-46 finds as a matter of fact that the person alleged to have violated Sec. 14-46 had taken every reasonable precaution to prevent such violation from occurring, it shall not order that the dog or cat be disposed of or destroyed, and it may suspend the fine.

Sec. 14-44. - Dog license; taxes.

- (a) It shall be unlawful for any person to own a dog four months or older unless such dog is licensed as required by the provisions of Code of Virginia, § 3.2-6524 and this article. Dogs shall be licensed as provided

by Code of Virginia, § 3.2-6527, which Section is adopted and made a part of this Chapter by reference as fully as though set forth at length in this Section. Pursuant to the authority of Code of Virginia, § 3.2-6528, any person licensing a dog in the City shall pay an annual license tax of \$7.50 on the ownership of the dog. Any person who shall fail to pay a license tax prior to February 1 of any year on any dog owned by himself shall be fined not less than the amount of the license tax required by law to be paid on such dog, nor more than \$10.00 and be required to obtain a proper license forthwith. If a dog is found running and roaming at large at any time of the year with or without dog license tags, its owner shall pay a fine of not less than \$10.00 for the first offense. The court shall determine the fine for each offense thereafter. The animal may also be impounded for any second or subsequent offense committed within a 12-month period.

- (b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing-impaired person.
- (c) Any person making application for a dog license shall be required to present to the City Treasurer a certificate of rabies vaccination properly executed and signed by a licensed veterinarian verifying that the dog has been vaccinated. The certificate must show the date of the vaccination, the date for required revaccination, a brief description of the dog, sex, and breed and the owner thereof. When the dog license has been issued, the number will be entered upon the certificate of vaccination along with the date of issue and the certificate returned to the owner.

Sec. 14-45. - Vaccination requirement; wearing of tags – dogs, cats, and ferrets.

- (a) It shall be unlawful for any person to own, keep, hold, or harbor any cat, dog, or ferret over the age of four months within the City limits unless such cat, dog, or ferret shall have been vaccinated with a vaccine licensed by the U.S. Department of Agriculture as recommended in the current

“Compendium of Animal Rabies Control,” prepared by the National Association of State Public Health Veterinarians, Inc. If, however, the requirement of vaccination or inoculation threatens the physical well-being of such cat, dog, or ferret, the owner or custodian of such animal shall have a certificate signed by a licensed veterinarian certifying the same; and the owner shall provide a copy of the signed veterinarian certificate to the City’s animal control officer. A copy of such certificate will be forwarded to the local health department officer within one working day of receipt by the animal control officer. The owner or custodian of a dog, cat, or ferret shall furnish upon request of an animal control officer, deputy animal control officer, humane investigator, law enforcement officer, or official of the local health department, the current certificate of vaccination for such animal.

- (b) Any dog running at large in the City and any cat or ferret not vaccinated as required shall be impounded by any impounding officer, animal control officer, or police officer.
- (c) Any person transporting a dog, cat, or ferret into the City from some other jurisdiction shall be required to conform with this Section within 30 days after arrival in the City.
- (d) At the time of the vaccination or revaccination of a dog, cat, or ferret for rabies, a suitable and distinctive rabies collar tag and a certificate of inoculation shall be issued to the dog, cat, or ferret owner, and shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog, cat, or ferret. It shall be unlawful for the owner to permit any such licensed or vaccination tagged dog, cat, or ferret four months old or over to run or roam at large at any time without a license tag or vaccination tag. When engaged in lawful hunting in the open season and accompanied by the owner or custodian, the collar, license tag, and vaccination tag may be temporarily removed from dogs.
- (e) It shall be unlawful for any person except the owner or custodian to remove any collar or harness from any dog or cat, or to remove from

such collar or harness any legally acquired license tag and/or vaccination tag worn by such dog or cat, without the permission of the owner of the dog or cat.

- (f) It shall be unlawful to attach to the collar or harness of any dog or cat any license tag or vaccination tag required by this Article, or to attach to the neck of any dog or cat any collar or harness containing any such license tag or vaccination tag, unless such tag has been lawfully issued to the owner of such dog or cat pursuant to the vaccination of or payment of the license tax for that dog or cat.
- (g) The first violation of this Section shall constitute a Class 4 misdemeanor. The second violation as to the same animal shall constitute a Class 3 misdemeanor. Subsequent violations as to the same animal shall constitute Class 2 misdemeanors. Upon being found guilty of a third or subsequent violation related to the same animal, the court may also order the confiscation and the proper disposition of the animal.

Sec. 14-46. – Control, restraint of dogs and cats.

- (a) No person shall permit a dog or cat not vaccinated as required to be at large in the City. An animal impounded pursuant to this Section shall be kept for a period of not less than five days, such stray hold period to commence on the day immediately following the day the animal is initially impounded, unless sooner claimed by the rightful owner thereof.
- (b) If identification is found on the animal, the animal shall be held for an additional five-day stray hold period, unless sooner claimed by the rightful owner.
- (c) The dog or cat may be released to the owner upon proof of ownership, proof of licensing, and/or vaccination, and payment of cost of impoundment.
- (d) No person shall permit any dog or cat owned, kept, harbored, or possessed by him to cause damage or annoyance to any person or property.
- (e) No person shall permit any dog or cat owned, kept, harbored, or possessed by him to enter, be, or remain in any cemetery or publicly owned building

in the City, whether or not such dog or cat is muzzled, leashed, and/or under the control of some responsible person. This provision shall not apply to guide dogs, hearing dogs, and service dogs professionally trained and actually being used by a blind, deaf, hearing, or physically impaired person.

- (f) No person shall permit any dog or cat owned, kept, harbored, or possessed by him to go, be, or remain on any property of the public school system or on any City park or playground unless such dog or cat is on a leash and under the full control of some responsible person. This prohibition in City parks shall not apply to Dog Exercise Areas as defined in Section 14-41 of this Code.
- (g) No person shall permit any dog owned, kept, harbored, or possessed by him to be off such person's premises unless such dog is on a leash and under the full control of some responsible person.
- (h) No person shall permit any dog or cat owned, kept, harbored, or possessed by him to enter, be, or remain in any store or business while it is open to the public, except guide dogs and hearing dogs as described in subsection (b). A store owner or manager may allow dogs owned by him, employees, or customers to be in such store to the extent that they present no violation of public peace.
- (i) Dogs used and controlled by officers of the law in connection with law enforcement shall not be subject to the provisions of this Section. Show dogs properly controlled and vaccinated may perform inside public buildings but must not be allowed to become a nuisance to the neighborhood of the building.
- (j) It shall be unlawful for the owner or custodian of any dog or cat that has bitten any person knowingly to fail to confine such dog or cat immediately in an enclosure deemed satisfactory by the animal control officer or another police officer at a local veterinarian practice or at the Shenandoah Valley Animal Services Center, or knowingly to fail to notify the animal control officer or another police officer immediately of the fact of such

biting and of the name and address of the person bitten, if known, and the place, if known, where such biting occurred and the place, if known, where such dog or cat is confined and, if such dog or cat escapes from the immediate control of its owner or custodian, to fail to notify such animal control officer or another police officer immediately of such escape. Any dog or cat reported in violation of this Section shall be taken into custody by the animal control officer or other police officer and shall be impounded and held at the Shenandoah Valley Animal Services Center until the disposition thereof may be judicially determined. In addition to the penalties and fees otherwise imposed under the provisions of Sec. 14-43(b), the owner shall be liable for the pound fee for the entire time of impoundment unless the court expressly rules otherwise.

- (k) Any dog or cat that has bitten any person shall be quarantined by confinement in an approved enclosure or, where the owner has failed to confine the dog, by confinement by the animal control officer or any police officer at the Shenandoah Valley Animal Services Center under the observation, supervision, and control of the animal control officer, police officer or the Virginia Department of Health representative for not less than ten days and for such further time as may be necessary to determine a diagnosis as to whether or not such dog or cat has rabies.
- (l) Any dog or cat that has bitten a person and whose owner cannot be identified or readily located shall be taken into custody by the animal control officer or any police officer and impounded for not less than ten days, and for such further time as may be necessary to determine a diagnosis of rabies, or until the identity of the owner can be determined but not to exceed a hold period of twenty (20) days total. If no owner can be identified at the end of the 10-day quarantine and 20-day hold, due to the bite history of the animal, the animal shall be disposed of in a humane manner.
- (m) The harboring or keeping of any dog, cat, or other pet that causes damage or disturbs the peace and quiet of any person by frequent or habitual

barking, howling, meowing, habitual destructive conduct, or continued trespass on another's property shall be unlawful and a violation of this Section. Any such animal is hereby declared a public nuisance and may be impounded by the animal control officer. The animal may be held until such time as the disposition thereof may be judicially determined. The court may order the humane destruction of such animal. In addition to the penalties otherwise imposed under the provisions of Sec. 14- 43(c), the owner shall be liable for the pound fee for the entire time of impoundment unless the court expressly rules otherwise.

Sec. 14.-47 – Dogs wounded on public property.

- (a) If a dog is wounded on public property and is not attended by the owner or his representative when the animal warden arrives, the warden may in his or her discretion:
 - (1) Convey the dog to the owner for treatment, or
 - (2) Remove the dog from the street and dispose of it in a humane manner, returning the collar to the owner.
- (b) The owner, by allowing the dog off his or her premises, gives his or her consent to the above action.

Sec. 14-48. – Disposal of animal excrement and waste; penalty.

It shall be unlawful for an owner, custodian, or any other person in charge of a companion animal, as defined in 14-1, to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or within an area under the jurisdiction of the City, any animal excrement or other objectionable animal waste or remains. A violation of this Section shall constitute a Class 4 misdemeanor.

Sec. 14-49. – Female dogs in heat.

A female dog known to be in heat shall be confined and protected to prevent the same from becoming a nuisance. No person shall permit any female dog in heat to go at large in the street or allow her to remain on his premises to the annoyance of the neighborhood. Any female

dog in heat found roaming at large shall be taken into custody by the animal control officer or other officer and impounded in accordance with Secs. 14-17 and 14-46.

Sec. 14-50. – Dog exercise areas; designation by City Manager; prohibited conduct.

- (a) The city manager may designate and post Dog Exercise Areas in the city, in accordance with the provisions of this Section and of the "Dog Exercise Areas Master Plan," adopted by the City Council on August 13, 2007, as such provisions may be amended by the council from time to time.
- (b) Within a Dog Exercise Area, dogs under the care, custody, and control of an owner are permitted to run free, without a leash, lead, or other restraint, but subject to the provisions of this Section, and to any rules or regulations promulgated by the City Manager pursuant to this Section, and applicable within such Dog Exercise Area.
- (c) The following is unlawful in the Dog Exercise Area:
 - (1) A dog that is not in such owner's view and under his or her voice control at all times.
 - (2) A dangerous dog as defined in Code of Virginia, § 3.2-6540
 - (3) A vicious dog as defined in Code of Virginia, § 3.2-6540.1
 - (4) A female dog in heat.
 - (5) A dog that is less than four months old.
 - (6) A dog who bark incessantly or to the annoyance of the neighborhood.
 - (7) An aggressive dog is not allowed at any time. An aggressive dog is defined as and dog(s) posing a threat to human beings or other dogs.
 - (8) Children less than 16 years of age are not allowed to exercise dogs unless accompanied by an adult.
 - (9) A dog who is owned by a resident of the City that is not inoculated and licensed in accordance with Secs. 14-44 and 14-45 of this Code.
 - (10) A dog who is owned by a non-resident of the City that is not inoculated with an anti-rabid vaccine that is in accordance with the

latest edition of the "Compendium of Animal Rabies Control" issued by the National Association of State Public Health Veterinarians, Inc., and without evidence that such dog has been inoculated and otherwise duly licensed within its home municipality.

- (11) Owners who fail to promptly clean up any feces deposited by their dog(s) and place the feces in a waste receptacle.
- (d) Any bite of a person or other dog must be immediately reported to the Waynesboro Animal Control Officer or Waynesboro Police Department and parties involved must wait for an officer to respond, except in the case where immediate medical care is needed.
- (e) Failure to abide by any of these rules may result in the Owner and his or her dog(s) being prohibited from future use of City Dog Exercise Area(s).
- (f) Any person who violates any provision of this Section shall be liable for a Class 4 misdemeanor.
- (g) The City Manager, or his or her designee, may promulgate such additional rules and regulations, not inconsistent with the provisions of this Section and of the "Dog Exercise Areas Master Plan," as he deems necessary and appropriate to implement or enforce the provisions of this Section.
- (h) The City Manager, or his or her designee, may also promulgate temporary rules and regulations applicable during certain times or events at certain locations that vary or alter the above rules, as deemed necessary for the health, safety, and welfare of all citizens.
- (i) The director of parks and recreation shall cause four or more signs to be posted in a visible location in any Dog Exercise Area. Such signs shall inform the public of the existence of the Dog Exercise Area, the geographic limits of the area, the limitations imposed by subsection (c) through subsection (f), and such other rules and regulations promulgated by the City Manager as may be applicable.

Sec. 14-51. – Control of Dangerous Dogs.

- (a) 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 shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.
- (b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the City is a dangerous dog may apply to a magistrate 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 and or animal control officer successfully makes an application for the issuance of a summons, he shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the investigating officer or animal control officer determines that the owner or custodian can confine the animal in a manner that protects public safety, they may permit the owner or custodian to 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 harbinger of the animal to produce the animal.
- (c) 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 Section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger 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 also 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.

- (d) If, after hearing the evidence, the court decides to defer further proceedings without entering an adjudication that the animal is a dangerous dog, it may do so, notwithstanding any other provision of this Section. A court that defers further proceedings shall place specific conditions upon the owner of the dog. If the owner violates any of the conditions, the court may enter an adjudication that the animal is a dangerous dog and proceed as otherwise provided in this Section. Upon fulfillment of the conditions, the court shall dismiss the proceedings against the animal and the owner without an adjudication that the animal is a dangerous dog.
- (e) The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 *et seq.*) of Chapter 15 of Title 19.2. of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.
- (f) No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.
- (g) No animal shall be found to be a dangerous 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 dangerous 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 dangerous dog.

- (h) 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 Section.
- (i) The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a state dangerous dog registration certificate from the local animal control officer for a fee of \$150, and a local jurisdictional registration certificate fee of \$50 in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed state and local jurisdictional dangerous dog tag that identifies the animal as a dangerous dog. The owner shall affix the tags to the animal's collar and ensure that the animal always wears the collar and tags. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of \$85 for state registration renewal and \$50 for jurisdictional registration renewal and in the same manner as the initial certificate was obtained. The animal control officer shall post the initial registration information and annual renewal information on the Virginia Dangerous Dog Registry.
- (j) All dangerous dog registration 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 (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) 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 (i) their residence is and shall continue to be posted on all 4 sides with

clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property, and (ii) the animal has been permanently identified by means of electronic implantation. 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 \$100,000, 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 \$100,000.

- (k) 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. While so confined within the structure, the animal shall be provided for according to City Code Sec. 14-14 and Va. Code § 3.2-6503. 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. A securely enclosed and locked structure shall include:
- (1) A concrete pad of a minimum of 3½" thickness to prevent digging out.
 - (2) 6-foot chain link sides with 3-inch bottom, embedded in the concrete to prevent escape.
 - (3) A top affixed to the walls so as to prevent the dog from climbing or jumping over.
 - (4) A door, hinged on one side at two points and secured on the other at two points with one able to lock.
 - (5) Of sufficient size and space to allow for the dog to easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable, normal position for the dog.

- (6) To be posted with clearly visible signs on a minimum of 3 sides warning both minors and adults of the presence of a dangerous dog.
- (l) The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers 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) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.
- (m) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority or another officer in their absence to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.
- (n) All fees collected pursuant to this Section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this Section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury for the purpose of paying the expenses of any training course required under Va. Code § 3.2-6556.
- (o) All dangerous dogs, trained fighting dogs, aggressive dogs with a bite history released into the custody of the animal control officer or another officer shall not be bartered, sold, or placed for adoption but shall be humanely destroyed for the safety of the public.

Sec. 14-52. - Dangerous Dogs – penalties.

- (a) Any owner or custodian of a canine or canine crossbreed 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; or
 - (3) Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.
- (b) The provisions of this Section shall not apply to any 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, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.
- (c) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this article is guilty of a Class 1 misdemeanor.
- (d) 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 or another police 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 harbinger of the animal to produce the animal.

- (e) Upon conviction, the court may (i) order the dangerous dog to be disposed of by the City pursuant to Va. Code § 3.2-6562 or (ii) grant the owner up to 30 days to comply with the requirements of this Section, 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 the City pursuant to Va. Code § 3.2-6562. 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.

Sec. 14-53. - Vicious dogs; penalties.

- (a) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the City is a vicious dog shall apply to a magistrate serving the City 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 or animal control officer successfully makes an application for the issuance of a summons, he 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 harbinger 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 Va. Code § 3.2-6562. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger 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. Trial by jury shall be as provided in Article 4 (§ 19.2-260 *et seq.*) of Chapter 15 of Title 19.2 of the Code of Virginia.

- (b) 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.
- (c) Any owner or custodian of a canine or canine crossbreed or another animal whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person is guilty of a Class 6 felony. The provisions of this subsection shall not apply to any 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, or

when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

3. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purpose of this ordinance.

4. This Ordinance shall take effect immediately upon adoption by the City Council.

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of the City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled An Ordinance Amending Chapter 14, Animals, Article I, In General, and Article II, Dogs and Cats, of the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on _____, 2021.

Introduced: _____, 2021

Adopted: _____, 2021

Effective: _____, 2021

[SEAL]

ATTEST: _____
Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia