

ORDINANCE NUMBER 2022-

**AN ORDINANCE AMENDING CHAPTER 14, ANIMALS, ARTICLE I, IN GENERAL,
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, Animals, Article I, In General, 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, as both further defined herein.

"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 agricultural animals 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. - Repealed.

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) No more than sixteen (16) adult chicken hens shall be allowed for each residence. 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. Owners of more than 16 chickens currently on their property in the City shall have until July 1, 2025 to come into compliance with this Section.
- (2) No roosters shall be allowed at any given time. Owners of roosters currently existing in the City shall have until July 1, 2025 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) 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.

- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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 soring 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. 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.

3. 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, of the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on _____, 2022.

Introduced as amended: ON JUNE 13, 2022 BY COUNCIL MEMBER TERRY SHORT, JR.

Adopted: _____, 2022

Effective: _____, 2022

[SEAL]

ATTEST:

Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia