

ORDINANCE NO 91-5
ANIMAL AND FOWL ORDINANCE
WYTHE COUNTY, VIRGINIA

ARTICLE I - Title, Authority, Purpose, and Jurisdiction

- 1.1 Title. This ordinance shall hereinafter be known as, and may be cited as, the "Animal and Fowl Ordinance of Wythe County, Virginia," Ordinance number 91-.
- 1.2 Authority. This ordinance is adopted pursuant to the authority of Title 18.2, Sections 18.2-323 and 18.2-510; and Title 3.1, Sections 3.1-796.60 and 3.1-796.129 of the Code of Virginia of 1950, and amendments thereto.
- 1.3 Purpose. To provide for the health, safety, and general welfare of the citizens of Wythe County by establishing the position of Animal Warden, licensing and control of dogs, preventing rabies, disposition of dead animals, handling of damage caused by dogs, and providing penalties for the violations thereof.
- 1.4 Jurisdiction. The provisions of this ordinance shall apply to all land within Wythe County, Virginia, including the incorporated municipalities.

ARTICLE II - Rules

- 2.1 In the construction of this ordinance, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise:
1. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular;
 2. The word "approve" shall be considered to be followed by the words "or disapprove";
 3. The word "may" is permissive and not mandatory;
 4. The word "shall" is mandatory and not discretionary;
 5. The masculine gender includes the feminine and neuter; and
 6. Any reference to this ordinance includes all ordinances amending or supplementing the same.

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ARTICLE III - Definitions

- 3.1 For the purpose of this ordinance, the following words and phrases shall have the meaning respectively ascribed by this section:
- 3.1-1 Animal: Domestic animals, including both agricultural and companion animals if not specified otherwise. For the purpose of complying with Section 3.1-796.98 animal shall mean any animal susceptible to rabies.
- 3.1-2 Animal Warden: Any animal warden or deputy animal warden appointed under this ordinance and in accord with Section 3.1-796.104 through 3.1-796.121
- 3.1-3 Companion Animals: Domestic and feral dogs, monkeys, guinea pigs, hamsters, rabbits, exotic animals, and exotic and native birds. Game species shall not be considered companion animals for the purposes of this chapter.
- 3.1-4 County: Wythe County, Virginia
- 3.1-5 Enclosure: A structure used to house or restrict animals from running at large.
- 3.1-6 Hearing Dog: A dog trained to alert its owner by touch to sounds of danger and sounds to which to owner should respond.
- 3.1-7 Kennel: An enclosure wherein dogs are kept and from which they cannot escape.
- 3.1-8 Livestock: Includes cattle, sheep, horses, goats, swine, and enclosed domestic rabbits or hares.
- 3.1-9 Other Law Enforcement Officer: All persons employed or elected by the people of Virginia or by any municipality, county, or incorporated town thereof, whose duty it is to preserve the peace, to make arrests, or to enforce the law.
- 3.1-10 Own: See owner.
- 3.1-11 Owner: Any person having a right of property in an animal; any person who keeps or harbors an animal or has it in his care, or who acts as its custodian; and any person who permits an animal to remain on or about any premises occupied by him.
- 3.1-12 Poultry: All domestic fowl and game birds raised in captivity.
- 3.1-13 Pound: A facility, conforming to the policy and

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purpose of Section 3.1-796.39, et. seq., Code of Virginia, operated by Wythe County for the prevention of cruelty to animals, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals.

- 3.1-14 Seeing Eye Dog: A dog trained to guide a blind person.
- 3.1-15 Treasurer: The Treasurer and his assistants of Wythe County or other officer whose duty it is by law to collect taxes in Wythe County.

ARTICLE IV - General

- 4.1 Casting a carcass on a road; permitting a carcass to remain unburied. Any person casting any dead animal or fowl into a road or knowingly permits any dead animal or fowl to remain unburied on his property when offensive to the public, or having in custody any maimed, diseased, disabled, or infirm animal or fowl, leave it to lie, or be in a street, road, or public place, or placed in a solid waste container shall be guilty of a Class 3 misdemeanor.
- 4.2 Disposal of dead dogs. The owner or custodian of any dog which has died from disease or other cause shall forthwith cremate or bury the same. If, after notice, any owner fails to so, the animal warden or other officer shall bury or cremate the dog and he may recover on behalf of Wythe County from the owner his cost for this service.
- 4.3 Disposition of carcasses. When the owner or custodian of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried. The owner may deliver the body of any animal or fowl which has died to the County Landfill for burial. If he fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officer's fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

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Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

ARTICLE V - Animal Warden

- 5.1 Authority of Animal Warden. Pursuant to the authority contained in Section 3.1-796.104, Code of Virginia, 1950, as amended, the position of Animal Warden for Wythe County, Virginia, is hereby created and established. The animal warden shall discharge the duties and responsibilities as set forth in the ordinance and in Sections 3.1-796.104 through 3.1-796.121, Code of Virginia, 1950, as amended, and such other duties as may be required by the Board of Supervisors from time to time.

ARTICLE VI - Dogs

- 6.1 Dogs running at large. It shall be unlawful for any person in the county to permit a dog owned by him, or by his minor children, or the custodian of a dog, or an astray dog permitted to stay principally on premises occupied by him to run at large. A dog shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his dog to run at large, or remain unconfined, unrestricted, or not penned up shall be deemed to have violated the provisions of this section. The provisions of this section shall apply only to Wythe County and do not include the two incorporated municipalities.
- 6.2 Inoculation for rabies prerequisite to obtaining dog license; rabies clinics. No license tag shall be issued for any dog unless there is presented, to the Treasurer or other officer of the County charged by law with the duty of issuing license tags for dogs, at the time application for license is made, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian. Rabies clinics, approved by the Wythe County Health Department and the governing body, shall be held at least once per year in Wythe County when the governing body finds that the number of resident veterinarians is otherwise inadequate to meet the need.

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ARTICLE VII - Licenses

7.1 Licenses required. It shall be unlawful for any person to own or harbor a dog four months old or older in Wythe County unless such dog is licensed as required by the provisions of this ordinance. Dog licenses shall run by the calendar namely from January first to December thirty-first inclusive.

7.2 How to obtain license. Any person may obtain a dog license by making oral or written application to the Treasurer of Wythe County accompanied by the amount of license tax and current certificate of vaccination as required by this ordinance. The Treasurer or other officer charged with the duty of issuing dog licenses shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of Wythe County. Upon receipt of proper application and certificate of vaccination as required by this ordinance the Treasurer or other officer charged with the duty of issuing dog licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed female, female, or kennel, and deliver the metal license tags or plates provided for herein. The information thus received shall be retained by the Treasurer, open to public inspection, during the period for which such license is valid.

The Treasurer may establish substations in convenient locations in the county, and appoint agents for the collection of the license tax and issuance of such licenses.

7.3 Schedule of fees. The license tax shall be made payable at the office of the County Treasurer and shall be as follows:

1. Male. For a male dog, four dollars (\$4.00).
2. Unsexed male. For an unsexed (successfully neutered) male dog, four dollars (\$4.00). The license shall be free for the first year after the successful neutering of a male dog. The owner is still required to obtain the license.
3. Female. For a female dog, six dollars (\$6.00).
4. Unsexed female. For an unsexed (successfully spayed) female dog, four dollars (\$4.00). The license shall be free for the first year after the successful spaying of a female dog. The owner is

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still required to obtain the license.

5. Kennel. Up to twenty dogs, twenty-five dollars (\$25.00); over twenty dogs, thirty-five dollars (\$35.00).
6. No license tax shall be levied on any dog that is trained and serves as a guide for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person.

7.4 When license tax payable. The license tax on dogs shall be due and payable as follows:

1. On or before January first and not later than January thirty-first of each year the owner of any dog four months old or older shall pay a license tax as prescribed in this ordinance.
2. If a dog shall become four months of age or come into the possession of any person in this county between January first and November first of any year, a license tax for the current calendar year shall be paid forthwith by the owner.
3. If a dog shall become four months of age or come into the possession of any person in this county between October thirty-first and December thirty-first of any year, the license tax for the succeeding calendar shall be paid forthwith by the owner and such license shall protect the dog from the date of purchase.

7.5 What dog license shall consist of. A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show the jurisdiction issuing the license, the sex of dog, the calendar year for which issued, and bear a serial number.

7.6 Duplicate license tags. If a dog license shall become lost, destroyed, or stolen, the owner or custodian shall at once apply to the Treasurer or his agent who issued the same for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the Treasurer or his agent that the original license tag has been lost, destroyed, or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The Treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar (\$1.00).

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- 7.7 Effect of dog not wearing collar as evidence. Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and in any proceedings under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.
- 7.8 Payment of license tax subsequent to summons. Payment of the license tax subsequent to a summons to appear before the judge of the district court or other court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided.
- 7.9 Displaying receipts; dogs to wear tags. Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog: It shall be unlawful for the owner to permit any licensed dog four months old or over to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section 1) when the dog is engaged in lawful hunting, 2) when the dog is competing in a dog show, 3) when the dog has a skin condition which would be exacerbated by the wearing of a collar, 4) when the dog is confined, or 5) when the dog is under the immediate control of its owner.

ARTICLE VIII - Dogs Deemed Personal Property

- 8.1 Rights relating thereto. All dogs shall be deemed personal property and may be subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of any such dogs, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog which is injured or killed contrary to the provisions of this ordinance by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. An animal warden or other officer finding a stolen dog, or a dog held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal warden or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall

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raise no presumption of theft against the owner and the dog warden may take such dog in charge and notify its legal owner to remove him. The legal owner of the dog shall pay two dollars and fifty cents (\$2.50) per day for the keep of such dog while in possession of the animal warden.

**ARTICLE IX - County Dog Pound; Confinement
and Disposition of Stray Dogs**

9.1 Wythe County shall maintain or cause to be maintained a pound or enclosure in accordance with guidelines issued by the Department of Agriculture and Consumer Services and shall require dogs running at large without the tag required by Section 6.1 of Article IV or in violation of any provisions of this ordinance to be confined therein. The Wythe County Board of Supervisors shall require that any animal which has been so confined must be kept for a period of not less than five days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner thereof. A custodian of a dog or individual who has found a dog may qualify as owner and may claim the dog by expressing his desire in writing to claim the dog at the expiration of the five-day period set out herein after payment of the required license fee. If any dog confined pursuant to this section is claimed by its rightful owner, such owner shall only be charged with the actual expenses incurred in keeping the dog impounded. Provided, however, in the event the rightful owner shall claim such dog at any time, the custodian or finder shall relinquish possession of such dog to the rightful owner. If the animal has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or State-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth, or by delivery to any local humane society, shelter, or to any person who is a resident of Wythe County and who will pay the required license fee, if any, on such animal. If the rightful owner of any dog confined may be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of such dog of the dog's confinement within forty-eight hours next following its confinement. Such animal may also be delivered to any person who proposes to adopt such animal as a pet and who will pay the required license fee, if any, on such animal; provided that no more than two animals or a family of animals shall be delivered during any thirty-day period to any such person. No provision herein

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shall prohibit the destruction of a critically injured or critically ill animal for humane purposes. Any animal destroyed shall be euthanized by one of the methods prescribed or approved by the State Veterinarian. The Wythe County Board of Supervisors shall require that the pound be accessible to the public at reasonable hours during the week. Nothing in this section shall be construed to prohibit confinement of other companion animals in such pound or enclosure.

Neither shall any provision in this section prohibit the destruction, for humane purposes, of any animal not weaned, whether or not the animal is critically injured or critically ill. For purposes of this section, the term "animal" shall not include agricultural animals.

ARTICLE X - Killing Unlicensed Dogs

- 10.1 It shall be the duty of the animal warden or any other officer to capture and confine any dog of unknown ownership found running at large on which license has not been paid; provided that the animal warden or other officer may deliver such dog to any person in his jurisdiction who will pay the required license fee on such dog with the understanding that should the legal owner thereafter claim the dog and prove his ownership, he may recover such dog by paying to the person to whom it was delivered by the animal warden, the amount of the license fee paid by him and a reasonable charge for the keep of the dog while in his possession.

Prior to disposition by euthanasia or otherwise, all the provisions of Article IX of this ordinance shall have been compiled with. For all dogs not otherwise disposed of as provided for in this ordinance, it shall be the duty of the animal warden or any other officer to euthanize such dog. Any person, animal warden, or other officer euthanizing a dog under this chapter shall cremate, bury or sanitarily dispose of the same.

All drugs and drug administering equipment used by animal wardens or other officers to capture dogs pursuant to this ordinance shall have been approved by the State Veterinarian.

ARTICLE XI - Dogs Killing or Injuring Livestock, Poultry, and /or Other Domestic Animals

- 11.1 Dogs killing or injuring livestock or poultry. It shall be the duty of any animal warden or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. A person finding a dog

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committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal warden or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer.

Any animal warden who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any animal warden or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city, or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard, and if it shall appear that such dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be 1) killed immediately by the animal warden or other officer designated by the court or 2) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

- 11.2 Dogs killing other domestic animals other than livestock or poultry. If the animal warden has reason to believe that any dog is killing other dogs or domestic animals other than livestock or poultry, he shall apply to the magistrate of the county or town wherein the dog may be located for the issuance of a warrant requiring the owner or custodian, if known, to appear before a district court at a specified time. The animal warden or owner shall confine the dog until such time as evidence shall be heard and a verdict rendered. If it appears from the evidence that the dog has habitually killed other dogs or domestic animals, the judge may order the dog killed in accordance with the provision of Section 3.1-796.119 of the Code of Virginia 1950, and amendments thereto.

ARTICLE XII - Compensation for Livestock

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and/or Poultry Killed by Dogs

- 12.1 Any person who has any livestock and/or poultry killed by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock and/or poultry, not to exceed \$400.00 per animal or fowl, providing he complies with the following:
1. He shall notify the animal warden or other officer of the incident within 72 hours of the killing.
 2. He shall furnish evidence within sixty days of discovery of the quantity and value of the dead livestock and/or poultry and the reasons the claimant believes that death was caused by a dog.
 3. He first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.
 4. If the claimant and the animal warden agree as to the amount of the claim, the animal warden shall approve the claim and forward it to the Wythe County Board of Supervisors, who may approve same and order payment thereof from the Dog Tax Fund. If no such agreement is reached between them, by and with the approval of the Wythe County Board of Supervisors, the claim may be submitted to a court of proper jurisdiction.

If there are not sufficient moneys in the dog fund to pay these claims, they shall be paid in the order they are received when moneys become available. Upon payment under this section, the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock and/or poultry against the owner of the dog and may enforce the same in an appropriate action of law.

ARTICLE XII - Disposition of Funds

- 13.1 Dog Tax Fund. The Wythe County Treasurer shall keep all money collected by him for dog license taxes in a separate account from all of the funds collected by him. These funds shall be known as the Wythe County Dog Tax Fund and shall be used for the following purposes:
1. The salary and expenses of the animal warden and necessary staff;

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2. The care and maintenance of the dog pound;
3. the maintenance of rabies control program;
4. Payment as a bounty to any person neutering or spaying a dog the amount of one year of license fee as provided by this ordinance;
5. Payment for the compensation for livestock and/or poultry killed by dogs as provided by this ordinance.

The Wythe County Board of Supervisors may supplement the Dog Fund with other funds as they consider appropriate, but they shall do so to the extent necessary to provide for 1, 2, and 3 above.

ARTICLE XIV - Unlawful Acts

14.1 The following shall be unlawful acts:

- 14.1-1 License application. For any person to make a false statement in order to secure a dog license to which he is not entitled.
- 14.1-2 License tax. For any dog owner to fail to pay the license tax required by this ordinance before February first for the year in which it is due. In addition the court may order confiscation and the proper disposition of the dog.
- 14.1-3 Leash ordinance. For any dog owner to allow a dog to run at large in violation of the ordinance.
- 14.1-4 Rabies regulations. For any person who fails to obey the rabies regulations of this ordinance.
- 14.1-5 Dead dogs. For any owner to fail to dispose of the body of his dog in violation of this ordinance.
- 14.1-6 Permits. For any person to fail to secure and exhibit the permits required by the ordinance.
- 14.1-7 Diseased dogs. For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
- 14.1-8 Removing collar and tag. For any person, except the owner or custodian, to remove a legally acquired license tag from dog.

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- 14.1-9 Concealing a dog. For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep the same from being killed.
- 14.1-10 False claim. For any person to present a false claim or to receive any money on a false claim under the provisions of this ordinance.

ARTICLE XV - Penalties

- 15.1 Any person guilty of unlawful acts one through nine of Article XIV shall be guilty of a Class 4 misdemeanor. Any person guilty of unlawful act ten of Article XIV shall be guilty of a Class 1 misdemeanor. Any other violations of this ordinance for which a specific penalty is not provided shall be guilty of a Class 2 misdemeanor. They shall be enforced by proceedings before a Judge of the District Court in like manner and with the right of appeal. All fines collected from any person for violating any provisions of this ordinance, upon conviction thereof, shall be paid to the County Treasurer who shall credit such taxes to the County General Fund and such taxes shall be deposited by the County Treasurer in the same manner as that prescribed for other county moneys.

ARTICLE XVI - Legal Status Provisions

- 16.1 Should any portion or provision of this ordinance be held by any court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.
- 16.2 Certified copies of this ordinance and all amendments thereto shall be filed in the offices of the Planning Commission, the County Administrator, and the Clerk of the Circuit Court of Wythe County, Virginia.
- 16.3 Animal and Fowl Ordinance, number 84-5, adopted July 11, 1984, and all ordinances or portions thereof in conflict with this ordinance are hereby repealed to the extent of their conflict.
- 16.4 Effective Date. This ordinance was duly considered following the required public hearing held on November 19, 1991 and was adopted by the Board of Supervisors of Wythe County Virginia, at its regular meeting held on December 10, 1991 the members voting:

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NAME	FOR	AGAINST	ABSENT
R.T. DuPuis	X		
Robert C. Williams	X		
Charlotte Naber	X		
Alan Dunford	X		
G. Andrew Kegley, Jr.	X		
George T. Johnstone	X		
Sidney N. Crockett	X		

This ordinance shall become effective on and after 12:01 a.m., on December 11, 1991.

I certify that this is a true and correct copy taken from the December 10, 1991, minutes of the Wythe County Board of Supervisors.

Billy R. Branson, Clerk

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