

# **MORGAN COUNTY DOG LEASH ORDINANCE**

## **LEGISLATIVE AUTHORITY**

This Ordinance concerns the management and control of dogs in the County of Morgan, 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 Morgan 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; and to stipulate penalties for violations of this Ordinance.

## **SECTION I. 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", Chapter 19, 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 Morgan 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 be under voice control of the owner or other responsible person. 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 West Virginia Code, as amended.

B. Any dog not 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 provisions of Chapter 19, Article 20, Section 6, of the West Virginia Code, 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 28, of the West Virginia Code, as amended.

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

A. All dogs seized and impounded by the Dog Warden or his Deputy shall be placed at the County Animal Shelter, where they shall be housed and fed 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 of West Virginia, as amended. The fees for such impoundment shall be provided hereinbelow:

B. The owner of all such impounded dogs, as defined herein, shall be responsible for the payment of impoundment fees as follows:

Seizing dog and delivery to pound	\$ 25.00
Serving or posting notice to owner	\$ 5.00
Housing and feeding dog	\$ 10.00 per day

C. All persons paying pound fees to the Animal Control Officers shall be given a receipt for the total sum collected. Such receipt shall be signed and dated by the Animal Control Officer collecting the pound fees.

D. Dogs not claimed and removed by their owner, or other responsible person within five days after the giving of the aforesaid notice shall be disposed of in accordance with the provisions of Chapter 19, Article 20, Section 8, of the West Virginia Code, as amended.

### **SECTION IV. 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), provided however, any person cited or notified of a violation may appear at the office of the Morgan County Administrator in the Morgan County Courthouse within ten (10) days of such notice and citation, and upon payment of a fine of twenty-five dollars (\$25) shall be discharged from further prosecution or

obligation for penalty for such violation, provided further however, any person who has been convicted for a violation of this Ordinance or who has paid a fine for a violation of this Ordinance as hereinabove provided, shall not be eligible for payment of the Office of the County Administrator, as provided herein, for a period of two years from the date of such prior conviction or payment, and shall be subject to prosecution on the aforesaid misdemeanor charge in the appropriate court.

## **SECTION V. JURISDICTION**

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

## **SECTION VI. DEFINITIONS**

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

A. 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.

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 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 have 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) hunting activity must be 500 feet from any dwelling,
- 2) the property on which the hunting occurs must not be posted to prohibit hunting,
- 3) the owner of the dog or other responsible person must have a valid hunting license, and
- 4) all such hunting shall be lawful and in season.

D. Lawful Training Activities - Dogs shall be considered to be lawful trained while

participating in such activities reasonably, necessary, and normally incident to 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 VII. AMENDMENT OF ORDINANCE**

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

## **SECTION VIII. INTERRELATIONSHIP BETWEEN ORDINANCE AND STATE CODE**

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

## **SECTION IX. CONTROL OF DANGEROUS AND VICIOUS DOGS**

### **(a) Vicious/Dangerous Dogs**

Pursuant to the provisions of West Virginia Code § 7-1-3kk, the Commission finds and declares that vicious and/or dangerous dogs are a public nuisance. The Commission further adopts this Ordinance pursuant to the authority of West Virginia Code §19-20-6 et seq.

### **(b) Definitions**

1. A dangerous or vicious dog shall be defined to mean:

a. A dog that:

1. Without provocation has killed or inflicted injury on a person; or
2. Killed or inflicted severe injury upon a domestic animal, horse or livestock, when not on the offending dog owner's real property; or
3. Approached a person when not on the offending dog owner's property in a vicious or terrorizing manner, in an apparent attitude

of attack, as determined by the Chief Animal Control Officer or his or her designee, upon the sworn affidavit of any person.

4. The fact that the dog is not in the habit of biting or has not bitten any person(s) shall not be the sole factor in determining whether the dog is vicious or dangerous.

b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

2. Owner shall mean any person or legal entity that has a possessory property right in a dog.

3. Owners' real property shall mean any real property owned or leased by the owner or owners of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, townhouse or subdivision development.

4. Severe injury shall mean any physical injury that results in broken bones or disfiguring lacerations or which required surgery or hospitalization.

5. Injury shall mean any breaking of the skin, which results in bleeding, caused by bite.

(c) **Officers' Responsibilities**

The Supervising Animal Control Officer (SACO) of Morgan County or his or her designee, is hereby designated as the person responsible for initially determining when a dog is a dangerous or vicious dog. Such Animal Control Officer may not be able to make such determination early in his/her investigation. The Officer shall seize an offending dog before making that determination, if it appears that the dog is dangerous or vicious as defined in subsection (b) of this Ordinance. The dog may be kept for a period of up to ten (10) days for evaluation by the SACO and to determine if the dog is rabid, vicious or dangerous. The Officer may use his/her full discretion in making a determination before his or her decision is communicated to the dog owner. The Officer or his or her designee may, after appropriate observation at the Animal Control Facilities, determine that the dog is not vicious/dangerous but, rather, that the act of the dog was an anomaly and not the act of a vicious/dangerous animal. Such determination shall not be open to dispute through this Ordinance.

Any determination that a dog is vicious or dangerous shall be communicated by the Supervising Animal Control Officer, his or her designee, to the dog owner in writing within ten (10) days of said determination, giving the reasons for such determination.

(d) **Disposition of Dog Following Final Determination**

Any dog finally determined to be vicious or dangerous, in accord with the procedure established in W. Va. Code §19-20-20 and ordered to be destroyed by a court of competent authority, shall be disposed of by the Animal Control Office. (Vicious or dangerous dogs may not be made available to the public through adoption.)

**(e) Exceptions**

No police dog, which was engaged in the performance of its duties at the time of the acts complained of, shall be found to be a dangerous or vicious dog. No dog shall be found to be a dangerous or vicious dog solely because of its breed, nor is a particular breed of dog precluded from being determined to be vicious/dangerous. No dog shall be found to be a dangerous or vicious dog if the bite, attack or injury was sustained by a person who was (i) committing at the time a crime upon the premises occupied by the dog's owner; (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the dog's owner; or (iii) provoking, tormenting, or physically abusing the dog.

If, in the discretion of the Supervising Animal Control Officer, or his or her designee, a dog cannot safely be captured and detained, and the same has been determined by the Animal Control Officer to be vicious or dangerous, either definitionally or following full investigatory observation, the Animal Control Officer is authorized to take immediate and, if necessary, lethal action, against such dog notwithstanding the fact that no written notice has been communicated to the owner of the dog and that no hearing into said determination has been requested or held.

**(f) Costs of Disposition in Vicious/Dangerous Designation Cases**

When dogs are finally determined to be vicious or dangerous and, therefore, a nuisance, all costs of disposition, including legal fees, housing of the dog during the legal proceedings, termination of the dog's life and administrative costs expended by the County shall be reimbursed by the dog's owner.

Additionally, the owner of any dog finally found to be vicious shall pay any and all medical and/or veterinary costs, including costs for disposition of the bodies of pets which have died or been put down as a result of attack by such vicious or dangerous dog.

**(g) Penalties**

The Supervising Animal Control Officer, or his or her designee, shall cite the owner of any dog determined to be vicious or dangerous. The offense shall constitute a misdemeanor and the dog owner shall be fined a maximum of \$100.00 for the first offense; for subsequent

offenses such fine shall be a minimum of \$300.00 with a maximum fine up to \$1,000.00 or 30 days in jail, or both (W. Va. Code §19-20-19).

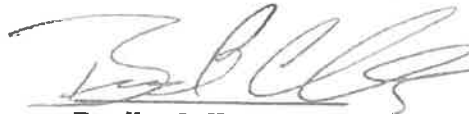
**SECTION X. SEVERABILITY**

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.

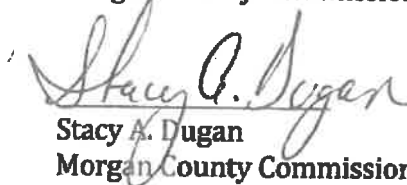
**SECTION XI. ENACTMENT**

ORDAINED THIS 22nd DAY OF FEBRUARY, 1996 AND SHALL BECOME EFFECTIVE MAY 1, 1996; AND AMENDED ON THE 17 DAY OF April, 2014.

**THE MORGAN COUNTY COMMISSION**



**Bradley J. Close, President  
Morgan County Commission**



**Stacy A. Dugan  
Morgan County Commission**

Absent

**Robert L. Ford  
Morgan County Commission**

