

JEFFERSON COUNTY DOG ORDINANCE:

LEGISLATIVE AUTHORITY:

This Ordinance concerns the management and control of dogs in the County of Jefferson, 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.

PURPOSE:

This Ordinance is enacted for the purpose of controlling and managing the population of dogs in Jefferson County, West Virginia, outside of its incorporated territories to constrain dogs within the boundaries of the County from attacking, wounding, or killing persons, livestock, and other domestic and wild animals; to prevent dogs from disturbing the peace and quiet and the rest and sleep of the County's residents; 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 enable better control and prevent female dogs from producing unwanted litters; to ensure that safe, clean, and humane conditions exist for all dogs captured by the County Dog Warden or other Humane Officers; to enhance the placement of such captured dogs with responsible owners; to prevent the transmission of disease and to place the responsibility for the proper care and safe maintenance of dogs with their respective owners or keepers.

INTERRELATIONSHIP BETWEEN ORDINANCE AND STATE CODE:

Many of the provisions contained in the State Code in regard to dogs are adopted herein with little or no modification. The following provisions contained in the State Code do not appear in Ordinance, but are applicable to Jefferson County:

§19-20-6a pertaining to the authority of the County to contract with private societies respecting the care of dogs.

§19-20-7 providing that the County shall provide facilities and equipment for the Dog Warden.

§19-20-10 providing for a county dog and kennel fund and for the disposition thereof.

§19-20-11 providing for the assessment of dogs as personal property.

§19-20-15 providing for the assessment of damages by Magistrates and the appointment of appraisers.

§19-20-18 pertaining to the duty of owners to kill certain dogs and the proceedings before the Magistrate.

It is noted accordingly that the State Code currently provides for the assessment of damages against the owner of a dog which worries or destroys livestock and poultry and for the summoning of appraisers before a Notary Public or Magistrate to assess damages, which may then be collected in an action at law before any court of competent jurisdiction; and it is further noted that §19-20-18 provides that upon proper notice to such owner and hearing before a Magistrate, such dog may also be ordered killed by the Magistrate.

It is finally noted that Section 15 of this Ordinance provides for contracts with municipalities and counties within this state for the joint ownership and maintenance of a dog pound and the employment of a Dog Warden where that municipality or county has adopted an ordinance not inconsistent with the purposes of this Ordinance, while §19-20-8a of the State Code provides authority for such contracts, but does not contain the additional prerequisite consistent legislation with the other jurisdiction.

SERVABILITY:

If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or 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.

DEFINITIONS:

Assessor - The public office as defined in §11-2-1, et. seq. of the Code of West Virginia, as amended.

Livestock - Cattle, calves, goats, lambs, sheep, kids, swine, horses and enclosed domesticated rabbits and hares.

Owner - Any person having a right of property in any dog, subject to the provisions of this Ordinance, and any person who keeps or harbors such dogs, or has the dog in his care, or who acts as its custodian, or any person who permits a dog to remain on or about any premises occupied by him.

Poultry - All domesticated fowl and game birds raised in captivity.

Vaccination - The immunization of a dog against rabies, whether by inoculation, vaccination, or any other means of treatment approved by the County Health Officer.

Veterinarian - Any licensed veterinarian authorized to practice veterinary medicine in this state.

SECTION 1:

Any dog shall be and is hereby declared to be personal property within the meaning and construction of the laws of this State, and any dog above the age of six months shall be subject to taxation.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 1 of the Code of West Virginia, as amended.

SECTION 2:

It shall be the duty of the County Assessor and his deputies of this County, at the time they are making assessment of the personal property within this County, to assess and collect a head tax of three dollars on each dog, male or female; and further to collect any head tax on dogs as may be levied by the ordinances of each and every municipality within this County. In the event that the owner, keeper, or person having in his possession or allowing to remain on any premises under his control any dog above the age of six months, shall refuse or fail to pay such tax when the same is assessed or within fifteen days thereafter to the Assessor or Deputy Assessor, then such Assessor or Deputy Assessor shall certify such tax to the Dog Warden, or Sheriff in the event that the office of the Dog Warden be vacated, who shall take charge of the dog for which the tax is delinquent and impound the same for fifteen days, for which service he shall be allowed a fee of one dollar and fifty cents to be charged against such delinquent taxpayer in addition to the taxes herein provided for. In case the tax and impounding charge herein provided for shall not have been paid for within the period of fifteen days, then the Sheriff may sell the impounded dog and deduct the impounding charge and the delinquent tax from the amount received therefore, and return the balance, if any, to the delinquent taxpayer. Should the Sheriff fail to sell the dog so impounded within the time specified herein, he shall kill such dog and dispose of its body.

At the same time as the head tax is assessed, the Assessor and his deputies shall, on the forms prescribed under Chapter 19, Article 20, Section 4 of the Code of West Virginia, take down the age, sex, color, character of hair (short or long) and breed (if known) and the name and address of the owner, keeper, or harbinger thereof. When the head tax and extra charges, if any, are paid to the officer to whom payment is made, he shall issue a certificate of registration and a registration tag for such dog.

In addition to the assessment and registration above provided for, whenever a dog is acquired or becomes six months of age after the assessment of the personal property of the owner, keeper, or harbinger of said dog shall, within ten days after the acquisition or maturation, register the said dog with the Assessor, and pay the head tax thereon unless the prior owner, keeper, or harbinger paid the head tax.

All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the fiscal year and shall be valid from the date on which issued until the thirtieth day of June of that fiscal year, or until re-issued by the Assessor or his deputies in the regular performance of his duties, but in no case shall previous registration tags be valid after September of the ensuing fiscal year.

The Assessor collecting the head tax shall be allowed a commission of ten percent upon all such taxes collected by him, and shall turn to the county treasury ninety percent of such taxes so collected, as are levied by this section; and the Assessor shall turn over to the treasurer or other proper officer of each and every municipality within the County ninety percent of such taxes levied by the ordinance of such municipality. All such dog taxes, except those belonging to the municipalities, shall be accredited to the dog and kennel fund provided under Chapter 19, Article 20, Section 10 of the Code of West Virginia. Such dog taxes as are collected for and turned over to municipalities to such fund and shall be expended in such manner as the law of each municipality may provide. All taxes on dogs not collected by the Assessor shall be collected by the regular tax collecting officer of the County and placed to the credit of the dog and kennel fund.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 2 of the Code of West Virginia, as amended.

SECTION 3:

Every owner or operator of a kennel, wherein dogs are kept, bred, boarded or sold as a commercial venture for profit, shall annually, between the first day of July and the thirtieth day of September of each year, file with the Assessor of this County, an application for the registration of such kennel for the fiscal year. Such application shall state the location of the kennel, the name and address of the person actually in charge of and supervising it, and the name and address of the owner of the kennel. Upon filing of such application, together with the payment to the Assessor of a fee of ten dollars, the Assessor shall issue a certificate of registration for such kennel. The registration of a kennel, herein provided, shall entitle the registrant to register and receive certificates and tags for not more than five dogs without the payment of a separate head tax on such dogs. The head tax provided for in Section 2 of this Ordinance shall, on such five or less dogs, be included in and charged against the kennel registration fee herein provided.

Every person, upon becoming the owner or operator of a kennel of dogs as herein described, after the thirtieth day of September of any year shall, within three days after becoming such owner or operator, register such kennel for the remainder of the current fiscal year in the manner, and upon the payment of the registration fee, herein provided.

All certificates of registration issued pursuant to the provisions of this section shall be issued for the fiscal year, and shall be valid from the date on which issued until the thirtieth day of June of that year.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 3, as amended, of the Code of West Virginia.

SECTION 3A:

Any person who owns, keeps, or harbors a dog, or who owns or operates a kennel, subject to registration under the provisions of this Ordinance, and who fails, refuses, or neglects to register such dog or kennel, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars.

Any person who shall alter or forge any certificate or tag provided for in this Ordinance, or display, present, or utter such certificate as valid with knowledge that it has been altered or forged, or who knowingly causes or permits any dog owned, kept or harbored by him to wear any fictitious, altered, or invalid registration tag in the place of a valid tag as required under the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the County Jail for not more than thirty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 12, as amended, of the Code of West Virginia.

SECTION 4:

(A) As prescribed under Chapter 19, Article 20, Section 4 of the Code of West Virginia, the form of all applications, certificates of registration, and registration tags required in this section shall be provided for by the State. Certificates of registration and registration tags shall bear identifying numbers.

A public record of all certificates of registration and registration tags issued under the provisions of this Ordinance shall be kept by the County Assessor. Such record shall be kept intact and available for inspection for a period of not less than two years following the end of the registration year.

Registration tags shall be made of metal or some other suitable substance of permanent nature. The design of such tags shall be changed from year to year so that identification of the year of issue of any tag may be made without close visual examination. If any registration tag be lost, a duplicate shall be furnished by the Assessor upon proper proof of loss and the payment to him a fee of one dollar.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 4 of the Code of West Virginia, as amended, and increases the duplicate registration tag fee from twenty-five cents to one dollar.

(B) Every registered dog shall at all times wear a valid registration tag issued, as provided in Section 4(A) of this Ordinance. The failure to have displayed or worn on any dog, at any time, of such valid tag shall be prima facie evidence that such dog is not registered and such dog shall be subject to be, and shall be, impounded, sold, or destroyed, as hereinabove or hereinafter provided.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 5, as amended, of the Code of West Virginia.

SECTION 5:

(A) The County Commission of this County may appoint and employ a County Dog Warden, and such number of deputies, for such time, and at such compensation, as the County Commission shall deem reasonable and necessary to enforce the provisions of this Ordinance with respect to the control and registration of dogs, the impounding, care, and destruction of unlicensed dogs. The County Dog Warden may be appointed a Deputy Assessor for the purpose of collecting the dog tax and registration fees, taking the dog registration and providing the tags authorized under this Ordinance.

The County Dog Warden or any deputies may, in the discretion of the County Commission, be regularly employed officers or agents of any humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this State and owning, controlling, and operating a suitable place within this County for impounding and destroying dogs. In addition to the compensation provided for above, a bounty of fifty cents per dog shall be paid to the County Dog Warden or deputy wardens who capture an unregistered dog. Such County Dog Wardens and deputy wardens shall each give bond in the sum of not less than one thousand nor more than two thousand dollars conditioned on the faithful performance of their duties. Such bonds shall be filed with the County Commission by which such are appointed.

The County Dog Warden and his deputies shall patrol the County and shall seize on sight and impound any dog more than six months of age found not wearing a valid registration tag, except dogs kept constantly confined in a registered kennel, and any dog considered to be running at large as defined under Section 12 of this Ordinance. The County Dog Warden shall make a monthly report, in writing, to the County Commission. When any dog shall have been seized and impounded, the County Dog Warden, or the Sheriff in the event that the office of Dog Warden be vacated, shall forthwith give notice to the owner of such dog, if such owner be known to the Dog Warden, that such dog has been impounded and that it will be sold or destroyed if not redeemed within five days. If the owner of such dog be not known to the Dog Warden, he shall post a notice in the County Courthouse. The notice shall describe the dog and the place where seized and shall advise the unknown owner that such dog will be sold or destroyed if not redeemed within five days.

(B) The County Dog Warden shall be responsible for the proper care and humane treatment of all dogs which are seized and impounded by him or his deputies at the County dog pound. Such care shall include feed, water, protection from adverse weather conditions and clean and sanitary sleeping quarters.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 6, as amended, of the Code of West Virginia and further defines the Dog Warden's responsibilities for proper care and treatment of animals at the County dog pound and adds the duty of seizing dogs which are found to be running at large.

SECTION 6:

All dogs seized and impounded as provided in this Ordinance, except dogs taken into custody under Section 2 of this Ordinance, shall be housed and fed in this County pound for a period of five days after notice of seizure and impounding shall have been given or posted as required by this Ordinance, at the expiration of which time all dogs which have not previously been redeemed by their owners as herein provided, shall be sold or humanely destroyed. No dog sold herein provided shall be discharged from the pound until such dog shall have been registered and provided with a valid registration tag.

The owner, keeper, or harbinger of any dog seized or impounded under the provisions of this Ordinance may, at any time prior to the expiration of the five days from the time that notice of the seizure and impounding of the dog shall have been given or posted as required under the provisions of this Ordinance, redeem the same by paying to the Dog Warden or his authorized agent or deputy all the costs assessed against such dog, and by providing a valid certificate of registration and registration tag for such dog.

Reasonable costs and fees, in such amount as may be determined from time to time by the County Commission, shall be assessed against every dog seized and impounded under the provisions of this Ordinance, except those dogs taken into custody under Section 2 of this Ordinance. Such cost shall be a valid claim in favor of the County against the owner, keeper, or harbinger of any dog seized or impounded under the provisions of this Ordinance and not redeemed or sold as herein provided, and such costs shall be recovered by the Sheriff in a civil action against such owner, keeper, or harbinger.

A record of all dogs impounded, the disposition of such dogs, and a statement of costs assessed against each dog shall be kept by the Dog Warden and a transcription thereof shall be furnished to the Sheriff quarterly.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 8, as amended, of the Code of West Virginia.

SECTION 7:

(A) Any owner or keeper of any dog who permits such dog to run at large shall be liable for any damages inflicted upon the person or property of another by such dog while so running at large.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 13, as amended, of the Code of West Virginia.

(B) If any dog has killed or assisted in killing, wounding, or worrying any livestock or poultry out of the enclosure of the owner of the dog, the owner or keeper of the dog shall be liable for the livestock or poultry in the amount of the damages sustained, to be recovered in an action before any court or magistrate having jurisdiction of the action. It shall not be necessary to sustain the action to prove that the owner of the dog knew that the dog was accustomed to worrying, killing, or wounding. A recovery under this section shall bar and preclude the owner of the livestock or poultry from obtaining compensation from the County Commission under the provisions of this Ordinance. If the person suffering the loss or damage cannot ascertain the owner or keeper of the dog, or if the owner or keeper is not financially responsible, then the person suffering the loss or damages may file his claim with and prove the same before the County Commission under the provisions of this Ordinance, and the County Commission shall pay the loss or damage out of the fund for such purposes and according to the provisions of this Ordinance. When compensation is so obtained from the County Commission, the County Commission is authorized to sue under Chapter 19, Article 20, Section 14, as amended, and recover as the owner of the livestock or poultry. The amount so received shall be paid into the County treasury; but no suit shall be commenced unless authorized by the County Commission.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 17, as amended, of the Code of West Virginia.

(C) A person may kill a dog that he may see chasing, worrying, wounding, or killing any livestock or poultry outside of the enclosure of the owner of the dog unless the chasing or worrying be done by the direction of the owner of the livestock or poultry.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 16, as amended, of the Code of West Virginia.

(D) A person who shall harbor or secret or aid in secreting a dog which he knows or has reason to believe has worried, chased, or killed any livestock or poultry not the property of the owner of the dog, out of the enclosure, or knowingly permits the same to be done on any premises under his control, is guilty of a misdemeanor, and, upon conviction thereof, before any court or Magistrate having jurisdiction thereof, shall be fined not less than ten dollars nor more than fifty dollars, and, at the discretion of the Court or Magistrate may be imprisoned in the County Jail not more than thirty days. Each day that the dog is harbored, kept or secreted shall constitute a separate offense.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 17, as amended, of the Code of West Virginia.

SECTION 8:

(A) Except as provided in paragraph (B) of this section, no person shall own, keep, or harbor any dog known by him to be vicious, dangerous, or in the habit of biting or attacking other persons, whether or not such dog is wearing a tag or muzzle. Upon satisfactory proof before a Circuit Court or Magistrate that such dog is vicious, dangerous, or in the habit of biting or attacking other persons or other dogs or animals, the judge may authorize the humane officer to cause such dog to be killed.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 20 of the Code of West Virginia.

(B) Any person who keeps a dog which is considered to be vicious for the purpose of protection, shall acquire a special license therefore from the County Assessor. The Assessor shall charge ten dollars for such license. Such license shall be required in addition to the license required under Section 2 of this Ordinance. The keeper or owner shall properly secure such dog in such manner so as to prevent injury to a person who lawfully passes through or enters upon the property of the owner or keeper. Nothing contained in this paragraph shall constitute a defense to any action for personal injury, wrongful death or damage to property.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 21 of the Code of West Virginia.

SECTION 9:

Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for the twenty-five days during the period of estrus.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 22 of the Code of West Virginia.

SECTION 10:

All owners of dogs kept within the boundaries of this County shall be required to maintain proper and humane care of such dog including feed, water, and cleanliness. Such owners shall be required to provide adequate roaming areas within the provisions of this Ordinance, and protection from adverse weather conditions.

ANNOTATION: This provision not included in the Code of West Virginia provides for the proper care and humane treatment by owners of dogs under their care and control.

SECTION 11: (AMENDMENT ADOPTED - OCTOBER 3, 1985 - SEE ATTACHMENT)

(A) No person shall own, possess, or harbor any dog of any age which frequently or for a continued duration howls, barks, or makes other sounds which may annoy or disturb a reasonable person of normal sensitivities across a residential real property boundary or through a partition common to two persons within a building, except that no action shall be brought under this paragraph unless the alleged offense has been complained of in writing by at least two persons not of the same household, unless there is no more than one household within one-half mile of the property line of the property on which the source of the complaint is located, in which case one complaint in writing shall be sufficient.

ANNOTATION: This provision not appearing in the Code of West Virginia provides that no person shall allow a dog to howl, bark or otherwise disturb the residents of the County, and further provides the procedure for making such complaint.

(B) No person shall own, possess, or harbor a dog in which the dog is maintained in a manner which causes odors offensive to a reasonable person of normal sensitivities across a real property boundary or through a partition common to two persons within a building, except that no action shall be brought under this paragraph unless the offense has been complained of in writing.

ANNOTATION: This provision not appearing in the Code of West Virginia provides that no person shall maintain a dog which has an offensive odor which disturbs residents of the County and provides the procedure for making such complaint.

(C) Violations of paragraphs (A) and (B) are hereby declared a public nuisance and such complaints of violations of paragraphs (A) and (B) hereof shall be referred to the Sheriff of this County for action. If, after notification by the Sheriff's Department, any person owning, possessing, or harboring a dog which is the source of the complaint fails to correct the condition complained of within a reasonable period of time, a summons for a violation of paragraph (A) and (B) hereof shall be issued to such person.

ANNOTATION: This provision not appearing in the Code of West Virginia declares violations of paragraphs (A) and (B) as public nuisances and places the enforcement of these paragraphs in the hands of the Sheriff of this County.

SECTION 12: (AMENDMENT ADOPTED - APRIL 24, 1986 - SEE ATTACHMENT)

A simple majority of the residents and resident owners of the lots in any recognized and platted subdivision of 20 lots or more outside the corporated areas of this County may petition the County Commission for the passage or repeal of the following leash law which shall then be applicable to the entire subdivision; provided that the petition shall be filed on the forms prescribed by the County Commission.

Upon receipt of such a petition, the County Commission shall schedule a public hearing for the purpose of receiving testimony and comment from persons owning property or residing within the area to be effected. The Commission shall, within ten days following the close of the hearing, render its decision regarding the enactment or repeal of a leash law. Should the Commission favor the petitioners for enactment, the following leash law shall then be applicable to the entire subdivision.

"Within any residential development in any unincorporated area of the County fulfilling the requirements of the above-said paragraph, no dog shall be permitted to run at large while roaming, running, or self-hunting off the property of its owner or keeper and not under leash control. The Dog Warden shall enforce the provisions of this section. No person who has been notified by the County Dog Warden or any other officer having such jurisdiction in this matter, that his dog is unconfined, unrestricted, or not penned up, shall fail to take corrective action by confining, restricting, or penning up any such dog."

ANNOTATION: This provision not appearing in the Code of West Virginia allows any subdivision with 20 lots or more to petition the County Commission for enactment or repeal of a leash law if a majority of the residents and owners sign the petition.

SECTION 13:

Any dog which is registered, kept, and controlled as provided in this Ordinance or any dog, irrespective of age, which shall be owned and kept by any person shall be protected by law; and any person who shall unlawfully steal, kill, or injure, administer poison to or knowingly expose the same so that it shall be taken by any such dog, or shall, in any other manner, intentionally and unlawfully cause the death or injury of any such dog shall be guilty of a misdemeanor, and if such dog be of the assessed value of more than twenty dollars, shall upon conviction, be imprisoned in the County Jail for a period of not in excess of twelve months, or fined not in excess of two hundred dollars, or both, in the discretion of the Court; and if such dog be of twenty dollars or less in assessed value, such person shall be imprisoned in the County Jail for a period not in excess of six months, or fined not in excess of fifty dollars, or both, in the discretion of the Court. Any person whose dog shall be killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure such dog, but in no case can recovery be had in excess of the assessed value of such dog. In no case can any action under the provisions of this section be maintained if the dog concerned shall not have been duly registered pursuant to the provisions of this Ordinance or owned and kept pursuant to the provisions of this Ordinance at the time the cause of action have arisen.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 12, as amended, of the Code of West Virginia.

SECTION 14: (AMENDMENT ADOPTED - OCTOBER 3, 1985 - SEE ATTACHMENT)

(A) A person who violates any of the provisions of this Ordinance for which no specific penalty is prescribed is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned in the County Jail not more than thirty days, or both fined and imprisoned.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 19 of the Code of West Virginia, as amended, wherein Magistrates have concurrent jurisdiction with the Circuit Court to enforce the penalties herein.

(B) For each additional like offense for which no specific penalty has been prescribed, a person shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than two hundred dollars, or imprisoned in the County Jail not more than thirty days, or both fined and imprisoned.

ANNOTATION: This provision not appearing in the Code of West Virginia provides for the penalty of each additional offense for which there has been no specific penalty prescribed.

SECTION 15:

The County Commission of Jefferson County may enter contracts with any municipality or other county within this State for the purpose of joint ownership, leasing, operation, or maintenance of the dog pound and the employment of a Dog Warden or wardens, provided that such municipality or county shall have adopted a dog ordinance not inconsistent with the objectives of this Ordinance.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 8a of the Code of West Virginia and further requires if such contract is entered, it shall be done only if the municipality or county has adopted a dog ordinance not inconsistent with that of this County.

SECTION 16:

Whenever a duty shall have been imposed upon the Dog Warden or the Sheriff, or any other law enforcement official in this Ordinance, and the same duty shall not be specifically imposed by the Code of West Virginia, the provisions of this Ordinance shall not be construed so as to require that the Dog Warden or other law enforcement officer act upon a complaint by a citizen unless and except in such cases as the citizen's complaint shall be reduced to writing and signed by the complainant; provided, however, that this section shall not be construed so as to limit the duties of the Dog Warden or other officer in regard to offenses committed in his presence..

ANNOTATION: This provision not appearing in the Code of West Virginia requires that offenses committed outside the presence of the Dog Warden or other law enforcement officer must be reduced to writing before any action shall be taken in the matter.

SECTION 17: (AMENDMENT ADOPTED - OCTOBER 3, 1985 - SEE ATTACHMENT)

This ordinance may, from time to time, be amended by a majority of the members of the County Commission as they deem it necessary and appropriate.

ANNOTATION: This provides for the amendment of this ordinance to provide for unforeseen circumstances or public desire regarding its enforcement.

RABIES VACCINATION AND PROTECTION:

SECTION 1:

Whoever owns, keeps, or harbors a dog or dogs within the boundaries of this County shall have such dog or dogs properly vaccinated or immunized against rabies, and shall every second year thereafter have such dog or dogs re-vaccinated. Whoever obtains an unvaccinated dog or dogs shall at once have such dog or dogs properly vaccinated against rabies and shall have such vaccination repeated every second year; Provided further, that dogs need not be vaccinated before the age of five months: Provided further, that dogs entering the County temporarily cannot be kept and maintained within the County for a period of more than thirty days unless properly vaccinated. Anyone owning a dog or dogs can have them vaccinated by any veterinarian or a person working with or under such veterinarian.

ANNOTATION: This provision follows Chapter 19, Article 20A, Section 2 of the Code of West Virginia.

SECTION 2:

The veterinarian or doctor of medicine, or person vaccinating each animal pursuant to Chapter 19, Article 20A, Section 4 of the Code of West Virginia shall make his proper reports, and he shall retain one for himself, give a certificate to the owner for whom he does the work, and file one copy with the Clerk of the County Commission. Tags to be furnished by the County Commission shall be of a distinctive and easily-recognized color, and shall have thereon engraved, or stamped, the year of vaccination and the number indicating the record above described. Such tag shall be securely fastened to the collar worn by the dog and shall be given to the owner by the veterinarian, the doctor of medicine, or the person vaccinating the dog at the time of vaccination.

ANNOTATION: This provision follows Chapter 19, Article 20A, Section 4 of the Code of West Virginia.

SECTION 3:

It shall be the duty of the veterinarian, or person vaccinating each animal, to furnish vaccine of a type capable of establishing and maintaining immunity for a period of not less than twenty-four months and shall charge and collect a fee of four dollars for each animal vaccinated, if done at a clinic established by the County Commission or, if vaccinated at any other place, he shall charge and collect a reasonable fee for his services.

ANNOTATION: This provision follows Chapter 19, Article 20A, Section 5, as amended, of the Code of West Virginia.

SECTION 4:

Any person who owns or harbors a dog, whether licensed or unlicensed, which bites any other person shall forthwith confine and quarantine the dog for a period of fourteen days for rabies observation. If such dog is not so confined and quarantined, the Dog Warden or Sheriff may cause such dog to be placed in the custody and care of a licensed veterinarian for such purposes.

ANNOTATION: This provision follows Chapter 19, Article 20, Section 9a of the Code of West Virginia, as amended.

SECTION 5:

Whoever owns, keeps, or harbors a dog or dogs and fails to have such dog or dogs vaccinated or re-vaccinated against rabies, and whoever vaccinates a dog or dogs and fails or refuses to keep and report the required report of such vaccination, or refuses to provide the required tag, or whoever obstructs or interferes in any way with the enforcement of any section of this Ordinance, shall, upon conviction, be fined not less than ten dollars nor more than fifty dollars, or be confined in the County Jail not less than ten days nor more than sixty days, or both.

ANNOTATION: This provision follows Chapter 19, Article 20A, Section 6 of the Code of West Virginia.

AN ORDINANCE REPEALING SECTION 11 OF THE JEFFERSON COUNTY DOG
ORDINANCE AND ENACTING A NEW SECTION 11 OF THE JEFFERSON
COUNTY DOG ORDINANCE RELATING TO DOGS WHICH FREQUENTLY
HOWL, BARK OR EMIT OTHER SOUNDS FOR CONTINUED DURATION BEING
PUBLIC NUISANCES

BE IT THEREFORE ENACTED THAT SECTION 11 OF THE JEFFERSON COUNTY
DOG ORDINANCE IS HEREBY REPEALED AND

BE IT THEREFORE ENACTED THAT THE FOLLOWING BE AND THE SAME IS
HEREBY ENACTED AS NEW SECTION 11 OF THE JEFFERSON COUNTY DOG
ORDINANCE:

SECTION 11

(A) Any dog of any age which frequently howls, barks or
makes other sounds which are loud and which may annoy and disturb
a reasonable person of ordinary sensibilities is declared to be
a public nuisance.

ANNOTATION: The Circuit Court of Jefferson County, West
Virginia upheld the constitutionality of such a civil public
nuisance-noise ordinance (Section 7A-104 (f) Town Code of
Shepherdstown). State of West Virginia ex rel. Robert Forthofer
vs. Audrey S. Egle 85-P-20 (1985).

(B) Any dog of any age which is maintained in a manner which
causes odors offensive to a reasonable person of ordinary
sensibilities is declared to be a public nuisance.

(C) Any person may file a Petition with the County Commission
of Jefferson County, West Virginia alleging the existence of a
public nuisance as setforth above in (A) or (B), or both, and
naming as Respondent the person or persons harboring or possessing

the dog creating the alleged public nuisance, a copy of which Petition together with an Order filing said Petition and setting a date and time of a hearing on the matter shall be served upon the Respondent at least ten days prior to said hearing. A hearing shall be conducted before the County Commission of Jefferson County, West Virginia to determine whether a public nuisance does exist and should be abated. Before a public nuisance can be found to exist, a majority of the County Commissioners present must find by a preponderance of the evidence that such a public nuisance does exist, and then the majority of the County Commissioners present and finding such a public nuisance does exist may order the person or persons harboring or possessing the dog or dogs creating the public nuisance to abate the public nuisance within a specific time. If at the end of the specified time the public nuisance has not been abated the County Commission of Jefferson County may order the County Dog Warden and his deputies to impound the dog or dogs. All hearings shall be recorded on a tape recorder and a transcript there of prepared at the expense of the party requesting the transcript.

(D) All appeals from the orders and decisions of the County Commission of Jefferson County, West Virginia will be upon the record and in accordance with West Virginia Code §58-3-1 et. seq.

Enacted: October 3, 1985

The County Commission of
Jefferson County, West Virginia

BY: 
It's President

AN ORDINANCE REPEALING SECTION 14 OF THE JEFFERSON COUNTY DOG
ORDINANCE AND ENACTING A NEW SECTION 14 OF THE JEFFERSON
COUNTY DOG ORDINANCE EXCEPTING SECTION 11 FROM THE CRIMINAL
PENALTIES SETFORTH THEREIN

BE IT THEREFORE ENACTED THAT SECTION 14 OF THE JEFFERSON COUNTY
DOG ORDINANCE IS HEREBY REPEALED AND

BE IT THEREFORE ENACTED THAT THE FOLLOWING BE AND THE SAME IS
HEREBY ENACTED AS NEW SECTION 14 OF THE JEFFERSON COUNTY DOG
ORDINANCE:

SECTION 14

(A) A person who violates any of the provisions of this
Ordinance, except for Section 11, for which no specific penalty is
prescribed is guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not more than one hundred dollars, or imprisoned
in the County Jail not more than thirty days, or both fined
and imprisoned.

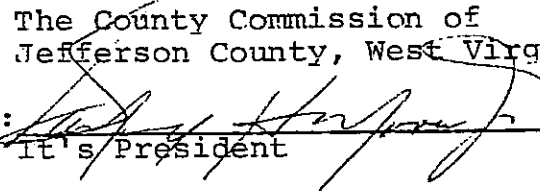
ANNOTATION: This provision follows Chapter 19, Article 20,
Section 19 of the Code of West Virginia, as amended, wherein
Magistrates have concurrent jurisdiction with the Circuit Court to
enforce the penalties herein.

(B) For each additional like offense, except for Section 11,
for which no specific penalty has been prescribed, a person shall
be guilty of a misdemeanor, and upon conviction thereof, shall be
fined not more than two hundred dollars, or imprisoned in the
County Jail not more than thirty days, or both fined and
imprisoned.

ANNOTATION: This provision not appearing in the Code of West Virginia provides for the penalty of each additional offense for which there has been no specific penalty prescribed.

Enacted: October 3, 1985

The County Commission of
Jefferson County, West Virginia

By: 
It's President

AN ORDINANCE AMENDING SECTION 17 OF THE JEFFERSON COUNTY DOG
ORDINANCE AND BY ENACTING A SAVINGS CLAUSE TO PRESERVE
PROSECUTION OF ANY OFFENSES COMMITTED UNDER THE JEFFERSON
COUNTY DOG ORDINANCE WHICH HAVE NOT REACHED FINAL JUDGMENT
AND WHICH MIGHT BE AFFECTED BY THE REPEAL OF PORTION OF THE
JEFFERSON COUNTY DOG ORDINANCE

BE IT THEREFORE ENACTED THAT SECTION 17 OF THE JEFFERSON COUNTY
DOG ORDINANCE IS AMENDED TO READ AS FOLLOWS:

SECTION 17

This ordinance may from time to time be amended by a majority
of the members of the County Commission as they may deem it
necessary and appropriate. The repeal of any section, or part of
any section of the Jefferson County Dog Ordinance, or its
expiration by virtue of any provision contained therein, shall not
affect any offense committed, or penalty or punishment incurred
before the repeal took effect, or the law expired, save only that
the proceedings thereafter had shall conform as far as practicable
to the laws in force at the time such proceedings take place,
unless otherwise specially provided; and that if any penalty or
punishment be mitigated by the new law, such new law may, with
the consent of the party affected thereby, be applied to any
judgment pronounced after it has taken effect.

ANNONTATION: This provides for the amendment of this ordinance to provide for unforeseen circumstances or public desire regarding its enforcement. The savings clause is provided to preserve any criminal prosecution in progress when the ordinance is amended. See West Virginia Code §2-2-8 and State ex rel. Miller v. Bordenkircher, 272 S.E. 2d. 676 (1980).

Enacted: October 3, 1985

The County Commission of
Jefferson County, West Virginia

By: 
It's President

AN ORDINANCE REPEALING SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE AND ENACTING A NEW SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE RELATING TO THE PETITIONING AND ENACTMENT OF A LEASH LAW.

BE IT THEREFORE ENACTED THAT SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE IS HEREBY REPEALED AND

BE IT THEREFORE ENACTED THAT THE FOLLOWING BE AND THE SAME IS HEREBY ENACTED AS NEW SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE:

SECTION 12

- A. A simple majority of the residents and resident owners of the lots in any recognized and platted subdivision of twenty (20) lots or more outside the corporate areas of this County and/or;
- B. A simple majority of the residents and resident owners of any other well defined and complete neighborhood, community, or other unincorporated area acceptable to the Commission and consisting of at least twenty (20) residential housing units; which area shall be so defined and approved by the Commission prior to the start of any canvass for signatures;

may petition the County Commission for the passage or repeal of the following leash law which shall then be applicable to the entire area; provided that the petition shall be filed on the forms prescribed by the County Commission.

Upon receipt of such a petition, the County Commission shall schedule a public hearing for the purpose of receiving testimony and comment from persons owning property or residing within the area to be affected. The Commission shall, within ten (10) days following the close of the hearing, render its decision regarding the enactment or repeal of a leash law. Should the Commission favor the petitioners for enactment, the following leash law shall then be applicable to the entire area.

"Within any residential development in any unincorporated area of the County fulfilling the requirements of the above-said paragraph, no dog shall be permitted to run at large while roaming, running, or self-hunting off the property of its owner or keeper and not under leash control. The Dog Warden shall enforce the provisions of this section. No person who has been notified by the County Dog Warden or any other officer having such jurisdiction in this matter, that his dog is unconfined, unrestricted, or not penned up, shall fail to take corrective action by confining, restricting, or penning up any such dog."

ANNOTATION: This provision not appearing in the Code of West Virginia allows any well defined area with twenty (20) or more residential housing units to petition the County Commission for enactment or repeal of a leash law if a majority of the residents and owners sign the petition.

The County Commission of
Jefferson County
West Virginia

By: 
President

Enacted: April 24, 1986

AN ORDINANCE REPEALING SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE AND ENACTING A NEW SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE RELATING TO THE PETITIONING AND ENACTMENT OF A LEASH LAW.

BE IT THEREFORE ENACTED THAT SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE IS HEREBY REPEALED AND

BE IT THEREFORE ENACTED THAT THE FOLLOWING BE AND THE SAME IS HEREBY ENACTED AS NEW SECTION 12 OF THE JEFFERSON COUNTY DOG ORDINANCE:

SECTION 12

- A. A simple majority of the residents and resident owners of the lots in any recognized and platted subdivision of twenty (20) lots or more outside the corporate areas of this County and/or;
- B. A simple majority of the residents and resident owners of any other well defined and complete neighborhood, community, or other unincorporated area acceptable to the Commission and consisting of at least twenty (20) residential housing units; which area shall be so defined and approved by the Commission prior to the start of any canvass for signatures;

may petition the County Commission for the passage or repeal of the following leash law which shall then be applicable to the entire area; provided that the petition shall be filed on the forms prescribed by the County Commission.

Upon receipt of such a petition, the County Commission shall schedule a public hearing for the purpose of receiving testimony and comment from persons owning property or residing within the area to be affected. The Commission shall, within ten (10) days following the close of the hearing, render its decision regarding the enactment or repeal of a leash law. Should the Commission favor the petitioners for enactment, the following leash law shall then be applicable to the entire area.

"Within any residential development in any unincorporated area of the County fulfilling the requirements of the above-said paragraph, no dog shall be permitted to run at large while roaming, running, or self-hunting off the property of its owner or keeper and not under leash control. The Dog Warden shall enforce the provisions of this section. No person who has been notified by the County Dog Warden or any other officer having such jurisdiction in this matter, that his dog is unconfined, unrestricted, or not penned up, shall fail to take corrective action by confining, restricting, or penning up any such dog."

ANNOTATION: This provision not appearing in the Code of West Virginia allows any well defined area with twenty (20) or more residential housing units to petition the County Commission for enactment or repeal of a leash law if a majority of the residents and owners sign the petition.

The County Commission of
Jefferson County
West Virginia

By: 
President

Enacted: April 24, 1986

In re: AMENDMENT TO LEASH LAW APPROVED .

Motion by Kable, second by Snyder to amend the County's Leash Law by incorporating the following paragraphs into Section 12 of the Jefferson County Dog Ordinance Enacting a Leash Law in addition to Section 12 of said Ordinance as amended May 23, 1991: Motion carried.

A. A simple majority of the adult owners of the improved lots, in any recognized and platted subdivision of twenty (20) lots or more outside the corporate areas of this County; Provided, however, that improved lot shall mean a lot improved by a dwelling house thereon.

B. A simple majority of the adult owners of units within a physical portion of a condominium designated for separate ownership as defined in Chapter 36B-1-101 et. seq. of the Code of West Virginia, Uniform Condominium Act, and consisting of at least twenty (20) residential housing units.

C. A simple majority of the adult tenants of leasehold units within a physical portion of a leasehold condominium as defined in Chapter 36B-1-101 et. seq. of the Code of West Virginia, Uniform Condominium Act, and consisting of at least twenty (20) residential housing units.

D. A simple majority of the adult owners of improved parcels of real estate or any other well defined and complete neighborhood, community, or other unincorporated area. A neighborhood, community or other unincorporated area shall include but not be limited to any election precinct, or any grouping of lots designated on any tax map sheet in any of the five magisterial districts in any unincorporated area, as such tax map sheets are maintained in the Assessor's office, or any other area that shall be so defined and approved by the Commission prior to the start of any canvass for petition signatures; Provided, however, that improved parcel shall mean a parcel improved by a dwelling house thereon.

E. A simple majority of the adult tenants of leasehold units within any recognized platted apartment complex approved as an apartment complex by the Jefferson County Planning Commission as part of the process of subdivision regulation, which complex contains at least twenty (20) apartment units.

F. The Jefferson County Board of Education may designate any parcel upon which a school building or any other public building is utilized for public purposes for coverage by the leash law;

JEFFERSON COUNTY, WV

FILED

August 30, 2007 08:46:53

JENNIFER S. MAGHAN

COUNTY CLERK

TRANSACTION NO: 2007019432

COUNTY ORDINANCE

Book: 1 Page: 00201

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