

ORDINANCE NO. 7565-19

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, ANIMALS AND FOWL, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., IN GENERAL, SECTION 6-1.1, DEFINITIONS GENERALLY; AND ARTICLE III., ANIMAL WELFARE ORDINANCE, SECTION 6-78, UNATTENDED TETHERING OF DOGS PROHIBITED; EXCEPTIONS.

1. NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 6, Animals and Fowl, of the Code of the City of Newport News, Virginia, Article I., In General, Section 6-1.1, Definitions generally; and Article III., Animal Welfare Ordinance, Section 6-78, Unattended tethering of dogs prohibited; exceptions, be, and the same hereby is, amended and reordained as follows:

CHAPTER 6

ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 6-1.1. Definitions generally.

For the purposes of this chapter, the following words and terms shall have the meaning respectively ascribed to them:

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 6-62 for a period of five 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 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 straw, 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.

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 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 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 ten feet in length or three 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; 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 movement of the animal according to professionally accepted standards for the species is considered provision of adequate space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.

Adequate water means 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.

Adoption means the transfer of ownership of a dog or a cat, or any other companion animal, 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 section 6-58, 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 appointed as an animal control officer or deputy animal control officer.

Aquaculture facility means any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.

Boarding establishment means a place or establishment other than a public or private 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 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 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.

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. 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 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.

Facility means a building or portion thereof as designed 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.

Farming activity means consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

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 or rehabilitation is provided for companion animals.

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

Home-based rescue means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

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

Humane investigator means a person who has been appointed by a circuit court as a humane investigator.

Humane society means any incorporated, nonprofit organization that is organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

Immediate control means restrained either by leash, cord or chain, not exceeding eight (8) feet in length or under voice control of the owner.

Incorporated means organized and maintained as a legal entity in the Commonwealth.

Kennel means any establishment in which five 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; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities; 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.

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.

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.

Private animal shelter means a facility that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

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 facility; 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.

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.

Research facility means any place, laboratory, or institution licensed by the U.S. 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.

Service animal means a dog trained to accompany its owner with a disability for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

Shelter means both public animal shelters and private animal shelters as defined herein.

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, 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 the Code of Federal Regulations (9 C.F.R. Part 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 each county or city or other officer designated by law to collect taxes in such county or 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 the animal.

Vertebrate means any animal that has a backbone or spinal column.

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.

Wild animal means any animal except those defined as companion animals, livestock or poultry.

ARTICLE III. ANIMAL WELFARE ORDINANCE

Sec. 6-78. Unattended tethering of dogs prohibited; exceptions.

(a) It shall be unlawful to tether any unattended dog for a period exceeding one (1) continuous hour.

(b) When a dog is tethered, it must have adequate space as defined in Section 6-1.1.

(c) Any owner, whose dog has a valid license pursuant to section 6-33 as of February 1, 2015, shall be exempt from the provisions of this section as it relates to each dog owned and licensed prior to February 1, 2015. The exemption provided by this subsection shall be forever forfeit for any dog whose license is not renewed by February 1 of any subsequent year.

(d) Violations of this section shall constitute a Class 3 misdemeanor.

2. That this ordinance shall be in effect on and after the date of its adoption, July 9, 2019.

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PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JULY 9, 2019

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk