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**WAYNE COUNTY DOG CONTROL ORDINANCE**

**LEGISLATIVE AUTHORITY**

This Ordinance concerns the management and control of dogs in the County of Wayne, 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 dogs in Wayne 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 their property; to better prevent female dogs from having unwanted litters; to prevent dogs from creating a nuisance to adjacent properties and residents; and to stipulate penalties for violations of this Ordinance.

**SECTION 1. 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, entitled "Dogs and Cats" and Article 20A entitled "Vaccination of Dogs and Cats for Rabies", Chapter 7, Article 10 entitled "Humane Officers" and 61-8-19 through 23, of the Code of the State of West Virginia, as amended, and shall be construed and interpreted in conformity therewith.

**SECTION II. – RESTRAINT OF DOGS BY OWNERS**

- A. All dogs in the unincorporated areas of Wayne County shall be kept under control or restraint, as described herein, by the owner of the dog or other responsible person. Dogs not on property owned or leased by the owner of the dog shall be kept on a suitable leash or lead, or under voice control of the owner or other responsible person. All dogs shall wear a collar with the owner's name and address. The County Animal Control Officers are hereby authorized and empowered to seize dogs not under such voice control or on a leash or lead, if such dogs are not on property owned or leased by the owner, and to hold such dogs at the County Animal Shelter in accordance with the provisions of Chapter 19, Article 20, Section 8, of the Code of West Virginia, as amended.
- B. Any dog under restraint or control as required by paragraph A of this Section II, shall be subject to confiscation, impoundment, and are subject to disposal by County Animal Control Officers in accordance with the provision of Chapter 19, Article 20, Section 6, of the Code of West Virginia, as amended.
- C. Dogs engaged in legal hunting activities, lawful training activities, and lawful herding or other farm related activities shall not be subject to this section of the Ordinance. Provided however such dogs must be vaccinated as provided for under Chapter 19, Article 20A, of the Code of West Virginia, as amended, and such dogs shall wear a collar with the owner's name and address.

BOOK 109  
PAGE 549

**SECTION III. – IMPOUNDMENT OF DOGS AND FEES**

- A. All dogs seized and impounded by any authorized person shall be placed at the designated County Animal Control Shelter, where they shall be housed and fed pursuant to the rules and regulations of the designated County Animal Control Shelter subject to notice and impoundment requirements of W.Va. Code 19-20-6, as amended. Dog owners shall be subject to any and all impoundment fees charged by said designated County Animal Control Shelter.
- B. Dogs not claimed and removed by their owner, or other responsible person within five days after the giving of the aforesaid notice will be disposed of in accordance with the provisions of Chapter 19, Article 20, Section 8, of the Code of West Virginia, as amended.
- C. Designated Animal Control Shelter shall be the Cabell-Wayne Animal Shelter or such other entity agency or compounded designated by the County Commission.
- D. Authorized persons for the purposes of enforcing the provisions of the ordinance shall be any state, county or municipal law enforcement officer.

**SECTION IV. – NUISANCE**

It shall be a violation of this ordinance for any person to permit any dog to create a nuisance by barking or making other noise, destroying property and/or otherwise disturbing the right of any person living adjacent to the area where such dog is kept or occupies, to the quiet enjoyment of their property.

For the purposes of this section adjacent shall not be construed to require that the person complaining of a nuisance live in a lot or parcel contiguous to the lot occupied by said dog but it shall be sufficient that the complainant live within such distance of the lot occupied by said dog that barking or other noise created by said dog is audible from the residence of the complainant.

For conviction under this section of the ordinance it shall not be necessary that the complainant or prosecuting authority prove a decibel level of barking or other noise to establish a nuisance; but it shall be sufficient to convict a person hereunder by establishing by sworn testimony a showing that a dog did bark, create other noise and/or destroy property of the complainant such as to prohibit the complainant from the quiet enjoyment of their residence and property.

#### **SECTION V. – PENALTIES FOR VIOLATION**

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.00 (One Hundred Dollars). Second and subsequent offenses shall also be misdemeanor offenses and any person who so violates any provision of this ordinance for a second and/or subsequent offense may be fined not more than \$250.00 (Two-hundred and Fifty Dollars) and/or incarcerated no more than thirty (30) days.

#### **SECTION VI. – JURISDICTION**

Magistrate Courts and Circuit Courts shall have concurrent jurisdiction with the respect to misdemeanors under this Ordinance.

#### **SECTION VII. – DEFINITIONS**

The following definitions shall apply to this Ordinance and shall be used in the interpretation and enforcement:

- A. **Owner** – Any person having a right of property in any dog, subject to 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.

BOOK 109  
PAGE 551

- B. Control or Restraint** – Dogs shall be considered to be under control or restraint as required by the provisions of this Ordinance if they are secured by suitable leash or lead or other appropriate means, or if they remain on property owned or leased by the owner of such dog, or on property owned by persons other than the owner of such dog who has given permission to the owner of such dog to allow the dog to be unleashed on said property, or if they are under voice control of an owner or other responsible person.
- C. Legal Hunting Activities** – In order for a dog to be engaged in a legal hunting activity, all of the following must be shown:
- 1) the property of which the hunting occurs must not be posted to prohibit hunting, or the hunter must have written permission of the landowner,
  - 2) the owner of the dog or other responsible person must have a valid hunting license, and
  - 3) all such hunting shall be lawful and in season,
  - 4) the activity shall not constitute a nuisance as otherwise defined herein.
- D. Lawful Training Activities** – Dogs shall be considered to be lawful trained while participating in such activities reasonable, necessary, and normally incident to the training or teaching the dog to perform specific tasks or respond to voice or other commands or directions, which are conducted and supervised by the owner, trainer or handler of such dog.
- E. Voice Control** – In order to be under voice control, the owner of the dog or other responsible person must be able to demonstrate that the dog readily and consistently responds to verbal commands given by the owner of the dog or other responsible person. If no owner or supervisor is in the immediate vicinity of the dog, the dog is not under voice control in accordance with this Ordinance.

**SECTION VIII. – AMENDMENT OF ORDINANCE**

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

**SECTION IX. – INTERRELATIONSHIP BETWEEN ORDINANCE AND STATE CODE**

All other provisions of State law as set forth in West Virginia Code Chapter 19-20-1 et seq. in regard to dogs are hereby adopted as if fully set forth, herein.

**SECTION X. – SEVERABILITY**

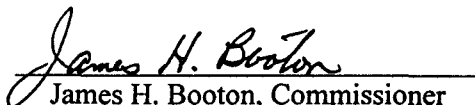
If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance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

**SECTION XI. – ENACTMENT**


**ORDAINED THIS 15<sup>TH</sup> DAY OF MAY, 2006 AND SHALL BECOME EFFECTIVE AS OF THIS DATE.**



Charles E. Sammons, President  
Wayne County Commission



James H. Booton, Commissioner



Rick Wellman, Commissioner

BOOK 109  
PAGE 553