

# **BERKELEY COUNTY DOG ORDINANCE**

## 1. Legislative Authority

This ordinance concerns the management and control of dogs in the County of Berkeley, State of West Virginia, and is adopted under the authority of Chapter 19, Article 20, Section 6(b) of the Code of West Virginia, as amended.

## 2. Purpose

This ordinance is enacted for the purpose of controlling and managing the population of dogs in Berkeley County, West Virginia, outside of its incorporated municipalities; to constrain dogs from attacking, wounding or killing persons, livestock, and other domestic animals; to prevent dogs from forming packs roaming wild in rural areas and posing a threat to the health and safety of the citizens and their property; to better prevent female dogs from having unwanted litters; to ensure safe clean and humane conditions for all dogs captured by the county animal control officers; to enhance the placement of captured dogs with responsible citizens for the proper care, safe maintenance, and proper registration of dogs and to control dog waste on public or private property.

## 3. Interrelationship Between Ordinance and State Code

This ordinance is to be administered in conjunction and in addition to the provisions of Chapter 19, Article 20, Code of West Virginia, entitled "Dogs and Cats", which Article provides for the taxation and registration of dogs, the kenneling of dogs, dog wardens, prosecution and violation of dog ordinances, dog pounds, and the impoundment of dogs; and, Chapter 19, Article 20A dealing with the vaccination of dogs and cats and 20B dealing with spaying and neutering of dogs and cats; Chapter 7, Article 10 of the Code, entitled "Humane Officers" which Article provides for use of deputy sheriffs as humane officers, the duties of those officers, the cruel treatment of animals, the care and custody of abandoned, neglected, cruelly treated animals, hearings, bonds and other matters concerning violation of animal ordinances; and, Chapter 61, Article 8, Sections 19 - 23 of the Code, which provides for the criminal prosecution for cruelty to animals, causing animals to fight or attending such fights, the use of live birds for kill, search warrants for suspected cruelty and abuse of animals. All the above cited State Code provisions are hereby incorporated by reference as though fully set forth herein.

## 4. Control of Dogs By Owners

All dogs in the unincorporated areas of Berkeley County shall be

kept under control by the owner or supervisor of the dog. Dogs not on property owned or leased by the owner of the dog shall be kept on a leash. The County Animal Control Officers are hereby authorized to seize dogs not on a leash if such dogs are not on property owned or leased by the owner, and to hold such dogs at the county dog pound for a period of five (5) days or until the owner of such dogs pays the pound fees and costs due under section five (5) of this ordinance, whichever is shorter. Dogs not picked up by the owner within five (5) days shall become the property of the county and destroyed by the animal control officer if no responsible new owner is found.

Dogs engaged in legal hunting activities, lawful training activities, lawful herding or other farm related activities shall not be subject to this section of the ordinance.

Any dog which does not have a tag indicating that the applicable county taxes or fees have been paid and/or any dog which does not have a tag indicating that that particular dog has had its rabies' vaccination, shall be considered uncontrolled and subject to seizure.

Owners of dogs which are permitted to leave waste on public or private property not his or her own should immediately remove and destroy the waste. Owners who do not remove such waste from the public or private property not owned or leased by them are guilty of a misdemeanor and shall be fined not less than \$50.00 nor more than \$150.00, upon conviction. Any dog which deposits waste on public or private property, which property is not property owned or leased by the owner of the dog, is subject to seizure.

5. Impoundment of Dogs and Fees for Such Impoundment

All dogs seized and impounded as provided in this ordinance shall be housed and fed in the county pound for a period of five (5) days after notice of seizure and impounding shall have been given or posted as required by Chapter 19, Article 20, Section 6 of the Code. The fees for such impoundment shall be as follows:

Seizing dog and delivery to pound.....\$42.00  
Serving or posting notice to owner.....3.00  
Housing and feeding dog per day.....5.00

All persons paying pound fees to the animal wardens shall be given a receipt for the total sum collected. Such receipt shall be signed and dated by the animal warden collecting the pound fees.

If any person does not pay the fees and costs assessed within 30 days of the assessment, the County Commission may institute legal proceedings for collection of the same, including all fees and costs expended in the collection effort.

6. Definitions

Control: Dogs shall be considered under control if they are on property owned or leased by the dog owner, or if they are secured by a leash in other circumstances.

Legal Hunting Activities: In order for a dog to be engaged in a legal hunting activity, the following provisions must apply:

The property on which the hunting occurs must not be posted to prohibit hunting

The game that is being hunted must be in season  
Those persons hunting must be properly licensed to do so, unless exempted by law.

7. Appeal

Any person adversely affected by a decision of the County Commission shall have the right of appeal to the circuit court. The petition for appeal must be filed with the circuit court within four months of the entry of the final order of the Commission. If such appeal is allowed, it shall be heard and a decision made thereon upon the original record of the proceeding, all as defined in § 58-3-4, Code of West Virginia, 1931, amended.

8. Severability

If a court of competent jurisdiction declares any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this ordinance shall continue to be separately and fully effective.

9. Effective Date

This Ordinance, as amended, shall be effective on and after the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Steven C. Teufel, President

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Ronald K. Collins, Commissioner

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William L. Stubblefield, Commissioner

ATTEST:

John W. Small, Jr., Clerk