CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • NOVEMBER 21, 2024

Committee Meeting **COUNCIL CHAMBERS** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. UNFINISHED BUSINESS

: **2024-1171:** Outdoor Dining Ordinance

3. NEW BUSINESS

: **2024-1172:** Article 1102 Animals and Fowl
Article 1102 Animals and Fowl.pdf

4. ADJOURNMENT

5. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas-and-minutes/

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

Meeting: 11/21/24
Department: Ordinance Committee
Category: Ordinance
Initiator:

AGENDA ITEM (ID #)

2024-1171: Outdoor Dining Ordinance

ATTACHMENTS:

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

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2024-1172: Article 1102 Animals and Fowl

ATTACHMENTS:
- Article 1102 Animals and Fowl.pdf

ARTICLE 1102

Animals and Fowl

1102.01 Cruelty to animals.
1102.02 Cruelty to dogs and cats.
1102.03 Nuisance conditions prohibited.
1102.04 Barking or howling dogs or cats.
1102.05 Hunting prohibited.
1102.05a **Urban deer.**
1102.06 Bird sanctuary.
1102.07 Livestock.
1102.08 Disposition of dead animals.
1102.09 Animals running at large.
1102.10 Keeping domestic fowl or pigeons.
1102.11 Dogs generally.
1102.12 Stables.
1102.13 Dangerous or vicious animals.
1102.14 Injury to dogs.
1102.15 Domestic cats.
1102.16 Free-roaming cats.
1102.17 Kennels.
1102.99 Penalty.

CROSS REFERENCES

Authority to regulate the keeping of animals - see W. Va. Code 8-12-5(26)
Authority to prevent ill-treatment of animals - see W. Va. Code 8-12-5(27)
Domestic animal tax - see W. Va. Code 8-13-10
Disposing of dead animals - see W. Va. Code 16-9-3
Diseases among domestic animals - see W. Va. Code Art. 19-9
Dogs generally - see W. Va. Code Art. 19-20
Vaccination of dogs - see W. Va. Code Art. 19-20A
Hunting - see W. Va. Code Art. 20-2

1102.01 CRUELTY TO ANIMALS.

(a) No person shall intentionally, knowingly or recklessly:
(1) Mistreat an animal in a cruel manner;
(2) Abandon an animal;
(3) Withhold,
A. Proper sustenance, including food or water;
B. Shelter that protects from the elements of weather; or
C. Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
(4) Abandon an animal to die;
(5) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
(6) Ride an animal when it is physically unfit;
(7) Bait or harass an animal for the purpose of making it perform for a person’s amusement;
(8) Cruelly chain or tether an animal; or
(9) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(b) No person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, shall knowingly and willfully administer or cause to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting such animal's performance.

(c) Any person convicted of a violation of this section shall forfeit his or her interest in any such animal and all interest in such animal shall vest in the humane society or county pound of the county in which the conviction was rendered, and such person shall, in addition to any fine imposed, be liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(d) For the purpose of this section, "controlled substance" has the same meaning ascribed to it by West Virginia Code 60A-1-101(d).

(e) The provisions of this section do not apply to farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. Section 2131 et seq. and the regulations promulgated thereunder, as both such statutes and regulations are in effect on the effective date of this section.

(WVaC 61-8-19)

1102.02 CRUELTY TO DOGS AND CATS.

No person shall cruelly, or needlessly beat, torture, torment, mutilate, kill or willfully deprive necessary sustenance, to any dog or cat, irrespective of whether any such dog or cat is his or her own or that of another person. No person shall impound or confine any dog or cat in any place unprotected from the elements or fail to supply the same with a sufficient quantity of food and water, or abandon to die any maimed, sick or diseased dog or cat or be engaged in or employed at dogfighting, or pitting one dog or cat to fight against another dog or cat or any similar cruelty to any dog or cat, or receive money for the admission of any person, or use, train or possess a dog or cat for the purpose of seizing, detaining or maltreating any other dog or cat.

(WVaC 61-8-19a)

1102.03 NUISANCE CONDITIONS PROHIBITED.

(a) Definitions: For the purpose of this section "owner" and "ownership" shall refer to one who owns or has possession, temporarily or permanently of a domestic animal.

(b) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(c) No owner shall permit his or her pet to go upon the private property of another under circumstances that would constitute a trespass if committed by any person, and every owner shall prevent his or her pet from defecating, urinating or causing any destruction or contamination upon the private real estate of another.

(d) The owner of any pet that defecates upon public property within the Municipality shall immediately remove the animal feces and shall dispose of same in a proper manner.

(Ord. 04-21. Passed 10-4-04.)

1102.04 BARKING OR HOWLING DOGS OR CATS.

No person shall keep or harbor any dog or cat within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog or cat habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog or cat.

1102.05 HUNTING PROHIBITED.

(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

(b) This section does not apply to Article 1102.05a.

(Passed 1-17-12.)

1102.05a URBAN DEER.

(a) Purpose: The City of Charles Town is vested with the authority and responsibility for protection of the health, safety, and welfare of its citizens. The City has directly experienced an increased problem of deer overpopulation in some of the rural annexed areas, more specifically defined as agriculturally-zoned land that was annexed into the City after 1999 that continues, without interruption, to be actively used for agricultural purposes. Deer exist in these areas of the City in such numbers as to pose an unacceptable risk of disease, vehicle damage, crop damage, and property damage. The City Council has determined two measures that would alleviate the problem of deer overpopulation: (1) allowing the issuance of crop damage deer permits through the West Virginia Department of Natural Resources (WVDNR) and (2) allowing these areas to be hunted in accordance with current WVDNR game laws.

(b) Provisions:

(1) Appropriate deer permits must be obtained by the permit holder from the WVDNR and all hunt participants shall comply with all permit requirements and all laws and regulations of the State of West Virginia.

(2) Crop Damage Permits (January - September)

A. Crop Damage Permit Holders must register their permits, in writing, with the City of Charles Town Chief of Police and give the Chief written notice, not less than twenty-four (24) hours prior to the commencement of any hunt, identifying all individuals who will participate in the hunt, the duration of the hunt, and the area to be encompassed by the hunt. The location of the hunt must provide sufficient specificity so that the Chief and the Charles Town police department staff may readily identify the area on a map of the City and respond to inquiries in regard thereto. This registration must be done in person, by at least one representative from each group of hunters, no less than once per calendar year, after receiving current WVDNR permits, and prior to the initial hunt in any calendar year.

B. Jefferson County Dispatch must also be notified, by the permit holder, via the non- emergency number when permit holders are arriving and departing a hunt area to execute crop damage permits. Permit numbers must be referenced when calling Jefferson County Dispatch.

C. Only archery and crossbows that comply with the rules and regulations of the WVDNR may be used while executing a crop damage permit.

(3) Yearly Hunting Permits (September - December)

A. Eligible persons will also be permitted to hunt the rural annexed areas from September to December in compliance with the WVDNR yearly hunting regulations.

B. Archery, crossbows, and shotguns that comply with the rules and regulations of the WVDNR may be used while executing a yearly hunting permit.

(4) Hunting may only occur between sunrise and sunset.

(5) Rifles may not be used for hunting at any time on rural annexed land.

(6) All hunters must shoot from an elevated position such as a tree stand that is no less than ten (10) feet above the ground while facing toward the center of the designated area.

(7) Permit holders will be responsible for the removal and cleaning up of all deer carcasses and remains resulting from the controlled hunt within twenty-four (24) hours of the hunt.

(8) In the event that a wounded animal escapes the hunt area, the permit holder shall contact the Charles Town police department not later than at the conclusion of the hunt and inform the staff of the location outside the hunt at which the wounded animal is believed to be located. The permit holder will not leave the hunt area in pursuit of a wounded animal.

(c) Penalties. Any violation of this Section shall be punishable by a fine of up to five hundred dollars ($500.00) for each offense.

(Ord. 2021-005. Passed 10-12-21.)

1102.06 BIRD SANCTUARY.

(a) No person shall trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests, provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of Council, then in such event, Council shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of such Clubs as are found to exist in the City, after having given at least three days actual notice of the time and place of the meeting to the representatives of such Clubs.

(b) If as a result of the meeting no satisfactory alternative is found to abate such nuisance in the opinion of Council, then the birds may be destroyed in such numbers and in such manner as is deemed advisable by Council under the supervision of the Chief of Police.

(Passed. 2-4-80.)

1102.07 LIVESTOCK.

(a) Livestock as used in this section shall be defined as cattle, horses, ponies, swine (including pot bellied pigs), sheep, goats, llamas, alpacas, and any other animals used or to be used in the production of food, fiber or other commercial products.

(b) No person shall raise, maintain or keep hogs, swine or shoats within the City.

(c) Poultry shall comply with Section 1102.10 .

(d) Livestock Restricted Within the City Limits. No person shall keep or maintain livestock within the City limits unless the subject property is large enough to board such an animal with a minimum of one acre per animal. Housing of such animals shall comply with Section 1102.12 .

(e) Rabbits shall be excluded from the requirements of this section but only if said animals are kept indoors and not permitted to run at large. There shall be a maximum of five rabbits kept in any single household.

(f) Compliance with this section is not abrogated by the designation of any animal or poultry as a pet and not livestock.

(Passed 10-20-08.)

1102.08 DISPOSITION OF DEAD ANIMALS.

(a) When any animal shall die within the City so as to become a nuisance therein, the person owning the same and knowing of its death, whether it shall have died on his premises or otherwise, shall dispose of such dead animal as required by the health officer. Failure to comply with the provisions of this section shall constitute a misdemeanor.

(b) In all cases of dead animals of any kind being found upon the premises of any person within the City, the owner or occupier thereof shall forthwith remove or bury same; and after notice has been duly given such person, upon his failure to do so, he shall be guilty of a misdemeanor, and in addition he shall be liable for the expense incurred by the health officer in having same buried or removed.

(c) No person shall throw any dead animal, or the fleshings, of animal hides, or any other substance likely to pollute the water or obstruct the channel, into Evitt's Run within the City, or north or west of the City within one mile of the corporate limits.

1102.09 ANIMALS RUNNING AT LARGE.

(a) It shall be deemed a nuisance for any hog, pig, goat, pony, horse, mule, colt, cow or any other livestock to wander or stray unattended on any street or alley within the City. Any person owning or keeping any such animal and permitting it to so run at large, or to wander or stray unattended, shall be guilty of a misdemeanor.

(b) It shall be the duty of the police to take up and impound in some secure place any animal running at large, and if the fine imposed upon such owner or keeper shall not be paid within five days after notice given, the police shall sell such animal at public auction for payment of such fine, costs and expenses of keeping such animal prior to day of sale.

(c) It shall be unlawful for the owner of any chickens, guineas, ducks, geese, turkeys or other fowl to permit the same to run at large in any of the streets of the City or on any lot or premises not in the possession or under the control of the owner of such chickens, guineas, ducks, geese, turkeys or other fowl.

1102.10 KEEPING DOMESTIC FOWL OR PIGEONS.

(a) No person shall keep or cause to be kept on premises owned by him or under or subject to his control, any kind of domestic fowl or pigeons, within thirty feet of any street, sidewalk or 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, and no domestic fowl or pigeons shall be kept within the City by any person otherwise than in compliance with the following conditions: The house in which such fowl or pigeons are kept shall be dry, well ventilated, and with windows so placed, if possible, to admit sunlight; it shall be kept well whitewashed within and shall be cleaned at least once a week between November 1 and May 1, and at least twice a week between May 1 and November 1 of each year, and oftener if necessary or so ordered by the City Inspector. All perches shall be movable and kept clean. All chicken nests shall be movable and clean, and aired and sunned at frequent intervals. Drinking fountains shall be clean and supplied at all proper times with clean water. The surface of the yard shall be kept clean and free from all decaying animal or vegetable matter or odors; provided, however, that nothing herein shall apply to such 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.

(b) The number of domestic fowl kept of any premises in the City shall not exceed twenty.

(c) The keeping of domestic poultry shall be limited to one-half acre of net buildable site area defined in the Zoning Ordinance of the City of Charles Town.

(Passed 10-20-08.)

1102.11 DOGS GENERALLY.

(a) Annual License Tax. Every person owning or keeping any dog within the City, either male or female, shall pay a tax of three dollars ($3.00) on every dog so kept or owned. This tax shall be payable at the time of assessment annually.

(b) Tags. Upon payment of the dog tax required by subsection (a), a tag shall be issued, identifying the dog and the tax year. The tag shall be attached and kept attached to a substantial collar worn by the dog.

(c) Running at Large.

(1) No owner or person having the possession of any dog shall allow such dog to run at large, at any time, within the City, even though the dog is both lawfully licensed and vaccinated. Any person violating this article and/or section, regardless of whether or not such dog is impounded or not, upon conviction, shall be fined a minimum of two dollars ($2.00) for the first offense in any one year, and for each successive violation in any one year, shall be fined a minimum of five dollars ($5.00), with a maximum fine of not more than one hundred dollars ($100.00) for any offense, whether in any one year or subsequent.

(2) In addition, all owners or person having the possession of any dog that is considered a dangerous or vicious dog as outlined in Section 1102.13(c)(6) and having attained the proper permit through the City of Charles Town, as described in Section 1102.13(e), to own such dog shall construct a fence on the property, built to the appropriate specifications as outlined in the City Building Codes and Ordinances, to provide adequate space for exercise on a dimension of at least one hundred square feet, to allow for a healthy free roaming area for the dog as described by the Humane Society of the United States.

(d) Tethering. No person shall, at any time, fasten, chain or tie any dog or cause such dog to be fastened, chained or tied in an

inhumane manner or for an unreasonable amount of time while such dog is on the owner's property or on the property of the dog owner's landlord.

(e) Impoundment of Dogs At Large. Any dog found at large in violation of this section shall be impounded by any policeman or other person authorized to do so by Council. Notice of such impoundment shall be given to the owner or person in possession of such dog, if known. Any dog so impounded may be redeemed by the owner within five days upon payment of a pound fee to be determined by Council by resolution. Any dog not redeemed within five days may be sold or destroyed. The pound fee to be paid to redeem a dog shall be in addition to any fine imposed for a violation of this article.

(f) Rabies; Quarantine. Whenever the Mayor shall be satisfied that any case of rabies has appeared among the dogs in the City, he shall issue his proclamation requiring all persons to confine their dogs or to have the same securely muzzled for such time from and after the issuing of such proclamation as he shall therein appoint, and if any dog shall be found at large in the City during the time so appointed, without being properly and securely muzzled, the same may be killed by any person whatsoever, and the owner or keeper thereof shall be guilty of a misdemeanor.

(g) Vicious Dogs.

(1) No person shall own, keep or harbor any dog known by him or which, in the exercise of reasonable diligence he should know, to be vicious, dangerous or in the habit of bitting or attacking persons.

(2) No person shall own, keep or harbor any dog known by him or which, in the exercise of reasonable diligence he should know, to be suffering with rabies.

(3) Vicious or dangerous dogs are hereby declared to be public nuisances and a menace to the public safety.

(4) If the Mayor shall find, as a result of a hearing held upon a compliant, that any dog is vicious, dangerous or in the habit of biting or attacking persons, or in suffering with rabies infection, or that any dog has been bitten by a dog suffering with rabies infection, he may order or cause such dog to be destroyed as a menace to the public safety, and the owner or keeper of such dog shall be liable for all fines and costs assessed.

(Passed 5-4-06.)

1102.12 STABLES.

(a) No stable or other structure for the housing or confining of animals, other than dogs or fowl, shall hereafter be constructed within the City until the plans and location of the same shall have been submitted to and approved by the health officer. All applications to the health officer for such permission and approval shall be accompanied by a fee of five dollars ($5.00), which shall be paid into the City treasury.

(b) No barn or stable of any kind used for the shelter of any animal enumerated in subsection (d) shall be used or maintained within twenty-five feet of any building used, wholly or in part, by any person for sleeping quarters, or where food is prepared, served or sold.

(c) No stable or other outbuilding shall be erected or constructed, nor shall any person proceed with the erection or construction of such building within fifty feet of any street or less than twenty-five feet from any other property line within the City. Any violation of this section shall constitute a misdemeanor, and Council shall have discretion to require any person so offending to remove such building, or cause it to be removed at such person's expense.

(Passed 10-20-08.)

(d) It shall be the duty of the owner and keeper of any stable wherein a horse or other animal is kept, to remove or cause to be removed, all manure from such premises or stable at least once in every fifteen days, and oftener, if deemed necessary by the health officer.

1102.13 DANGEROUS OR VICIOUS ANIMALS.

(a) No person shall knowingly keep, maintain or have in his possession or under his control within the city any dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious or dangerous propensities, except to the extent that an exemption may be applicable pursuant to subsections (d) or (e) hereof. As used in this section, "dangerous or vicious animal" means and includes the following:

(1) Any animal with known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(2) Any animal which attacks a human being or domestic animal without provocation; or

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

(b) The prohibitions of subsection (a) hereof shall not be applicable to the owners or keepers of domesticated dogs or cats; provided, however, that the owners or keepers of a domesticated dog or cat which by its characteristics meets the definitions of a dangerous or vicious animal set forth in subsections (a)(l) through (3) hereof shall be subject to the following requirements:

(1) No such person shall suffer or permit such animal to go unconfined on the land or building of such person.

(2) No such person shall permit such animal to run on the property of the owner other than in the back yard of the property in residential districts.

(3) Such person in residential districts shall maintain fencing in the back yard which is not less than six feet in height; which shall be constructed from stockade or solid screening material; which shall fully confine the animal and prevent the animal from reaching over, under or through the fence with its jaws, teeth or claw; and which fencing shall be set back a minimum of four feet from any adjacent property lines.

(4) No such person shall suffer or permit such animal to go beyond the land or building of such person unless such animal is securely restrained and muzzled. (Ord. 98-019. Passed 9-21-98.)

(c) For the purpose of this section, there shall be an irrebuttable presumption, that when kept or maintained within the City of Charles Town, the animals listed below are considered dangerous animals to which the prohibition of subsection (a) hereof, in the absence of an exemption pursuant to subsections (d) or (e) hereof, applies:

(1) All crotalid, elapid and venomous colubroid snakes;

(2) Apes, Gibbons (Hylobates); Gorillas (Gorilla); Orangutuans (Pongo); and stamangs (Symphalangus);

(3) Baboons (Papol, Mandrillus);

(4) Bears (Ursidae);

(5) Bison (Bison);

(6) Canines breeds or canines that look similar to the breeds that regularly categorized as "high risk dogs" by the insurance industry;

(7) Cheetahs (Acinonyx Jubatus);
(8) Crocodilians (Corcodilia) when twenty-four inches in length or more;
(9) Snakes;
(10) Coyotes (Canis Latrans);
(11) Deer (Cervidae, includes all members of the deer family, for example white-tailed deer, elk, antelope and moose);
(12) Elephants (elephas and Loxondonta);
(13) Foxes (Canis Vulpes);
(14) Game cocks and other fighting birds;
(15) Hippototami (Hippopotamidae);
(16) Hyenas (Hyaenidae);
(17) Jaguars (Panthera onca);
(18) Leopards (Pantera Pardus);
(19) Lions (Pantera Leo);
(20) Lynxes (Lynx);
(21) Ostriches (Struthio);
(22) Piranha Fish (Characidae), except those considered vegetarians;
(23) Pumas (Felis Concolor), also known as cougars, mountain lions and panthers;
(24) Rhinoceroses (Rhinocero Tidae);
(25) Sharks (Class Chonodrichthyes);
(26) Snow Leopards (Pantera Uncia);
(27) Swine (Suidae);
(28) Tigers (Pantera Tigris);
(29) Wolves (Canis Lupus), and Wolf hybrids or Wolfdogs;
(30) Scorpions;
(31) Birds of prey, except for those held by licensed falconers;
(32) Venomous fish;
(33) Poisonous spiders, except for tarantulas;
(34) Stinging insects (except honey bees);
(35) Bats.
(Passed 5-4-06.)

(d) Licensed menageries, zoological gardens, and circuses shall be exempt from the provisions of subsection (a) hereof if all of the following conditions are applicable;

(1) The location conforms to the provisions of the City Zoning Ordinance;
(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors;
(3) Animals are maintained in quarters so constructed as to prevent their escape; and
(4) No person resides within fifty feet of the quarters in which the animals are kept. (Ord. 98-019. Passed 9-21-98.)

(e) Notwithstanding any of the foregoing, the City, by the Mayor, Chief of Police, and City Code Enforcement Official, may grant a specific exemption, on a temporary or permanent basis, from any of the provisions of this section to any person with a legitimate scientific, educational, commercial or other purpose for maintaining the prohibited animals, in accordance with the following provisions:

(1) Written application for exemption shall be filed by any person desiring to obtain an exemption with the Mayor, Chief of Police, or Code Enforcement Official. The application shall state the applicants name, address, type and number of animals desired to be kept, general purpose for which the animals will be kept, and a general description of provisions which will be made for safe, sanitary and secure maintenance of the animals.
(2) The Mayor, Chief of Police, or Code Enforcement Official may grant, deny or restrict the terms of an application for exemption; provided however, that they shall take some official action on an application within sixty days of its filing.
(3) In considering the merits of an application for exemption, the Mayor, Chief of Police, or Code Enforcement Official may cause one or more inspections of the applicants premises to be made by appropriate City employees or representatives, and may also refer the application to persons who are technically knowledgeable with respect to the animals involved for an advisory opinion.
(4) In evaluating an application for exemption, the Mayor, Chief of Police, and Code Enforcement Officia1 shall give consideration to the following criteria:

A. The experience and knowledge of the applicant relative to the animals involved;
B. Whether the applicant has obtained a federal or state permit relative to the animals involved;
C. The relative danger, safety and health-risks to the general public, to persons residing or passing near the applicants premises and to the applicant in connection with the animals involved;
D. The provisions which have been or will be made for the safe, sanitary and secure maintenance of the animals for the protection of the general public, persons residing or passing near the applicants premises and the applicant;
E. The provisions which have been made or will be made to protect the safety and health of the animals involved;
F. Any other logically relevant information.

(5) An application for exemption under this subsection (e) shall be denied unless the Mayor, Chief of Police, and Code Enforcement Officia1 determines that, in view of all the relevant criteria and any restrictions which they may provide, reasonably appropriate measures commensurate with the degree of risk associated with the animals involved have been or will be taken to assure at least a minimum acceptable level protection from danger to the health and safety of the general public, persons residing or passing near the applicants premises, and the applicant.
(6) An exemption granted pursuant to this subsection (e) may be withdrawn by action of the Mayor, Chief of Police, or Code Enforcement Official in the event that there has been a change in conditions or assumptions under which it was

originally granted or in the event that the applicant fails to comply with restrictions originally placed on the exemption.

(7) Any person or persons who obtain a permit for any of the "Dangerous or Vicious Animals" shall waive any claim against the City of Charles Town for damage caused by said animal. By issuing a permit for said "Dangerous or Vicious Animals" the City of Charles Town does not guarantee safety, only that reasonable measures have been taken to prevent harm to the owner of such animals and the citizens of the City.

(Passed 5-4-06)

(f) No exemption granted pursuant to any provision of this section shall be construed, nor is it intended by the City as a guaranty or warranty of any kind, whether expressed or implied to any person, including without limitation the general public, persons residing or passing near the applicants premises, or the applicant, either in general or individually, as to the danger or lack thereof, or degree of risk or health or safety of any animal, specifically or generally, or any premises where any animal is maintained or kept pursuant to such exemption.

(Ord. 98-019. Passed 9-21-98.)

1102.14 INJURY TO DOGS.

(a) Theft, Poison, Abandonment.

(1) Dogs to be personal property. All dogs are hereby declared to be personal property and subjects of theft. Except as provided in certain sections of the West Virginia State Code, Chapter 20, known as “The Game Law”, it shall be unlawful for any person, except a police officer, State dog warden or accredited veterinarian to kill, injure, or to attempt to kill or injure any dog.

(2) Poison illegal. It shall be unlawful for a person to place any poison or harmful substance of any description in any place, on his own premises or elsewhere, where it may be easily found and eaten by dogs.

(3) Abandonment illegal. It shall be unlawful for a person to abandon or attempt to abandon any dog with the City of Charles Town. Anyone convicted of abandoning or attempting to abandon any dog within the City of Charles Town will pay a fine of three hundred dollars ($300.00) to five hundred dollars ($500.00), plus costs.

(b) Dogs Used For Law Enforcement.

(1) Illegal to taunt law enforcement dogs. It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, kick or strike any dog used by any municipal or State police department or agency in the performance of the functions or duties of such department or agency or to interfere with or meddle with any such dog used by the department or agency or any member thereof in the performance of the functions or duties of the department or agency or of such officer or member.

(2) Illegal to torture certain dogs. It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison or kill any dog used by any municipal or State police department or agency or to interfere with or meddle with any such dog used by the department or agency or any member thereof in the performance of any of the functions or duties of the department of agency or of such officer or member. Any person who violates any of the provisions of this section is guilty of a summary offense.

(3) Quarantine of certain dogs not required. Quarantine of dogs as required by law shall not apply to dogs owned by any municipal or State police department or agency when such dogs are under the direct supervision and care of a police officer and subject to routine veterinary care.

(Ord. 98-019. Passed 9-21-98.)

1102.15 DOMESTIC CATS.

Whoever owns, keeps or harbors a cat within the City of Charles Town shall have said cat vaccinated or immunized against rabies with a vaccine capable to producing immunity for two years and shall every second year thereafter have said cat revaccinated. Proof of immunization shall be available to the Housing Inspector for verification that said cat is domestic.

(Ord. 02-18. Passed 7-15-02.)

1102.16 FREE-ROAMING CATS.

(a) "Free-roaming cat" includes feral, stray or abandoned cats that may or may not have a caretaker and do not have an owner or are otherwise homeless. The term does not include a stray pet cat that might have been lost or abandoned and which has identifiable ownership such as, but not limited to, a tag, microchip or tattoo.

(b) "Eartipping" means the removal of a 3/8" inch tip of a free-roaming cat's left ear, performed while the cat is under anesthesia in compliance with any applicable federal, state, or county laws and under the supervision of a licensed veterinarian. Eartipping is designed to identify a free-roaming cat as being sterilized and lawfully vaccinated against rabies.

(c) "Trap-Neuter-Return" means the process of humanely trapping, sterilizing, vaccinating against rabies, eartipping, and returning free-roaming cats to their original location.

(d) Free-roaming cat initiatives: The City of Charles Town recognizes the need for innovation in addressing the issues presented by free-roaming cats. To that end it recognizes that there are community caregivers of cats and acknowledges that properly managed free-roaming cats may be part of the solution to the continuing euthanasia of cats. The overall goal of the City is to reduce the population of feral cats and establishes the following requirements:

(1) All free-roaming cat colonies/groups and trap-neuter-return activities must be maintained on private property of the caregiver, or with written permission, the private property of another landowner (including city, county, state, and federal public property). Written permission must include the landowner's name, address, phone number and signature. Written permission must be dated and will expire 1 year from that date and will become void if the property changes ownership. This written permission must be in the possession of the caregiver when conducting any functions related to the management of free-roaming cats on that property.

(2) A "Cat Caregiver Registration" shall be required of any individual that wishes to manage free-roaming cat colonies/groups or conduct trap-neuter-return activities according to the previsions of this section. This registration shall be provided by the City at no cost to the caregiver and valid for 2 years after the date of issuance. This registration may be revoked by the City at any time if the City believes the individual is incapable of performing duties associated

with managing free-roaming cats or if the individual is not complying with the provisions of this section. Appeals of revocations shall be made to the City Council.

(3) All cats that are part of free-roaming cat programs must be sterilized, vaccinated against the threat of rabies, and ear-tipped for easy identification; if these requirements are met, the free-roaming cat is exempted from licensing, stray, at-large and possibly other provisions of this ordinance or other City Ordinances that apply to owned animals.

(4) If a person is providing care for free-roaming cats, he or she is required to provide certain necessities on a regular/ongoing basis, including, but not limited to, proper nutrition and medical care as needed. The following guidelines shall be followed;

A. Food must be provided in the proper quantity for the number of cats being managed and is to be supplied no less than once per day. Food must be maintained in proper feeding containers.

B. Water, if supplied, must be clean, potable and free from debris and algae.

C. If shelter is provided, it shall be unobtrusive, safe, and of the proper size for the cat(s).

(e) Contact information of local organizations willing to assist free-roaming cats and their caregivers will be made available by the City.

(f) Violations of this section are subject to a fine of not less than $250.00 and not to exceed $500.00. (Ord. 2018-005. Passed 8-6-18.)

1102.17 KENNELS.

The City of Charles Town restricts the harboring of more than three dogs or cats as presented in the City Zoning ordinance, Section 2.2, Specific Definitions which states the following:

Kennel: Any building or structure and/or land used, designed, or arranged for housing, boarding, breeding, or care of more than three adult dogs or cats kept for breeding, hunting, sale, exhibition, or domestic use or other domestic animals for profit, but not including those animals raised for agricultural purposes.

(Passed 5-4-06)

1102.99 PENALTY.

Whoever violates any provision of this article, shall be fined not more than five hundred dollars ($500.00). Each day such violation continues shall constitute a separate offense.

(Ord. 91-0-3-4. Passed 3-4-91.)