

## **ORDINANCE 2014-12**

### **An Ordinance amending and reenacting Section 6-4, Keeping of livestock near residences, of Article I, In General, Chapter 6, Animals and Fowl, of the Code of the City of Hopewell.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that Section 6-4, Keeping of livestock near residences, of Article I, In General, Chapter 6 of the Code of the City of Hopewell is amended and reenacted as follows:

#### **Chapter 6. ANIMALS AND FOWL ARTICLE I. IN GENERAL**

##### **Sec. 6-1. Violations of chapter generally.**

Except as otherwise provided in other sections of this chapter, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

##### **Sec. 6-2. Animal control officer, generally.**

The city manager shall appoint an officer to be known as the animal control officer, who shall have the power to enforce this chapter and other ordinances and state laws for the protection of domestic animals. Within the limits of the appropriations therefor, the city manager may also appoint one (1) or more deputy animal control officers to assist the animal control officer in inspection activities and in law enforcement.

**State law references:** Code of Virginia, § 3.2-6555.

##### **Sec. 6-3. City pound.**

(a) A city pound shall be established and maintained in the city in accordance with the requirements deemed necessary by the city council and of a type approved by the health department. The city need not own such pound but may contract for its establishment with a private group or in conjunction with one (1) or more other local political subdivisions of the state.

- (1) The city pound shall be accessible to the public at reasonable hours during the week.
- (2) The city pound shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has

never been convicted of animal cruelty, neglect or abandonment, and the pound shall update such statement as changes occur.

- (3) If a person contacts the city pound inquiring about a lost companion animal, the pound shall advise the person if the companion animal is confined at the pound or if a companion animal of similar description is confined at the pound.
- (4) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by an animal shelter in accordance with Code of Virginia, § 3.2-6548 subsection D. for a period of thirty (30) days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by an animal shelter or allow such person inquiring about a lost animal to view the written records.
- (5) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by a releasing agency other than a pound or animal shelter in accordance with Code of Virginia, § 3.2-6549 subdivision F.2. for a period of thirty (30) days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records.
- (6) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by an individual in accordance with Code of Virginia, § 3.2-6551 subdivision A.2. for a period of thirty (30) days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by the individual or allow such person inquiring about a lost companion animal to view the written records.

(b) It shall be unlawful for any person to break open, aid or assist, counsel or advise, the breaking open of the city pound or to take or let out, or attempt to take or let out, any animal placed therein pursuant to this chapter unless such act is done by an officer duly authorized by law, or to hinder or oppose any officer in taking up any dog or other animal, in accordance with provisions of this chapter.

**State law reference:** Code of Virginia, § 3.2-6546.

#### **Sec. 6-4. Keeping of livestock or fowl near residences.**

(a) No horses, mules, cows, goats, sheep or livestock of similar nature shall be kept within one hundred (100) yards of any residence, except the residence of the owner of any such animal.

(b) No fowl or domestic chickens shall be kept within the City by any person, except as provided below:

- (1) An enclosure shall be provided on all premises, which fowl are kept.
- (2) A house or shelter shall be provided in all enclosures in which fowl are kept.
- (3) Such house or shelter shall be kept dry and well-ventilated and shall be maintained in a clean and sanitary condition free of offensive odors and excrement at all times.
- (4) All enclosures shall be so constructed as to keep the fowl secure from other animals.
- (5) All enclosures shall be adequately enclosed and free from any rodents. The presence of rodents in any enclosure shall be prima facie evidence that such enclosure is maintained in violation of this section.
- (6) All enclosures shall be located in the rear yard of the premises.
- (7) No enclosure intended primarily for the keeping of fowl shall be constructed within 10 feet of the property lines.
- (8) No enclosure shall be located within 75 feet of a residential dwelling or 200 feet of any church or school building; except the residence of the owner of the fowl.
- (9) No more than six (6) fowl or domestic chickens, and no roosters shall be kept on any premises in the City.

**State law reference:** Code of Virginia, § 3.2-6544.

**Section 6-4 was amended on August 14, 2012 - Ordinance 2012-05**

**Section 6-4 (b) (9) was amended on August 12, 2014 - Ordinance 2014-12.**

#### **Sec. 6-5. Keeping of swine near residences.**

No hog or pig shall be kept within five hundred (500) yards of any residence, building, stream, well, creek, or brook.

**State law reference:** Code of Virginia, § 3.2-6544.

#### **Sec. 6-6. Livestock running at large.**

No person shall permit a horse, mule, cow or other livestock which he owns, or which is within his possession, custody or control, to run at large in the city. Any animal found running at large in violation of this section shall be impounded until redeemed, and if not redeemed within five (5) days after advertisement has been made in one (1) of the city newspapers, it may be sold by the chief of police. The proceeds of such sale, after deducting therefrom any amounts for any fine, court costs, keeping and advertising, shall be held by the treasurer for the benefit of the owner. No such animal shall be advertised until it has been impounded forty-eight (48) hours.

**Charter reference:** Authority of city to prevent running at large of animals and fowl, Ch. 11, § 11.

**State law reference:** Code of Virginia, § 3.2-6544.

#### **Sec. 6-7. Fowl running at large.**

No owner of fowl of any description shall fail to confine them so as to prevent their straying to the premises of others.

**State law references:** Code of Virginia, § 3.2-6544.

#### **Sec. 6-8. Animals at large.**

No person shall suffer or permit any animal belonging to him or under his control to go at large in the city, or be kept in the city at any time, except in strict confinement in such manner as to be safe for the public; provided, however, that this section shall not be construed to apply to dogs.

**State law reference:** Code of Virginia, § 3.2-6544.

#### **Sec. 6-9. Sanitary condition of stables, sheds, etc.**

No person owning, occupying and having use of any stable, shed, pen, stall or other place wherein animals of any kind are kept shall permit such stable, shed, pen, stall or other place to become or remain filthy or unwholesome.

**State law reference:** Code of Virginia, § 3.2-6503.

#### **Sec. 6-10. Storage and removal of manure.**

Every person owning or occupying any building or part of a building in which any horse, mule, cow or similar animal is kept shall provide in connection therewith a flytight bin or pit for the reception of manure. Pending the removal from the premises, manure shall be kept in such bin or pit. Stable manure shall be removed by persons maintaining stables.

**State law reference:** Code of Virginia, § 3.2-6503.

**Sec. 6-11. Discarding dead animal in street; allowing dead animal to remain unburied; disposition of carcasses.**

(a) If any person casts any dead animal into a street or road or knowingly permits any dead animal to remain unburied upon his property when offensive to the public, he shall be guilty of a Class 3 misdemeanor.

(b) The carcasses of dead animals shall be disposed of in accordance with the directions of the city manager.

**State law reference:** Code of Virginia, § 18.2-323.

**Sec. 6-12. Definitions.**

Unless a contrary definition is apparent, as used in this chapter, the following words shall have the meanings ascribed to them in this section:

*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 6-79 of this chapter for a period of five (5) 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 which 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 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; enables each animal to be clean and dry, except when

detrimental to the species; 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.

*Adequate space* means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, 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 a tether that 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 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; and is at least three (3) times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

*Adequate water* means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve (12) hours, to maintain normal hydration of 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 which 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.

*Adoption* means the transfer of ownership of a dog or cat from a releasing agency to an individual.

*Agricultural animals* means all livestock and poultry.

*Ambient temperature* means the temperature surrounding the animal.

*Animal* means any nonhuman vertebrate species except fish. For the purposes of Article IV of this chapter, animal means any species susceptible to rabies. For the purposes of section 6-75 of this chapter, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

*Animal control officer* means a person or his deputy appointed by the city who is responsible for enforcing state and local animal welfare and control provisions.

*Animal shelter* means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty of animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

*Boarding establishment* means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

*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.

*Commercial dog breeder* means any person who, during any 12-month period, maintains thirty (30) or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

*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 which 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.

*Consumer* means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

*Dealer* means any person who in the regular course of business for compensation or profit buys sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered dealer.

*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 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 which 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 United States Department Agriculture.

*Facility* means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

*Foster care provider* means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

*Foster home* means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

*Groomer* means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

*Home-based rescue* means any person that accepts: (i) more than twelve (12) companion animals; or (ii) more than nine (9) companion animals and more than three (3) unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

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

*Humane investigator* means a person who has been appointed by a circuit court as a humane investigator as provided in Code of Virginia, § 3.2-6558.

*Humane society* means any chartered, nonprofit organization incorporated under the laws of this commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.



*Kennel* means any establishment in which five (5) or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

*Law enforcement officer* means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

*Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Code of Virginia, § 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.

*New owner* means an individual who is legally competent to enter into a binding agreement pursuant to subsection 6-94(b)(2) of this chapter, and who adopts or receives a dog or cat from a releasing agency.

*Ordinance* means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

*Other officer* includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

*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.

*Pet shop* means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

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

*Pound* means a facility operated by the commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

*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.

*Properly lighted* when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and to promote the well-being of the animals.

*Properly lighted* when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

*Releasing agency* means a pound, animal shelter, humane society, animal welfare society, society for the prevention of cruelty to animals, or other similar entity that releases a dog or cat for adoption.

*Research facility* means any place, laboratory, or institution licensed by the United States Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

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

*Sore* means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. 11.2.

*Sterilize or sterilization* means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

*Treasurer* includes the treasurer and his assistants of the city or other officer designated by law to collect taxes in the city.

*Treatment or adequate treatment* means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of animal.

*Veterinary treatment* means treatment by or on the order of a duly licensed veterinarian.

*Weaned* means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five (5) days.

(Ord. No. 2009-20, 10-13-09)

**State law reference:** Code of Virginia, § 3.2-6500.

**Secs. 6-13--6-25. Reserved**

I, Cynthia Y. Ames, City Clerk of the City of Hopewell, Virginia, do certify the foregoing is a true and correct copy of an ordinance adopted on second reading by Hopewell City Council at its meeting held on August 12, 2014.

Given under my hand and the Corporate Seal of the City of Hopewell, Virginia this 15<sup>th</sup> day of August 2014.

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City Clerk

SEAL