

Chapter 10 ANIMALS [u](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - DOGS

FOOTNOTE(S):

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State Law reference— Municipal power to regulate and prohibit keeping of animals and fowl, W. Va. Code, § 8-12-5(26); municipal power to punish people for abuse of animals, W. Va. Code, § 8-12-5(27).

ARTICLE I. IN GENERAL

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Sec. 10-1. Definitions.

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

Animal warden means the person designated as such by the mayor and common council.

At large. Any animal or fowl, when not upon property owned or lawfully occupied by its keeper, or when upon the property of another without the consent of the owner or lawful occupant of such property, shall be deemed to be at large unless such animal or fowl is held on a leash or otherwise under the effective control of a responsible person.

Dog means and includes any female dogs as well as male dogs.

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Keeper means any person owning or having possession or custody of an animal or fowl or any person keeping, harboring or caring for an animal or fowl shall be deemed to be the keeper thereof; thus, the owner of an animal or fowl shall continue to be a keeper thereof even though another person may be harboring or caring for such animal or fowl and is likewise a keeper thereof.

(Code 1981, § 4-101)

Sec. 10-2. Certain animals and fowl prohibited to be at large; impoundment and disposition of animals and fowl found at large.

- (a) It shall be unlawful for any person to permit any horse, mule, jack, jennet, swine, cow, cattle, hog, pig, shoat, goat, poultry or other fowl to run at large within the town; and any such animal or fowl found at large within the town shall be taken up by the animal warden and impounded at a public pound or other suitable place and kept there for at least three days and, whenever possible, its owner or other keeper shall be notified of such happening and the manner in which the animal or fowl may be redeemed, to wit, by the payment of an impounding fee of \$1.00 plus the cost of care, feeding and shelter, such payment to be made within two days from the date of such notice. Any animal or fowl not so redeemed may be sold at a public sale to recover the impoundment fee and costs herein mentioned; and if no buyer is found the animal or fowl in question may be destroyed or given away to some responsible person.
- (b) The proceeds of any sale under subsection (a) of this section which are in excess of the impoundment fee, cost of care, feeding and shelter, and the cost of sale shall be turned over by the animal warden to the town treasurer and shall be held by him until claimed by the owner of the animal or fowl in question within three months of the sale; and if no claim is made within such time, such proceeds so held shall be credited to the general fund of the town.

(Code 1981, § 4-102)

Sec. 10-3. Livestock or exotic animals prohibited.

It shall be unlawful for any person to keep within the town any livestock or exotic animals.

(Code 1981, § 4-103)

Sec. 10-4. Keeping of chickens.

It shall be unlawful for any person to keep within the town more than 25 live chickens at any one time, or to keep one or more chickens within the town contrary to the provisions of any zoning ordinance now or hereafter in force.

(Code 1981, § 4-104)

Sec. 10-5. Maintenance of stables, pens, coops, etc.; abatement of nuisances.

Each stable, pen, coop or other place within the town where any animal or fowl is kept shall be maintained by the keeper at all times in a clean and sanitary condition and free of offensive odors and solid and liquid waste matter. Any place where an animal or fowl is kept which is found to be in violation of this section shall be deemed to be a public nuisance, subject to abatement by the town at the expense of the person responsible therefor or the owner of the property whereon it exists.

(Code 1981, § 4-105)

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Sec. 10-6. Speed and manner of riding or driving of animals on streets.

It shall be unlawful for any person to ride, drive or lead a horse or other animal, whether such animal is hitched to a vehicle or not, upon any street or other place within the town at such speed or in such manner as to endanger life, health or property, or at a speed in excess of that permitted by state law, this Code or other ordinance for motor vehicles.

(Code 1981, § 4-106)

Sec. 10-7. Cruelty to domestic animals and fowl.

No person within the town shall cruelly, unnecessarily, or needlessly beat, torture, mutilate, kill, overload or overdrive any domestic animal or fowl, nor willfully deprive any domestic animal or fowl of necessary sustenance or shelter.

(Code 1981, § 4-107)

Sec. 10-8. Disposition of carcasses.

- (a) It shall be the duty of the designated municipal officer to cause to be promptly removed and buried any animal or fowl found dead on any street, sidewalk or public place in the town; provided that any animal or fowl which may be killed by any vehicle shall be promptly removed and buried by and at the expense of the owner of such vehicle, and a failure to do so for more than one hour shall be unlawful.
- (b) Whenever any animal or fowl is killed or is found dead upon any lot or premises owned or occupied by the owner or keeper thereof, such owner or keeper of such animal or fowl shall cause same to be removed and buried and a failure to do so for more than 12 hours shall be unlawful.
- (c) Whenever any animal or fowl is found dead, or is killed, upon any lot or premises in the town not owned or occupied by the owner or keeper of such animal or fowl, the carcass shall be removed and buried under the direction of the designated municipal officer, upon the request made by the owner or occupant of such premises, and the expenses of such removal and burial shall be paid to the town by the person who was the owner or keeper of such animal or fowl, if such person can be ascertained, unless herein otherwise provided. A bill for such expense shall be made out by the recorder upon information from the designated municipal officer and shall be placed in the hands of the town treasurer for collection, and such person shall pay such bill within 24 hours after its first presentation, and a failure to do so shall be unlawful.
- (d) Whenever any animal or fowl is killed within the town by any person save when under some provision of this chapter or pursuant to some law, the person so killing such animal or fowl shall cause same to be removed and buried, and a failure to do so for more than one hour shall be unlawful.
- (e) Whenever under any provision of this Code or any ordinance of the town it is made the duty of any person, other than the designated municipal officer, to remove or bury any dead animal or fowl, and such person fails to do so for 12 hours, the designated municipal officer shall so remove and bury such carcass, and the expense of so doing shall be paid to the town by the person whose duty it was to remove or bury it, and the expense shall be collected as provided in subsection (c) of this section, and a failure to pay same as therein provided shall be unlawful.
- (f) The payment to the town of the expense of the removing or burying any carcass by any person whose duty it is to do so, or the payment of a fine for the failure to pay such expenses as above provided, shall not release such person from any liability or penalty he may have incurred by reason of his previous failure to perform such duty, but same shall be in addition to such liability or penalty.

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- (g) It shall be unlawful for any person to cast or put any dead or dying animal or flow found on any premises in the town, upon any premises belonging to or occupied by any other person, or upon any street, alley or public place.

(Code 1981, § 4-108)

Sec. 10-9. Transportation of carcasses.

It shall be unlawful for any person to expose, transport or move any part or all of the carcass of any animal or fowl upon any street, sidewalk or public place within the town, unless such carcass shall be completely covered from public view and from access of flies, or other disease-carrying insects, by a heavy cloth or other suitable covering.

(Code 1981, § 4-109)

Sec. 10-10. Removal and disposal of animal waste.

No person owning and having custody of any animal shall permit such animal to defecate (soil) upon any school grounds, public street, alley, sidewalk, tree bank, park, or any other public grounds or any private property within the town, other than the premises of the owner or person having custody of said animal, unless said defecation is removed immediately and disposed of in an appropriate manner and container.

(Ord. of 9-20-1999)

Secs. 10-11—10-38. Reserved.

ARTICLE II. DOGS

Sec. 10-39. Dogs declared personal property.

Sec. 10-40. Police seizure and impoundment of certain dogs.

Sec. 10-41. Dog owners and keepers liable for damage caused by dogs running at large.

Sec. 10-42. Animal excrement to be removed from public property.

Sec. 10-43. Duration for restraint of unattended dog.

Sec. 10-44. Shelter required for dogs kept outside.

Sec. 10-45. Penalty for violation of article provisions.

Sec. 10-46. Certain persons prohibited from dog possession.

Sec. 10-47. Enforcement of article.

Sec. 10-39. Dogs declared personal property.

Any dog is hereby declared to be personal property within the laws of the state.

(Ord. No. 2007-06, 9-4-2007)

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Sec. 10-40. Police seizure and impoundment of certain dogs.

The town police or designee shall seize and/or impound on sight any dog older than six months of age not wearing a valid registration tag. Within 24 hours after said seizure, the owner will be notified. Five days after notice, the animal can be adopted or humanely destroyed.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-41. Dog owners and keepers liable for damage caused by dogs running at large.

Any owner or keeper of any dog which permits such dog to run at large shall be liable for any damage upon the person or property of another by such dog, while running at large. Any person found to be in violation of this section, upon first offense, shall be fined a minimum of \$50.00, not to exceed \$100.00; upon second offense, any person found in violation of this section shall be fined a minimum of \$100.00, not to exceed \$150.00, in addition to damages, if applicable.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-42. Animal excrement to be removed from public property.

No person may walk a dog on any public property unless such person possesses and uses a sanitary and practical means for prompt disposal of animal excrement. Any person violating this section will be warned on first offense and fined \$25.00 per offense thereafter.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-43. Duration for restraint of unattended dog.

- (a) No person shall tether, fasten, chain, tie or restrain a dog, or cause a dog to be tethered, fastened, chained, tied or restrained, to a dog house, fence, or any other stationary object, unattended for a significant amount of time, which such dog is on the owner's property or on the property of the owner's landlord.
- (b) However, a person may:
 - (1) Attach a dog to a running line, pulley or trolley system at least 15 feet in length for a dog less than 50 pounds and 25 feet for a dog more than 50 pounds. A dog cannot be tethered by means of a choke collar or pinch/prong collar or any type of chain around the neck.
 - (2) Confine a dog within a fenced yard with a dimension of at least 100 square feet per dog.
 - (3) If the dog lives inside the home, permit the dog to be outside on the owner's property with no containment system as long as owner has voice control.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-44. Shelter required for dogs kept outside.

Adequate shelter must be maintained for outside dogs. Shelter must be sanitary and of sound construction. The shelter must be fully enclosed on four sides and of sufficient height to prevent the dog from escaping.

(Ord. No. 2007-06, 9-4-2007)

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Sec. 10-45. Penalty for violation of article provisions.

Persons found in violation of this article will be given a warning and 14 days to correct the problem. Persons who fail to comply within the 14-day period will be fined not less than \$50.00 and not more than \$150.00, and the dog will be confiscated. The county humane society will be given a one- to five-day assessment period and the right of first refusal to assume ownership of dogs confiscated under this article. If the county humane society assumes ownership, 50 percent of the proceeds from the fines will be forwarded to it to help with costs incurred from seized animals.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-46. Certain persons prohibited from dog possession.

If an animal is confiscated under this article, the owner will not be allowed to possess another dog on his property or landlord's property while residing in the town.

(Ord. No. 2007-06, 9-4-2007)

Sec. 10-47. Enforcement of article.

Enforcement of this article, including seizure of animals, will be carried out by the Town of Bath Police Department.

(Ord. No. 2007-06, 9-4-2007)