



## **AN ORDINANCE TO AMEND PART II, CODE OF ORDINANCES OF THE CITY OF BLUEFIELD, CHAPTER 4 ANIMALS**

**WHEREAS**, the Code of Ordinances of the City of Bluefield provides for certain misdemeanor offenses which may be prosecuted in the City's Municipal Court;

**WHEREAS**, pursuant to the provisions of Section 8-12-5(26) of the West Virginia Code, the City of Bluefield has plenary power and authority to regulate or prohibit the keeping of animals or fowls and to provide for the impounding, sale or destruction of animals or fowl kept contrary to law or found running at large;

**WHEREAS**, the Board of Directors of the City of Bluefield, upon recommendation of the City Manager, finds that Chapter 4 of the Code of Ordinances requires the amendments and adoptions as indicated herein; and

**WHEREAS**, the duly elected governing authority of the City of Bluefield is the Board of Directors thereof.

**NOW, THEREFORE, IT IS HEREBY ORDAINED** that the Code of Ordinances of the City of Bluefield is hereby revised, as follows:

### **Sec. 4-1. - Penalty.**

- a) Any animal seized by the animal control officer under sections 4-4, 4-49, 4-51, 4-52, 4-53, 4-54, 4-55(b), 4-58, 4-64, 4-65 shall be impounded in the county animal shelter until the charges for violation of such sections have been tried in municipal court with the owner being responsible for the cost of such impoundment before the animal will be released if acquitted, or as part of the penalty, if convicted.
- b) Any person convicted of violating any such sections shall be subject to a fine of up to \$1,000.00
- c) For any person convicted of a second or subsequent offense of violating any such sections shall be subject to a fine of up to \$1,000.00 and imprisonment of up to 30 days for each such violation.

#### **Sec. 4-4. Cruelty to animals.**

1. No person shall overdrive, overload, torture, torment, deprive of necessary sustenance; unnecessarily or cruelly beat; needlessly mutilate or kill any animal or fowl; impound or confine any animal in any place, and fail to supply the same during such confinement with a sufficient quantity of good wholesome food and water; carry in or upon any animal in a cruel or inhumane manner; keep cows or other animals in any enclosure without wholesome exercise and change of air; or abandon to die any maimed, sick, infirm or diseased animal. This section shall not be construed to address conduct deemed a felony under state law.
2. It is unlawful for any person to intentionally, knowingly, or recklessly:
  - a. Mistreat an animal in a cruel manner;
  - b. Abandon an animal in any place within the corporate city limits;
  - c. Withhold medical treatment, including but not limited to, suspected mange, canine parvovirus, weight loss causing a dog to become emaciated, or end the suffering of any animal;
  - d. Fail to provide adequate shelter as described in Section 4-55(b) that protects from the elements of the weather during states of emergency, severe weather warnings, when temperatures rise above 85 degrees Fahrenheit or drop below 32 degrees Fahrenheit;
  - e. Cruelly chain or tether an animal;
  - f. Leave an animal unattended and confined in a motor vehicle for a period lasting longer than 10 minutes when temperatures are between 32 and 85 degrees Fahrenheit or lasting longer than 5 minutes when temperatures are below 32 degrees Fahrenheit or above 85 degrees Fahrenheit.

#### **Sec. 4-7. Permit to keep animals and fowl.**

(b) No household shall keep within the city more than three adult dogs, three puppies, three adult cats except for litters of kittens and puppies born from approved breeding permits.

#### **Sec. 4-39. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control officer* means the person designated for the purpose of enforcing the provisions of this article.

*Animal shelter* means the Mercer County Animal Shelter.

*At large* means any dog which is off or away from the premises of its owner or keeper thereof, unless such dog is:

- (1) Restrained by means of a leash or chain not over six feet in length; or
- (2) Is under such effective direction, supervision or command of a competent person as to be in fact restrained.

*Dangerous animal* means and includes the following:

- (1) Any mammal, amphibian, fish, reptile or fowl which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and snakes which are venomous or otherwise present a risk of serious makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas,

Indian pythons, reticulated pythons, African rock pythons. Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length.

- (2) Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation. For the purposes of this chapter, where the official records of the animal control officer or city clerk indicate a dog or cat has bitten any person or animal on two or more separate occasions, it shall be prima facie evidence that said dog or cat is a dangerous animal.
- (3) Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as a wolf-hybrids or wolf-mixed breeds or the breed known as Tundra Shepherd.

*Dog* means a dog of either sex at least six months old.

*Puppy* means a dog of either sex under six months old.

*Harboring* means any person sheltering and feeding a dog or cat for 15 days or more.

*Kennel* means the commercial business of breeding, buying, selling or boarding dogs.

*Owner* means any person owning, keeping or harboring a dog or cat.

*Restraint* means any dog at "heel" or on a leash beside a competent person or within a vehicle.

*Emaciated* means any animal showing individual ribs, spine, and pelvis.

#### **Sec. 4-50. Observation period for dog biting a person.**

A person owning or harboring a dog in the city, whether tagged or untagged, which shall bite any person, shall forthwith place such dog at his own expense in the custody and care of the county animal shelter or a licensed veterinarian for a period of ten days for observation. During times in which the county animal shelter is full or under a status of "code red," the owner of an animal which has bitten any person may be permitted to quarantine the animal in the confines of his/her home if the dog is vaccinated against rabies for the ten-day observation period. Said person shall not allow the animal to be outside except for while under the control of the owner. The animal control officer can also order that a muzzle be present when the dog appears outside including the owner's property.

#### **Sec. 4-53. Confinement of female animals in heat.**

The owner of any female animal in heat shall keep such animal confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another dog, except for animals breeding with a permit.

#### **Sec. 4-54. Animal nuisances.**

No person shall own, keep or harbor any animal which:

- (1) Bites or attacks any person or passing vehicles;
- (2) Attacks other animals while off their owner's property; or while on their owner's property in a vicious manner
- (3) Trespasses on school grounds causing a disturbance;
- (4) Damages private or public property, or overturns or disperses garbage set out for collection.

#### **Sec. 4-55. Dogs running at large prohibited.**

- (a) No person shall allow any dog or puppy owned by him or in his custody to run at large within the city. The term "running at large" means allowing a dog to leave the property limits of property owned, leased

or occupied by its owner without restraint. The term "restraint" means being secured by a leash or lead, or being under the control of a responsible person and obedient to that person's command.

- b) No person within the city limits shall restrain to any structure or any vehicle, fence, tree, or other object; confine to a pen, run, or cage; or leave in a vehicle any dog or puppy without adequate protection from direct sunlight or exposure to the weather or without adequate fresh water at all times. No person shall allow any dog or puppy owned by himself or in his custody and care to be without adequate shelter. Adequate shelter shall be defined as a four-sided structure with a roof and an opening large enough to permit the animal easy access to the inside of the structure. The opening shall be covered by a wind flap or alternative cover approved by an animal control officer, and the structure must be two inches off the ground to protect the animal from the weather. Fresh straw, hay, or wood chips must be present on the bed/floor of the structure.
- (c) No person walking a dog or puppy shall allow the dog to defecate upon the land of another.
- (d) It shall be the duty of the animal control officer to cause to be seized and impounded any dog or puppy in violation of subsection (a) of this section. In addition to paying the fees of redemption as set out in section 4-46, any owner or custodian of such dog shall be fined up to \$250.00 for such violation. Any person violating subsection (c) of this section shall likewise be fined up to \$250.00 for such violation. Persons violating subsection (b) of this section and repeated violators of subsections (a) and (c) of this section shall be guilty of a misdemeanor and punished as provided in Section 4-1.
- (e) This section shall become effective August 1, 1981.

#### **Sec. 4-57. Bond for violation of section 4-55.**

Any person seeking to redeem from the county animal shelter or from the person or agency to whom this duty has been delegated, any dog from seizure and impoundment as a result of a violation of section 4-55(a), must first, in addition to the fees imposed under section 4-46, receive a written warning or citation for his/her offense before such dog shall be released. A photocopy of the owner's driver license taken at the county animal shelter and a mailed copy of the warning or citation shall be sufficient if the animal control officer is unable to cite the owner in person within a reasonable amount of time.

#### **Sec. 4-60. Violation.**

- a) Any person cited with violation of section 4-59 shall have his citation dismissed if there is proof of compliance with the terms of this article within 30 days of the date of issuance or the nearest closest appointment given by his/her veterinarian if a summons for violation of this article.
- b) Any person cited with violations of section 4-41 shall have his citation dismissed if there is proof of compliance with the terms of this article within 30 days of the date of issuance or the nearest closest appointment given by his/her veterinarian if a summons for violation of this article.

#### **Sec. 4-62. Breeding permit.**

- a) No person shall cause or allow any dog or cat owned, harbored or kept within the city to breed without first obtaining a breeding permit, as described below. The term "breeding permit" means a written authorization, issued annually by the city clerk, giving its lawful holder permission to breed a dog or cat.
- b) Each breeding permit shall be valid for one year from the date of issuance, and must be renewed annually before its expiration date. Each applicant for such a permit shall pay an annual fee of \$30.00 per dog or cat. A separate permit must be obtained for each owned dog or cat which is allowed to breed.
- c) The humane officer shall enforce the animal breeding permit program to allow the breeding of dogs and cats that are not sterilized consistent with criteria herein. Under no circumstances shall such a

permit be issued to a person who has been convicted of any state or city charge of animal cruelty or multiple violations of Bluefield City Animal Code within the last two years. All breeding permits shall contain the following terms and conditions: The owner of a female dog or cat that is not sterilized shall not allow the breeding of more than one litter per animal in any household within the permit year. Notwithstanding this provision, the city clerk is hereby authorized, up application of a permittee allow on a one-time basis the breeding of up to two dog or cat litters per breeding animal within any domestic household within a permit year. In the event, that a permittee is forced to euthanize a litter of dogs or cats for medical reasons the animal control officer may authorize the breeding of one additional litter of dogs or cats within the same permit year by the permittee without penalty.

- d) The breeding of dogs or cats within city limits will require the resident to obtain city and state business registrations.
- e) The owner must allow for one scheduled inspection of the area in which breeding animals are kept during the one-year period. Upon two unsuccessful attempts to contact the owner to schedule an inspection, a written and signed notice shall be left on the front door of the address where the animals are kept. Failure to schedule an inspection within one week of the written notice's being left shall be a violation of the breeding permit. At any point during the duration of the breeding permit, the applicant must allow for inspection of the area in which breeding animals are kept upon any officers receiving a signed complaint. The animal control officer or other officer must give notice to the owner. Signed notice left on the front door of the address where the animals are kept shall serve as sufficient notice if the officer is unable to make in-person contact. Failure to schedule an inspection within three business days will result in a violation of the breeding permit and will be immediate grounds for termination of breeding permit(s).
- f) Any additional animal acquired for the purpose of breeding after approval of any other breeding permit(s) or animal born from an approved breeding permit, that reaches the age of 6 months and that the owner plans to keep and breed, must obtain a new breeding permit before acquiring the animal or before the puppy/kitten reaches seven months. Failure to do so shall be considered a violation of the breeding permit(s).
- g) Any person who is found to be breeding, or in possession of unaltered animals for the purpose of breeding, shall be issued a citation for violations of Section 4-59. The person will be given the right to still apply for a breeding permit(s), and, if granted such permit(s), shall have the citation dismissed.
- h) It shall be the duty of the breeder to inform the animal control officer of the birth of any litter of animals within the first month of birth. General information must be given as well, including the color and amount of male and female animals born.

#### **Sec. 4-63. Penalty for violation of breeding permit provisions.**

- (a) The penalty for a conviction of violation of section 4-62 shall be a fine of \$150.00 for each violation. This penalty shall not be waived by the transfer or abandonment of the animal by the noncompliant owner.
- (b) The city clerk and animal control officer may, together, revoke any permit issued pursuant to this section upon a finding that the permit holder has violated its terms and conditions. Such a finding shall be made only after giving the owner of the animal in question notice of the violations and an opportunity to explain such violations to the city clerk and animal control officer.

#### **Sec. 4-64. Forfeiture of animal.**

- (a) Any person convicted of violating sections 4-4 or 4-52 shall forfeit the right to keep and maintain any animal within the corporate limits of the city. The animal control officer for the city shall then

be entitled to pick up and remove from the possession of any such person, any animal owned by them at any future date.

- (b) Any person convicted of violating sections 4-49, 4-54, or 4-58 shall forfeit the right to keep and maintain said animal within the corporate limits of the city. The animal control officer for the city shall then be entitled to pick up and remove from the possession of any such person, said animal owned by them, at any future date.
- (c) In the event any person is convicted of two or more separate violations within a 12-month period of these regulations with regard to keeping and maintaining animals, then such person shall forfeit the right to keep and maintain any animal within the corporate limits of the city. The animal control officer for the city shall then be entitled to pick up and remove from the possession of any such person, any animal owned by them at any future date.

#### **Sec 4-65 Tethering of Animals**

- a) No person within the city limits shall restrain any animal to any structure or any vehicle, fence, tree, or other object when temperatures fall below 32 degrees Fahrenheit or rise above 85 degrees Fahrenheit.
  - 1. An exception is provided if an animal control officer or police officer inspects an animal's individual circumstances and deems that they are well-suited and well-equipped to tolerate the environment.
- b) No person within the city limits shall restrain a dog to any structure or to any vehicle, fence, tree, or any other object during a heat advisory or severe weather warnings, including severe thunderstorm warnings, flood warnings, winter storm warnings, and tornado warnings.
- c) A restraint must be 15 feet in length or 4 times the length of the dog, whichever is greater.
  - 1. An exception is provided if an animal control officer or other officer inspects an animal's individual circumstances and determines that a shorter restraint, of at least 10 feet or 3 times the length of the animal, makes the animal safer and better equipped to tolerate its environment than a longer tether.
- (d) A tether must also not extend to allow any dog access to the street, parkway, sidewalk, or adjoining properties.

First Reading: August 27, 2024

Second Reading : September 12, 2024

Passed: September 10, 2024



Ron Martin, Mayor



Robert Luther, City Clerk