

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 20th day of August, 2009, the following Order was made and entered:

SUBJECT: Order to approve and adopt proposed Kanawha County Animal Cruelty and Dog Tethering Ordinance. This ordinance prohibits the tethering of dogs in most circumstances. A limited period of tethering is allowed provided that certain conditions are met.

The following Motion was offered by W. Kent Carper, Commissioner.

WHEREAS, W.Va. Code §7-1-14 states that any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment; and,

WHEREAS, §7-1-14(d) states that any such ordinance, rule or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule or regulation; and,

WHEREAS, § 61-8-19 states that it is unlawful for any person to intentionally, knowingly or recklessly, mistreat an animal in cruel manner; ... (or) cruelly chain or tether an animal; and,

WHEREAS, four public hearing were held on this issue with the overwhelming majority of the public opinion in support of a tethering regulation; and,

WHEREAS, the tethering of dogs is cruel and inhumane and has become a pervasive problem in the unincorporated areas of Kanawha County; and,

WHEREAS, this ordinance has the full support of the Kanawha Charleston Humane Society; and,

WHEREAS, this ordinance was unanimously recommended for adoption by the Kanawha County Planning Commission at a August 12th, 2009 Planning Commission meeting; and,

WHEREAS, numerous studies have shown that tethered dogs become more prone to vicious and aggressive behavior; and,

WHEREAS, this ordinance will only apply to the unincorporated areas of Kanawha County; and,

The County Commission of Kanawha County, West Virginia hereby approves and adopts the attached Kanawha County Animal Cruelty and Canine Tethering Ordinance.

The adoption of the Kanawha County Animal Cruelty and Canine Tethering Ordinance having been moved by:

W. Kent Carper, Commissioner, and duly seconded by:

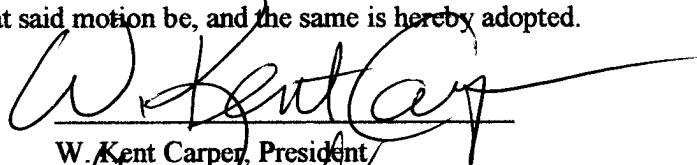
Dave Hardy, Commissioner, the vote thereon was as follows:

W. Kent Carper, President Aye

Henry C. Shores, Commissioner Aye

Dave Hardy, Commissioner Aye

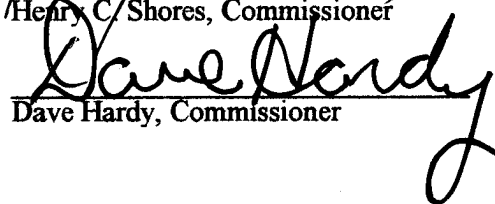
WHEREUPON, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said motion be, and the same is hereby adopted.



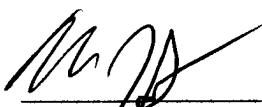
W. Kent Carper, President



Henry C. Shores, Commissioner



Dave Hardy, Commissioner

Approved by: 
Marc J. Slotnick, County Attorney

KANAWHA COUNTY ANIMAL CRUELTY & CANINE TETHERING ORDINANCE

Authority: Authority to regulate and manage dogs and cats W. Va. Code §19-20-6; Authority to prevent cruelty to animals, impose penalties for violations §7-1-14; cruelty to animals, fines for animal cruelty § 61-8-19.

Purpose: To provide for the custody, care, and protection of animals that have been abandoned, neglected or cruelly treated and to prevent said animals from becoming a public nuisance or risk to public health or safety or the environment. This ordinance prohibits the tethering of dogs in most circumstances. A limited period of tethering is allowed provided that certain conditions are met.

Section 1. Cruelty to Animals.

(a) No person shall cruelly mistreat, abandon or withhold proper sustenance, including food, water, shelter that protects from the elements, exercise or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandon any domesticated animal to die, or intentionally, knowingly or recklessly leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result, or ride an animal when it is physically unfit, or bait or harass any animal for the purpose of making it perform for a person's amusement, or cruelly chain, tether or confine outside any animal or use, train or possess any domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(b) **Exceptions.** Nothing in subsection (a) of this section shall be deemed to prohibit.

- 1) Any action by licensed veterinarian done in accordance with accepted standards of veterinary care
- 2) Any action taken by a law enforcement officer pursuant to the interests of public health and safety
- 3) Any act done in self-defense or done to defend another person or animal

Section 2. Restraint of Dogs

(a) **Tethering:** It shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confinement, except in circumstances where all of the following requirements are met:

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- 1) The tethering shall be no longer than necessary for the dog's guardian or owner to complete a temporary task that requires the dog to be physically restrained for a reasonable period of time.
 - 2) The dog is visible to the responsible party at all times and the responsible party is outside with the dog.
 - 3) The dog must be properly fitted with and wearing a non-choke harness or collar made of leather, nylon, or similar material.
 - 4) The tether must be attached to the dog's harness or collar and not directly to the dog's neck.
 - 5) The tether must be at least 10 feet long, free from tangles and weigh no more than 1/8 of the dog's weight.
 - 6) The dog is tethered so as to prevent injury, strangulation, or entanglement.
 - 7) The dog is not tethered outside during extreme weather, including, but not limited to, extreme heat or near-freezing temperatures, thunderstorms, tornadoes, or floods.
 - 8) The dog must be at least 15 feet from the edge of any public road or sidewalk.
 - 9) The dog is six (6) months of age or older.
 - 10) The dog is not sick or injured.
- (b) If using a pulley, running line or trolley system, all the conditions of subsection (a) of this section must be met, and:
- (1) it must be at least fifteen (15) feet in length and at least four feet and no more than seven (7) feet above ground.
 - (2) If there are multiple dogs, each dog is tethered separately.
 - (3) The dog(s) must be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury or strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.

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(c) Exceptions. Nothing in subsection (a) or (b) will be deemed to apply to temporary restraint:

- 1) during any lawful training activities, veterinary treatment, grooming, or law enforcement training
- 2) when the animal is being held, walked, or exercised on a hand-held leash

Section 3. Outdoor Dog Pens

a) Outdoor Pens

- 1) There shall be at least 100 square feet in such pen for each dog over six months of age kept in the pen.
- 2) The dog(s) must have access to clean, potable water and shelter at all times.
- 3) The dog(s) shall not be penned outside during extreme weather, including, but not limited to, extreme heat defined as 85 degrees and above or near-freezing temperatures defined at 40 degrees and below, severe thunderstorms, tornadoes, or floods.
- 4) The dog must be provided with shade or protection from the sun or elements by either natural or man-made means.
- 5) An owner must promptly remove and dispose of animal excrement and food wastes and debris so as to minimize vermin infestation, contamination, odors, and disease hazards.

b) Exceptions: The humane officer may use discretion in granting a waiver to the square foot requirements in the above section if the officer determines the pen provides appropriate space for the size of the dog(s). Criteria the officer may consider when determining whether to grant a waiver can include, but are not limited to: size of the dog(s), breed of dog(s), whether the dogs are being housed for legal hunting or training purposes, and size of the property the pen is located on. For example, small pens may provide appropriate space for smaller breeds of dogs.

Section 4. Shelter

All domestic animals shall be provided with sanitary shelter from the elements. Said shelter shall be designed, constructed and maintained to protect the animal from rain, snow, ice, excessive cold, excessive heat and excessive direct sunlight, and of a size to allow the animal sufficient space to stand, turn around, and lie down, and make all other normal body movements in a normal and comfortable position appropriate to the age, size, and health of the animal. Dogs shall not be left outside without adequate shelter during extreme weather as defined by this ordinance.

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Examples of inadequate shelters include, but are not limited to, lean-tos, metal or plastic drums, boxes, vehicles, or the area on or beneath exposed porches or decks.

Section 5. Jurisdiction

The Magistrate Court of Kanawha County and the Circuit Court of Kanawha County shall have concurrent jurisdiction with respect to misdemeanors under this ordinance.

Section 6. Enforcement; Penalties for Violation of §§ 1, 2, 3, 4.

(a) Enforcement

- 1) First offense: Any humane officer or law enforcement officer who determines an animal is being kept in violation of any section of this ordinance shall issue a warning to the owner or guardian of the animal or property owner on which the violation is present. The owner or guardian will be given a reasonable amount of time to correct the violation, not to exceed 72 hours.
- 2) Second Offense: If, after receiving a warning, the animal continues to show evidence of cruelty or inhumane treatment as set forth in this ordinance, the owner or guardian of the animal shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars.
- 3) Additional Offense(s): For each subsequent offense, the owner shall be punishable by a fine of not less than three hundred nor more than two thousand dollars. In addition, any humane officer or law enforcement officer may, on or after the third offense, take into custody, upon either private or public property, an animal which clearly shows evidence of cruel or inhumane treatment as set forth in this ordinance.

- (b)** In addition to the fines and penalties imposed by this section, any defendant convicted of a violation under this ordinance shall pay the Kanawha Charleston Humane Society or other animal care provider a penalty for all reasonable expenses incurred for the care, treatment, and boarding of any animal taken into custody pursuant to subsection **(a)(3)** of this section.

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Section 7. Effective Date, Six month moratorium

This ordinance will not take effect until 6 months (180 days) after the date it is adopted by the Kanawha County Commission. The purpose of this moratorium is to allow time for a public education campaign to raise awareness of this issue.