

An Ordinance to ~~Strike~~, Insert, and amend Chapter 4 of the Ordinance of the Town of Chapmanville as applies to Animals and Fowls, to update and further organize this chapter. Upon adoption of this ordinance it will be considered the whole of and complete Chapter 4.

CHAPTER 4  
ANIMALS AND FOWL.  
Article 1. In General

Sec. 1– Penalties for acts prohibited therein

- A. Be it ordained by the Town of Chapmanville that any person violating any of the sections of Chapter Four, Article 1 of the Ordinance of the Town of Chapmanville dealing with Animals and Fowls shall for the first offense be issued a warning and for the second offense and each offense thereafter shall be fined the sum of ~~\$25~~ \$100 plus all applicable court costs.

Sec. 2– Keeping hogs.

It shall be unlawful for any person to keep or fatten hogs, pigs, or swine.

Sec. 3–Keeping domestic fowl and pigeons.

- A. The number of domestic fowl kept on any premises shall not exceed one fowl per three square foot of the area the fowl can use, or fifty fowl, whichever number is less.
- B. It shall be unlawful for any person to keep, or cause to be kept, on premises owned or leased by him or subject to his control, any kind of domestic fowl or pigeons; within thirty feet of any structure owned by another and used for human habitation, occupation, or assemblage; whether such structure be in the same or an adjacent block or square.
- C. ~~and~~ No domestic fowl or pigeons shall be kept by any person ~~otherwise than~~ unless in compliance with the following conditions:
- The house in which such fowl or pigeons are kept shall be dry, well ventilated and with windows placed, if possible, to admit sunlight.
  - Such house shall be kept well whitewashed within and shall be cleaned at least once a week between the first day of November and the first day of May of each year and at least twice a week between the first day of May and the first day of November of each year and oftener if necessary or so ordered by the chief of police.
  - All perches shall be movable and kept clean. The surface of the yard shall be kept clean and free from all decaying animal or vegetable matter or odors.
  - Nothing contained in this section shall apply to fowl or pigeons confined in coops in provision stores, or stores regularly established for the sale of fowl or pigeons, or to fowl or pigeons brought upon the premises and kept for a brief period for dressing and consumption.

~~Sec. 3 The number of domestic fowl kept on any premises shall not exceed fifty.~~

Sec. 4 – Permitting horses, cattle, chickens, etc., to run at large Prohibited.

- A. It shall be unlawful for the owner of any horse, mule, goat, hog or cattle or of chickens, quineas, ducks, geese, turkeys and other fowl to permit the same to run at large.

Sec. 5 – Same- Impounding.

Animals and fowl found running at large in violation of Sec. 4 shall be taken up by the chief of police or other police officer of the town and placed in a suitable place. The owner or other person having charge of any such animal or fowl so impounded, in addition to any penalty that may be imposed, shall be liable for the reasonable costs of keeping and feeding such animal or fowl and to insure collection thereof, the town shall have a lien on such animal or fowl for such costs.

Sec. 6--Disposition of unredeemed animals or fowl.

If the owner of an animal or fowl taken up and impounded under Sec. 5, being known, fail to redeem such animal or fowl after five days notice in writing, the animal or fowl in question may be sold at public auction to the highest bidder to satisfy the lien referred to in such section. If the owner be unknown, the animal or fowl may be sold at public auction after ten days; provided, notice of such sale has been posted in at least five public places at least ten days prior thereto.

Sec. 7--Cruelty to animals.

It shall be unlawful for any person to cruelly, unnecessarily or needlessly beat, torture, torment, mutilate, kill or overload, overdrive or willfully deprive of necessary sustenance, any horse or other animal, whether such horse or other animal be his own or that of another person, or to impound or confine any such animal and fail to supply the same with a sufficient quantity of good, wholesome food and water, or to carry in or upon any vehicle, or otherwise, any such animal in a cruel or inhuman manner, or to abandon to die any maimed, sick, infirm or diseased animal.

Sec. 8--Cock fighting, dog fighting, etc.

No person shall be engaged in or employed at cock fighting, dog fighting, pitting one animal to fight against another of the same or different kind, or any similar cruelty, or receive money for the admission of any person, or shall knowingly purchase an admission, to any place kept for any such purpose, or use, train or possess a dog or other animal for the purpose of seizing, detaining or maltreating any other domestic animal.

Sec. 9--Bringing into town or Use of lame, diseased or vicious animals.

It shall be unlawful for any person to bring into the town from any place without the town on, over or along any street any animal which is not fit for use or which is not free from lameness, disease or vicious propensities likely to cause delay in traffic or likely to obstruct any street to spread contagious diseases or to cause accident or injury on any street to persons or property using such street. It shall be unlawful for any person to drive or work any animal on, over or along any street in the town or for the owner of any such animal to allow or permit such animal to be driven or worked on, over or along any street or to be brought or, over or along any street.

## Article 2. Dogs Generally

### Sec. 1. -Permitting dogs to run at large.

It shall be unlawful for the owner or person in charge of any dog, whether or not such dog has attached to it a license tag, to cause or permit such dog to run or be upon a street, sidewalk or public place unless such dog is accompanied by its owner or some other person in charge of such dog and leashed.

### SECTION 1A: DEFINITIONS:

For the purpose of this Chapter, the following words and phrases shall have the following meanings respectively ascribed to them by this section:

1. Animal Shelter - Any premises, temporary or permanent, designated as the shelter for impounded, quarantined, captured or otherwise retrieved animals.

2. Town Officials - Though primarily intended to be the jurisdiction of the Chief of Police and any of his appointed designees, said term also includes any other appropriate personnel employed or appointed by the Town of Chapmanville who is either acting upon the direction of the Mayor and/or Council or otherwise is so empowered to act by virtue of his or her job duties. 3. Collar - A device to be placed around the neck of the dog and for the purpose of aiding in the restraint and identification of said dog. Said device is to be reasonably comprised such that it will accomplish the purpose for which it is intended.

### 4. Dangerous Dogs

a. Any dog having a disposition or propensity to attack or bite any person or animal or otherwise damage property without provocation and is otherwise reasonably considered dangerous, vicious and likely to cause harm to others is hereby defined as a "dangerous dog." For the purpose of this Ordinance, where the official records of the Chief of Police or Municipal Clerk indicate a dog has bitten any person or persons, it shall be prima facie evidence that such dog is a "dangerous dog."

~~b. Dangerous dogs are to include, but not be limited to, pit bulls, Doberman pincers, Rottweilers, dogs of the wolf species and other dogs by virtue of its known characteristics to be a "dangerous dog."~~

~~i. Pit bull is defined to mean any and all of the following dogs:~~

~~(1) The Staffordshire Bull Terrier breeds;~~

~~(2) The American Staffordshire Terrier breed;~~

~~(3) The American Pit Bull Terrier breed;~~

~~(4) Dogs which have the appearance and characteristics of being Terrier, American Pit Bull Terrier, or American Staffordshire Terrier breed.~~

~~ii. Wolf species~~

~~(1) Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as wolf hybrids or wolf-mixed breeds or the brain known as Tundra Shepherd.~~

~~G. The registration of a dog at any time in the jurisdiction of the Town as a Pit Bull, Wolf Species, Doberman Pincer, Rottweiler or other "dangerous dog" shall constitute prima facie evidence that the animal is prohibited by this section.~~

5. Diseased Dogs - Disease dogs are to include, but not be limited to, any dog, whether it is dangerous or non-dangerous, that reasonably is known to suffer from some illness, condition or malady that poses a potential risk to humans or other dogs or animals.

6. Harboring - Any person sheltering a dog for any period of time. To "harbor" a dog, one must not be the owner and, in fact, not even know the owner.

7. Leash - A device to and for the purpose of aiding in the restraint of a dog. Said device is to be reasonably comprised such that it will accomplish the purpose for which it is intended.

8. Muzzle - A device that fits around a dog's mouth for the express purpose of not allowing it to bite.

9. Non-Dangerous/Non-Diseased Dogs - Any dog not otherwise shown to be a dangerous or diseased dog.

10. Owner - Any person owning, keeping or harboring a dog and/or the person to whom the dog is registered.

11. Restraint - Any dog on an appropriate collar, leash, inside a home, within a vehicle or otherwise in an appropriate fenced in area wherein the dog has no possible access to other persons, other animals or other property.

12. Shelter - Any premises temporary or permanent wherein the dog is being kept, residing, staying or otherwise living, irrespective of how long the dog is being so kept.

13. Stray Dog - Any dog without appropriate identification, leash, collar, or tags that is found upon any public property or private property to which it does not belong.

14. Termination - The appropriate and accepted practice of euthanasia of an impounded dog.

## SECTION 2: REQUIREMENTS FOR OWNING OR HARBORING DANGEROUS DOGS

~~It is the express intent of the Chapmanville Town Council to Amend, Enact, Modify and Re-enact Chapter 4, Article 2, Section 2 of the Ordinance of Chapmanville Town Council as it relates to dangerous dogs, as follows:~~

## 2. Registration.

a. Any person within town limits who elects to own or harbor a dangerous dog for any amount of time shall register or cause to be registered such dog or dogs with the Town Clerk. Information required at time of registration will include, but not be limited to, the following:

i. Proof of rabies vaccination by a veterinarian licensed by the State of West Virginia or any other state having reciprocity with the State of West Virginia regarding licensing of veterinarians.

(1) Thereafter, the person owning or harboring a dangerous dog shall be required to have the dog re-vaccinated at least once every two years.

(2) In the event, at the time of registration, the dog is too young to be vaccinated, then as soon as the dog reaches the appropriate age the person owning or harboring the dog will be required to provide the above proof of vaccination.

ii. Owners name, address, and telephone number.

(1) The owner shall also provide to the Town Clerk his/her name, address (both physical and mailing) and a telephone number where he/she may be reached.

iii. Sworn written statement that the dangerous dog will be appropriately restrained,

b. Fees.

i. There shall be a registration fee of \$300 per dangerous dog. Said fee shall be payable to the Town Clerk and deposited into a special account to defray cost related to the administration and oversight of this ordinance. Any excess funds from said account shall be placed into the general account unless otherwise directed by Council.

## 3. License.

There is hereby levied upon any person owning or harboring a dangerous dog a license tax in the amount of \$50. Said tax is intended to be prospective and assessed annually on July 1. If registration occurs after July 1, then the person will be charged an appropriate pro rata amount, said amount being payable to the Town Clerk and paid at the time of registration. Said tax will continue until such time as the Town Clerk is given sufficient information indicating that the person no longer owns or harbors the dangerous dog.

Upon appropriate registration, payment of the above tax and license, the Town Clerk shall issue a metal tag specifically referencing the dog as "DANGEROUS" and listing the owner's contact information. Said tag must be conspicuously present on the dog's collar at all times.

## 4. Duty to restrain.

a. The person owning or harboring a dangerous dog or dogs shall be required to restrain said dog or dogs in an appropriate manner and at all times shall take affirmative steps to ensure the safety of the public at large. To accomplish this requirement, any such person owning or harboring a dangerous dog shall be required to do the following when the dog is outside of a

home or dwelling:

- i. Ensure the dog is in a completely fenced-in area. The requirements for said fence shall be as follows:
  - ii. Said fence shall be at least 6 feet in height from the ground at all points and will be constructed of such material that would reasonably contain such dog.
  - iii. At all points of entry, the owner or person harboring the dog shall place a sign approved by town officials at every point of entry to the fence warning the public at large that there is a dangerous dog present.
  - iv. At all points of entry, the owner or person harboring the dog shall place a padlock that is to be locked and securely fastened whenever said dog is in the fenced in area.
  - v. The person owning or harboring the dog will take affirmative steps periodically to ensure the fence remains intact and not compromised in any manner.
- b. When, upon information and belief, the town has reason to question the integrity of said fence, the town, at its discretion, reserves the right to inspect said fence and then require the owner or person harboring the dog to make any reasonable and necessary repairs to comply with the fencing requirements.
  - c. Ensure the dog has a collar appropriate for restraining the particular dog and containing tags.
  - d. Ensure the dog is on a leash and muzzled when the dog is outside of the above described fenced area and in or on any public or other persons private property.
  - e. Any dangerous dog not otherwise restrained as specified above is considered to be unrestrained and the dog, at the discretion of the town officials, is then subject to impoundment and the owner subject to disciplinary measures as specified below. In Article 2, Sec. 6 of this Chapter.

5. Duty to respect others.

- a. Any person owning or harboring a dangerous dog shall take steps to ensure the livelihood of others is not reasonably affected. Such measures include, but are not limited to:
  - i. Not allowing the dog to bark, whine, whimper, cry or otherwise make excessively loud noise, especially after 910 PM and until 96 AM.
  - ii. Not allowing the dog to intimidate or otherwise place any person, their property or other animals in a reasonable fear.
  - iii. Recover and otherwise appropriately dispose of the dog's excrements.

6. Exemption for law enforcement and other appropriate personnel.

Appropriate law enforcement personnel, emergency workers, etc., are hereby exempted from the requirements relating to owning or harboring dangerous dogs due to the nature of the training and service of said dog(s) for said professional purposes.

SECTION 3: REQUIREMENTS FOR OWNING OR HARBORING A DISEASED DOG

~~It is the express intent of the Chapmanville Town Council to Amend, Enact, Modify and Re-enact~~

~~Chapter 4, Article 2, Sections 3-7 and Chapter 4, Article 1, Section 9 of the Ordinance of Chapmanville Town Council as it relates to diseased and/or rabid dogs, as follows:~~

1. Applicability - This section applies to any dog, whether it is dangerous or non-dangerous, as long as the dog is actually diseased.
  - a. It is unlawful to purchase or acquire for the purpose of owning and harboring within the town limits any dog that is known or should reasonably be known to be diseased at the time of purchase or acquisition. ~~In adopting this amendment, it is the express intention of the town to repeal that language located in The Ordinances of the Town of Chapmanville, West Virginia, at Section 3.~~
2. Registration.
  - a. In the event a dog becomes diseased at some point after purchase or acquisition, the person owning or harboring said dog shall register the dog with the Town Clerk as a diseased animal similar to the process for registering dangerous dogs. The process for registration of a diseased dog will be as follows:
    - i. The owner shall provide the Clerk with a letter from a Veterinarian indicating from what condition the dog is suffering and how the dog is being treated so as to avoid harm to the public at large.
    - ii. Proof of rabies vaccination by a veterinarian licensed by the State of West Virginia or any other state having reciprocity with the State of West Virginia regarding licensing of veterinarians.
    - iii. Thereafter, the person owning or harboring the diseased dog shall be required to have the dog re-vaccinated at least once every two years.
  - b. In the event that, at the time of registration, the dog is too young to be vaccinated, then as soon as the dog reaches the appropriate age the person owning or harboring the dog shall be required to provide the above proof of vaccination.
  - c. Owner's name, address and telephone number.
    - i. The owner shall also provide to the Town Clerk his/her name, address (both physical and mailing) and a telephone number where he/she may be reached.
    - ii. Additionally, the owner shall provide to the Town Clerk a sworn, written statement stating that he/she will appropriately restrain the diseased dog as to prevent the spread of disease.
3. Fees
  - a. There shall be a registration fee of \$100.00 per diseased dog. Said fee shall be payable to the Town Clerk and deposited into the general account to defray the costs related to the administration and oversight of this ordinance.
4. License

~~It is the express intention of this Ordinance to enact, Chapter 4, Article 2, Section 3, Subsection 4, imposing a license tax, insofar as, and only insofar as, it relates to diseased dogs.~~

- a. There is hereby levied upon any person owning or harboring a diseased dog a license tax in the amount of \$50.00, due and payable to the Town Clerk at the time of registration. Said tax is intended to be prospective and assessed annually on July 1. If registration occurs after July 1, then the person will be charged an appropriate pro rata amount, said amount being payable to the Town Clerk and paid at the time of registration. Said license tax is to be annual and billed each July 1, after initial registration and continuing thereafter until the Town Clerk is given sufficient information

indicating that the person(s) no longer owns or harbors the diseased dog or upon certification of a Veterinarian that the disease from which the dog was suffering from has been abated.

- b. Upon appropriate registration, payment of the above tax and license, the Town Clerk shall issue a metal tag specifically referencing the dog as "DISEASED" and listing the owners contact information. Said tag must be conspicuously present on the dog's collar at all times. If it is not on the dog and a town official has legitimate reason to so notice, then, at the discretion of the town official, the dog will be impounded and quarantined at the owner's expense until such time as a new tag is obtained.

#### 5. Duty to restrain.

- a. The person owning or harboring a diseased dog or dogs shall be required to restrain said dog or dogs in an appropriate manner and at all times shall take affirmative steps to ensure the safety of the public at large. To accomplish this requirement, any such person owning or harboring a diseased dog shall be required to do the following when the dog is outside of a home or dwelling:
  - i. Ensure the dog is in a completely fenced in area. The requirements for said fence shall be as follows:
    1. Said fence shall be at least 6 feet in height from the ground at all points and will be constructed of such material that would reasonably contain such dog.
    2. At all points of entry the owner or person harboring the dog shall place a sign approved by town officials at every point of entry to the fence warning the public at large that there is a diseased dog present.
    3. At all points of entry, the owner or person harboring the dog shall place a padlo that is to be locked and securely fastened whenever said dog is in the fenced in area.
    4. The person owning or harboring the dog will take affirmative steps periodically to ensure the fence remains intact and not compromised in any manner.
  - ii. When upon information and belief the town has reason to question the integrity of said fence, the town, at its discretion, reserves the right to inspect said fence and then require the owner or person harboring the dog to make any reasonable and necessary repairs to comply with the fencing requirements.
- b. Ensure the dog has a collar appropriate for restraining the particular dog and containing tags.
- c. Due to the nature of diseased dogs as already noted, said dogs are not allowed upon town sidewalks, streets, alleys, fields or elsewhere on public property within town limits.
- d. Any diseased dog not otherwise restrained as specified above is considered to be unrestrained and the dog, at the discretion of town officials, is then subject to impoundment and the owner subject to disciplinary measures as specified below.

#### 6. Duty to Respect Others

- a. Any person owning or harboring a diseased dog shall take steps to ensure that the livelihood of others is not reasonably affect. Such measures include, but are not limited to:
  - i. Not allowing the dog to bark excessively, especially after 9-10 PM and before 9-6 AM.
  - ii. Not allowing the dog to intimidate or otherwise place any person, their property or other animals in reasonable fear.
  - iii. Recover and otherwise appropriately dispose of the dog's excrement

## SECTION 4: REQUIREMENTS FOR OWNING OR HARBORING NON- DANGEROUS, NON-DISEASED DOGS

~~It is the express intent of the Chapmanville Town Council to Amend, Enact, Modify and Re-enact Chapter 4, Article 2, Section 1 of the Ordinance of Chapmanville Town Council as it relates to non-dangerous and non-diseased dogs, as follows:~~

1. Registration- there currently are no registration requirements required by the Town of Chapmanville for non-dangerous, non-diseased dogs.
2. Vaccination- though there are no registration requirements for non-dangerous/non- diseased dogs, nonetheless any person residing within town limits and possessing such a dog shall at all times ensure the dog(s) will be vaccinated regularly and appropriately. Said vaccination to be performed by a veterinarian licensed by the State of West Virginia or any other state having reciprocity with the State of West Virginia regarding licensing of veterinarians. The person owning or harboring the dog(s) will then keep the records of vaccination and make the same available to town officials upon request. Said person will also ensure the dog(s) bears a tag on its collar verifying its vaccination.
3. Duty to restrain.
  - a. Any person owning or harboring non-dangerous or non-diseased dogs are required to reasonably restrain said dog or dogs at all times in any location so that they do not pose a threat or inconvenience to others. The person owning or harboring the dog shall keep the dog in a manner such that it cannot roam free and unrestrained. If the person has no fence reasonably sufficient to contain said dog, then when the dog is outside of a home or place of dwelling it must have a sufficient collar and be on a chain or leash ~~no longer than 12 feet or otherwise not within~~ of a length that said animal cannot reach of other persons, other's property or other's animals.
  - b. Any non-dangerous/non-diseased dog not otherwise restrained as specified above is considered to be "AT LARGE" and the dog subject to impoundment and the owner subject to disciplinary measures as specified below.
4. Duty to respect others.
  - a. Any person owning or harboring a non-dangerous/non-diseased dog shall take steps to ensure the livelihood of others is not reasonably and adversely affected. Such measures include, but are not limited to:
  - b. Not allowing the dog to bark excessively, especially after 9-10 PM and before 9-6 AM.
  - c. Not allowing the dog to intimidate or otherwise place any person, their property or other animals in reasonable fear.
  - d. Recover and otherwise appropriately dispose of the dog's excrements.

## SECTION 5: CRUELTY TO ANIMALS.

~~It is the express intent of the Chapmanville Town Council to Amend, Enact, Modify and Re-enact Chapter 4, Article 1, Sections 7-8 of the Ordinance of Chapmanville Town Council as it relates to cruelty to animals, said Chapter 4, Article 1, Sections 7-8, to now be titled under Chapter 4, Article 2, Section 5 of the Ordinance of Chapmanville Town Council, as follows:~~

No person shall cruelly, or needlessly beat, torture, torment, mutilate, kill or willfully neglect or deprive necessary sustenance to any animal, irrespective of whether any such animal is his or her own or that of another. No person shall impound or confine any animal in any place

unprotected from the elements or fail to supply the same with a sufficient quantity of food and/or water, or abandon to die any maimed, sick or diseased animal or be engaged in or employed at dog fighting, or pitting one animal to fight against another animal or any similar cruelty to any animal or receive money for the admission of any person, or use, train or possess any animal for the purpose of seizing, detaining or mistreating any other animals.

## SECTION 6: REMEDIES, FINES AND PENALTIES FOR NON-COMPLIANCE WITH ORDINANCE

1. If upon reasonable belief it is determined by town officials that a person owning or harboring the dog in the town limits has not complied with the duties and requirements herein established, then in the discretion of the appropriate town officials any of the following steps may be taken:
  - a. Warning - if it has been determined the ordinance has not been complied with and the noncompliance does not have a significant and immediate impact on the health and safety of the public at large, then at the discretion of the town official, a warning against any person owning or harboring a dog that steps must be immediately taken to comply with the ordinance.
  - b. Citation - the following shall be the various citations for certain offenses depending upon the type of dog:
    - i. Failure to Restrain a Dangerous or Diseased Dog
      1. First violation - \$500.00 and remanding of the dog to the County Animal Shelter. ~~impoundment. The dog will not be redeemable until the fine is paid in full. If the fine is not been paid in full and the expiration of the fifth day of impoundment, the dog will be terminated.~~
      2. Second violation - \$1,000.00 and remanding of the dog to the County Animal Shelter ~~impoundment of the dog with termination to occur after five (5) days of impoundment~~ unless appropriately redeemed by the person owning or harboring the dog. An appropriate redemption would include, but not be limited to, a showing to the town, through its officials, subject to its discretion, that the circumstances leading to the failure to restrain have been satisfactorily resolved.
      3. Third violation - \$2,000.00 and remanding the dog to the County Animal Shelter. ~~impoundment with termination to occur after the fifth day of impoundment.~~ Additionally, the owner or person harboring the dog will be banned from owning any other dangerous or diseased dogs within the town limits.
    - ii. Failure to restrain a non-dangerous or non-diseased dog.
      1. First violation - \$25.
      2. Second violation - \$50.
      3. Third violation - \$100.
      4. Fourth violation - \$250.
      5. Fifth and subsequent violations - \$500.
  - c. Failure to register and license a dangerous or diseased dog
    - i. If it is determined by the town officials that one has failed to register or license a dangerous or diseased dog, then that person or persons will have 48 hours from being advised to have said dog appropriately registered or licensed or otherwise the dog will be impounded. If there has been no registration and licensing within the above prescribed time period, then the dog will be ~~terminated after five (5) days of impoundment~~ remanded to the County Animal Shelter unless town

officials have, in its own discretion, verified that registration and licensing has occurred.

2. Failure to vaccinate/provide proof thereof/vaccination tags.

a. Dangerous and disease dogs.

- i. Upon sufficient information believed by town officials that any dangerous or diseased dog within town limits has not been appropriately vaccinated, the owner or person harboring the dog will have 24 hours to have the dog appropriately vaccinated and to produce proof to town officials of the vaccination. Said dog not containing its vaccination tags or the owner or person harboring the dog not being able to produce appropriate documentation will be prima facie evidence of a failure to vaccinate. If no such proof of vaccination has been obtained at the end of the 24 hour period, then the dog will be ~~impounded and terminated after the 5th day of such impoundment~~ remanded to the County Animal Shelter unless said vaccination and proof thereof has been supplied.
- ii. In addition to the above, the person owning or harboring the unvaccinated dangerous or diseased dog shall be subject to the following citations:
  1. First violation - \$500.
  2. Second violation - \$1000.
  3. Third violation- ~~impoundment of the doge with termination to occur after five (5) days of impoundment~~ Remanding the dog to county animal shelter at its earliest convenience, unless appropriately redeemed by the person owning or harboring the dog. An appropriate redemption would include, but not be limited to, a showing to the town officials that the circumstances leading to the failure to vaccinate has been resolved to the satisfaction of said town officials.

b. Non-dangerous/non-diseased dog.

- i. Upon sufficient information and belief by town officials that any non-dangerous/non-diseased dog within town limits has not been appropriately vaccinated, the owner or person harboring the dog will have five (5) days to have the dog appropriately vaccinated and to produce proof to town officials of the vaccination. Said dog not containing its vaccination tags or the owner or person harboring the dog not being able to produce appropriate documentation will be prima facie evidence of a failure to vaccinate. If no such vaccination or proof thereof has been obtained at the end of the five (5) day period, then the dog will be ~~impounded and terminated after the fifth day of such impoundment~~ remanded to the County Animal Shelter unless otherwise agreed to by the town.
- ii. In addition to the above, the person owning or harboring the unvaccinated non-dangerous or non-diseased dog shall be subject to the following citations:
  1. First violation - \$50.
  2. Second violation - \$100.
  3. Third violation - ~~impoundment of the dog with termination to occur after five (5) days of impoundment unless appropriately redeemed by the person owning or harboring the dog.~~ Remanding the dog to the County Animal Shelter. An appropriate redemption would include, but not be limited to, a showing to the town officials that the circumstances leading to the failure to vaccinate have been resolved to the satisfaction of said town officials.

3. Failure to have identification tags on dangerous or disease dogs.

- a. If the owner or person harboring such dog fails to ensure that the dog bears a tag identifying the same as either a "DANGEROUS" dog or a "DISEASED" dog, then said person shall have 48 hours in which to confirm to the town officials that the dog now bears such a tag. Such confirmation will be within the discretion of the appropriate town officials. If said confirmation is not obtained within 48 hours, then said dog will be ~~impounded and terminated within five (5) days after impoundment~~ remanded to the County Animal Shelter if said tags are not obtained.
4. Failure to comply with the duty of respect for others.  
Any person owning or harboring any type of dog who upon sufficient information and belief has failed to comply with the above rule for respecting others will be subject to the following:
  - a. Warning as noted above.
  - b. Citations:
    - i. First violation - \$25.
    - ii. Second violation - \$50.
    - iii. Third violation - \$100.
    - iv. Fourth violation - \$250.
    - v. Fifth and subsequent violation - \$500.
5. Cruelty to animals.  
Upon information and belief by town officials that one has engaged in cruelty to animals and in addition to any criminal penalties that may apply, the following schedule of citations will apply:
  - a. First violation - \$100.
  - b. Second violation - \$200.
  - c. Third violation - \$300.
  - d. Fourth violation -- \$400.
  - e. Fifth violation - \$500.
6. Impoundment.  
~~It is the express intent of the Chapmanville Town Council to Amend, Enact, Modify and Re-enact Chapter 4, Article 2, Section 7 of the Ordinance of Chapmanville Town Council as it relates to impoundment, as follows:~~  
In addition to any fines or remedies noted above in the section, the town, through its appropriate and appointed personnel, retains the right to impound at its own discretion any dog under the following circumstances:
  - a. Stray dogs.  
At the discretion of the town, any such dog shall be ~~impounded and terminated within 15 days~~ remanded to the County Animal Shelter unless someone lays claim to said dog. If such claim is made, said persons will have 48 hours from making such a claim to comply with all registration and licensing requirements. ~~If compliance cannot be verified after 48 hours, then the dog will be terminated on the 15th day as noted above.~~
  - b. Attacking dogs.
    - i. Any dog reasonably confirmed or observed by town officials to have attack a person, their property or other animals, is subject to immediate impoundment at the discretion of the town.
    - ~~ii. If the dog or a person harboring the dog is incapable of being identified within a five (5) day period, said dog shall be terminated at the end of the period unless directed otherwise from any appropriate authority.~~
    - iii. If the Municipal Court is of the opinion that good cause has been shown, then the dog will be returned to the owner or person harboring said dog provided a \$500 fine is paid in full. ~~If said fine is not paid in full by the 5th day or if other~~

~~arrangements approved by the town have not been arranged, then the dog will be terminated at the end of the five (5) day period.~~

c. Rabid dogs.

- i. Any dog reasonably confirmed or observed by town officials as suffering from rabies. In the event of such impoundment, and if the dog and person owning or harboring the dog is capable of being determined, said person will be subject to the same redemption process as set out in the respective sections above, depending upon the type of dog. Further, said person will be subject to the same citations as noted in the above section.
- ii. If said dog or the owner or person harboring said dog is capable of being identified, that person will be fined \$500, given five (5) days after being notified of the incident to present to town officials current vaccination records and show good cause to the Municipal Court as to why the dog should not be terminated.
- iii. ~~If the Municipal Court is of the opinion that good cause has not been shown, then the dog will be terminated at the end of the five (5) day period.~~

d. At large dogs

Any dog, irrespective of what type, is found upon sufficient information and belief by town officials to be at large then said dog, at the discretion of the town, may be impounded.

7. Cost for impoundment

- a. Stray dogs - It shall be the duty of the town to pay the costs associated with the impoundment of a stray dog.
- b. All other dogs - It shall be the duty of the person owning or harboring the dog or dogs to pay for the costs associated with an appropriate impoundment. In the event the person fails, refuses or otherwise does not pay the costs, then the standard collection practices may be instituted against that person including, but not limited to, the right of the town to refuse registration and licensing of other dogs to the person.

8. Failure to pay citations.

Unless otherwise specified elsewhere in this ordinance, if the person fails, refuses, or otherwise does not pay said citation then the standard collection practices may be instituted against that person including, but not limited to, the right of the town to refuse registration and licensing of other dogs to the person, continued impoundment and refusal of redemption, and/or termination of the dog.

9. Termination.

In the event town officials reasonably believe an immediate and unavoidable danger is being posed to human or other animal life, then the town may, through its appropriate officials, immediately terminate the dog by any reasonable and humane means. Nothing in this ordinance is intended to affect the ability for a non-resident of this town to adopt or otherwise place with one and impounded dog, whether it is dangerous, diseased or non-dangerous/non-diseased. However, it is expressly the intention of this ordinance that said adoption or placement would not be to one who intends to shelter the dog within the town limits.

SECTION 7: APPEAL PROCESS

1. Any person electing to appeal any citation or impoundment imposed under this ordinance will have the right to appeal to the Municipal Court. Said appeal must be filed later than three (3) days after receipt of the citation or notice of impoundment. The appeal must be formal and written and filed with the Town Clerk by the third day.

2. In the event a timely appeal is filed, the matter will proceed to the Municipal Judge for consideration. Unless the hearing is specifically and formally requested in the letter of appeal, the Municipal Judge will consider the appeal and any evidence in support thereof and will issue a decision within ten (10) days of the appeal having been received.
3. If the appellant desires a hearing, the same must be formally requested in the letter of appeal. Said hearing would then be scheduled within five (5) days of the date the appeal is received. At the time of the hearing, the person or entity may present evidence and argument as to why it is felt there has been no violation. The Municipal Judge will issue a decision within five (5) days of the date of hearing.
4. If the person or entity is not satisfied with the decision received by the Municipal Judge, appeal may be made to the Circuit Court of Logan County, West Virginia. In the event the person or entity desires to appeal, immediate contact should be made to the Circuit Clerk of Logan County, West Virginia, for time limitations to appeal, the process generally, etc.
5. Note that in the event a person or entity should appeal a notice of violation of penalty imposed under this ordinance, said appeal will not stay impoundment and the dog will remain impounded until the appeal is resolved. However, said appeal will serve to stay termination of the dog in the event the disposition of the appeal would take longer than the scheduled date of termination.

SECTION 8: SEVERABILITY

All sections of this Ordinance or any section thereof shall be severable so that if any provision of any such section of ordinance is held to be unconstitutional or void, the remaining provisions of such ordinance shall remain valid, unless the Court finds the valid provisions are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that the Court cannot presume the Town Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the Court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with council's intent. The provisions of this subdivision shall be fully applicable to all future amendments or additions to this ordinance, with like effect as if the provisions of this subdivision were set forth in extension in every such amendment or addition and were reenacted as a part thereof.

1st Reading 11-14-24

2nd Reading 1/19/24

3rd reading 2/13/24

  
 \_\_\_\_\_  
 Mayor Joel McNeely

  
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 Recorder Phillip Williamson

Council

	
	
	