

## ORDINANCE #29

### RELATING TO THE RUNNING OF DOGS (AND CATS) AT LARGE IN THE VILLAGE.

#### 29.1 UNLEASHED DOGS AND CATS

Be it ordained by the council of the Village of Beech Bottom that it shall be unlawful for any person to allow, suffer or permit any dog or cat owned, harbored, or kept in their possession or about their premises within the Village, whether licensed or unlicensed, tagged or untagged, muzzled or unmuzzled, collared or uncollared, to run at large of their premises at any time or to trespass upon any enclosed or unenclosed lands or lots of ground of another person or entity at any time: provided that nothing contained herein shall be construed to prohibit any person to lead, walk, or exercise their dog or cat when properly licensed and tagged upon public property of the Village.

Any member of the police department, or the dog warden, or any appropriate officer designated by the Village Council, may seize any dog or cat unaccompanied by its owner or keeper and running at large on any street or public way of the Village, or trespassing on any premises other than the premises of the owner or keeper and cause said dog or cat to be impounded in the county pound.

Not later than five (5) days after the impounding of any dog or cat, the owner shall be notified if the animal has an identification tag indicating a method to contact the owner or keeper.

#### 29.2 BARKING OR HOWLING DOGS

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

#### 29.3 NUISANCES BY ANIMALS

No owner, keeper or walker of any dog or cat shall permit his or her dog or cat to discharge such animal's excreta upon any public or private property other than the property of the owner of the dog or cat, within the City unless such owner, keeper or walker immediately thereafter removes and cleans up such animals excreta from the public or private property

Fines will be levied based upon the severity of the offense. Minimum fine \$25, maximum fine \$200.

#### 29.4 CRUELTY TO ANIMALS

(a) No person shall cruelly mistreat, abandon or withhold proper sustenance, including food, water, shelter or medical treatment necessary to sustain normal health and fitness or to end suffering or

abandon any animal to die, or use, train or possess any domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

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

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

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

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

(WVaC 61-8-19)

## 29.5 Tethering of Animals

29.5.1 Triggering Environmental Conditions for section 29.5.2: This ordinance shall be in effect ordinance when the outside temperature within the Village is below 15 degrees Fahrenheit or above 85 degrees Fahrenheit. The method of temperature measurement shall be at the discretion of the animal control officer or law enforcement officer investigating.

29.5.2 It shall be a violation of this ordinance should in the opinion of the animal control or law enforcement officer that an owner or caretaker is tethering or penning an animal outside subjected to the conditions listed below and at least one of the environmental conditions outlined in section 29.5.2 is met:

29.5.2(a) If the animal does not have access to shade to escape the heat of the sun

29.5.2(b) The animal does not have access to an adequately warm shelter during cold weather for a period not to exceed 15 minutes.

29.5.3 It shall be a violation of this ordinance should at ANY time, in the opinion of the animal control or law enforcement officer an owner or caretaker tethers or pens an animal outside in any of the following circumstances:

29.5.3(a) There is excessive excrement in the area where the animal is tethered.

29.5.3(b) There are open wounds on the animal's body.

29.5.4(c) Pertaining to dogs and cats that there is less than one hundred thirteen square feet (113 sq. ft.) or of less than a six foot (6 ft.) radius at ground level.

29.5.4(d). The animal does not have access to potable water.

#### 29.5.4 PENALTY

Whoever violates any section of 29.5 ordinance shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than thirty (30) days or both.

No person who has been convicted of a violation of this section a second time shall be fined no less than two hundred fifty dollars (\$250.00).

Notwithstanding any provision of this ordinance to the contrary, no person convicted of a violation of this section, may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed such evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

For any person convicted of a violation of this section, the court may, in addition to any penalties provided for, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of the program.

In addition to any other penalty which can be imposed for a violation of this ordinance, a court shall prohibit any person so convicted of violating this ordinance a second or subsequent time from possessing, owning, or residing with any animal for a period of five years following entry of a conviction.

Amended 1<sup>st</sup> reading: March 1, 2022

Amended 2<sup>nd</sup> reading: May 3, 2022

Amended 3<sup>rd</sup> reading: waived

In effect upon passage 05-03-2022