

**AN ORDINANCE TO CREATE AND ADOPT
SECTION 4-110 OF CHAPTER 1, TITLE 4 OF THE CODE OF
SHEPHERDSTOWN TO PROVIDE FOR PROPER RESTRAINT, SHELTER,
PROTECTION, AND CARE FOR DOGS WHO ARE TETHERED OR CONFINED IN
SHEPHERDSTOWN, WEST VIRGINIA.**

THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:

Chapter 1 of Title 4 of the Shepherdstown Code is hereby amended by adding Section 4-110 entitled “*Dog Tethering and Confinement*,” to establish guidelines for the restraint, shelter, protection and care of dogs and to set penalties for violations. Accordingly, Section 4-110 is enacted to read as follows:

Section 4-110: Dog Tethering and Confinement.

I. Definitions

a. “Adequate food” means access to and the provision of food that is of sufficient quantity to maintain each animal in good health and is accessible to each animal.

b. “Adequate space” means:

1. When a dog is confined, the standards for “adequate space” are:

- i. Small dogs (defined as 35 lbs or under) must have 100 square feet of permanent outdoor enclosure, *provided* that two small dogs may be confined within the same 100 square foot outdoor enclosure.
- ii. Medium dogs (defined as 35-60 lbs.) must have 100 square feet of permanent outdoor enclosure per dog.
- iii. Large dogs (defined as 60-100 lbs.) must have 150 square feet of permanent outdoor enclosure per dog.
- iv. Extra-large dogs (defined as 100 lbs. or greater) must have 250 square feet of permanent outdoor enclosure per dog.
- v. More than one dog may be confined in the same enclosure provided that the above space standards are met.

2. When a dog is tethered, “adequate space” means a tether that i) is appropriate to the age and size of the animal; ii) is attached to the animal by a properly applied collar, halter, or harness configured so as to reasonably protect the animal from injury; and iii) is at least four (4) times the body length of the dog measured from the dog’s nose to the base of its tail. *Provided*, that when freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

- c. “Adequate shelter” means provision of and access to shelter that is suitable for the age, condition, size, and type of each animal. It shall be unlawful to consider metal barrels, plastic drums, cardboard or other disposable boxes, lean-tos, porches, vehicles, and objects of similar description as proper shelter. The shelter shall meet the following requirements:
- i. Weatherproof roof, having no gaps;
 - ii. Enclosed sides, doorway, and solid floor raised at least 2 inches off the ground and free of cracks, holes, protruding objects or rough edges that could cause injury;
 - iii. Interior shall have no metal;
 - iv. Entryway large enough for the dog to easily enter and exit;
 - v. Shall be insulated on all sides including the roof and floor, and be wind and moisture proof;
 - vi. Shall be of proportionate size to allow the natural body heat of the dog to be retained in cold weather;
 - vii. Shall have adequate ventilation and protection from temperature extremes at all times;
 - viii. Shall be structurally sound and maintained in good repair;
 - ix. Shall have bedding, such as wood shavings, straw, or other material that cannot freeze to the dog’s body; bedding shall be provided in sufficient quantity for insulation. Such bedding shall be kept dry.
- d. “Adequate water” means provision of and access to potable water that is provided in a suitable manner, in sufficient volume, and at suitable intervals, to maintain normal hydration for the age, species, condition, size and type of each animal.
- e. “Collar” means a well-fitted device, appropriate to the age and size of the animal, encircling and attached to the animal’s neck in such a way as to minimize trauma or injury to the animal. A collar for tethering must be at least as large as the dog’s neck plus one inch. Choke collars shall not be used in tethering.
- f. “Confine” for the purpose of this ordinance means to place or keep a dog within a permanent outdoor enclosure.
- g. A “Permanent Outdoor Enclosure” shall be defined as any enclosure used for the purpose of dog confinement. Such enclosure shall be constructed of chain link or

a similar type of material with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping the enclosure.

- h. "Tether" means a rope, chain, cable, or the like, by which an animal is fastened, chained, tied or restrained to any stationary or inanimate object by means of a rope, chain, strap or other physical restraint so as to limit its range of movement.
- i. "Tethering" means the act of restraining a dog through the use of a tether.
- j. The definition of "tether", "tethered," or "tethering" shall not include using a leash to walk a dog, or when a leash or lead line is used in the physical presence of an owner or other caretaker for training purposes.
- k. "Extreme weather" means temperature that is 28 degrees Fahrenheit or below, or in effect feels 28 degrees Fahrenheit or below accounting for wind chill factors; extreme heat or humidity conditions including a heat index of 95 degrees Fahrenheit or above; hurricanes; flooding; and other similar extremes.

II. Care Requirements

- a. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall provide the dog with adequate food while the dog is tethered or confined.
- b. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall provide the dog with adequate water while the dog is tethered or confined.
- c. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall provide the dog with adequate space while the dog is tethered or confined.
- d. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall provide the dog with adequate shelter while the dog is tethered or confined.
- e. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall provide adequate care and medical treatment for injuries, parasites and disease, sufficient to maintain the dog in good health while the dog is tethered or confined.

- f. Any outdoor area where a dog is tethered or confined as defined herein must be kept reasonably free of excretions.
- g. Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for twenty-five days during the period of estrus.
- h. *Provided*, that the requirements herein do not apply when the animal is being walked by its owner or other caretaker on a leash or is attached to a tether to lead line in the presence of a caretaker for purposes of exercise or training.
- i. Any person owning or having care, control or custody of a dog that is tethered or confined as defined herein shall ensure that the dog is taken indoors (not kept in an outdoor enclosure or tethered) during times of extreme weather.

III. Permanent Outdoor Enclosure Requirements

- a. It shall be unlawful to keep a dog outside for more than five (5) hours in any twenty-four hour period. A person owning or having care, control or custody of the dog must supervise the dog while the dog is tethered.
- b. Adequate shelter, including protection from the weather and elements, shall be provided at all times in any permanent outdoor enclosure.
- c. Shade, either natural or manmade, shall be available at all times to a dog that is confined. The dog's shelter must be placed in the shade during the summer months.
- d. Bedding, shall be provided in sufficient quantity for insulation to allow reasonable retention of the dog's body heat. Bedding shall be kept reasonably clean and dry.
- e. All areas of confinement shall be maintained as to provide a safe and healthy environment for the dog and shall be reasonably free of hazards.
- f. Any dog confined within a permanent outdoor enclosure must have adequate space for exercise.
- g. More than one dog may be confined in the same enclosure provided that the space standards defined herein are met and the dog can interact safely with other animals in the enclosure.
- h. All areas of confinement shall be free of standing water.

IV. Tethering Requirements

- a. 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 any stationary or inanimate object by means of a rope, chain, strap or other physical restraint for the purpose of tethering, for more than five (5) hours, cumulatively, in any twenty-four hour period.
- b. Any person owning or having care, control or custody of the dog must supervise the dog while the dog is tethered.
- c. If a dog is tethered pursuant to this section, the dog must be tethered by a properly fitted non-choke collar or a body harness to a tether that is at least twelve (12) feet in length or four (4) times the body length of the dog, measured from the dog's nose to the tip of its tail, whichever is greater. The tether shall be free from entanglement and shall not weigh more than 1/8th of the body weight of the animal. All tethers shall have swivels on at least one end and so mounted and situated to minimize risk of entanglement.
- d. Shade, either natural or manmade, shall be available at all times to a dog that is tethered. The dog's shelter must be placed in the shade during the summer months.
- e. If a dog is tethered for more than two hours, the dog must be provided with adequate shelter, space, food, and water as defined in Section I of this Ordinance.
- f. No dog under the age of six months may be tethered.
- g. All tethers shall allow the dog to move freely without danger of entanglement with other objects or dogs, or from extending over an object or edge that could result in the strangulation or injury of the dog.
- h. Any person owning or having care, control or custody of a dog that is tethered must restrict the animal to the confines of their property.

V. Penalties

- a. It is hereby declared unlawful for an owner or caretaker of a dog to violate any of the provisions of this Ordinance.

- b. Any person who violates any provision of this Ordinance, shall be guilty of a misdemeanor, may be issued a citation for violation of the Ordinance, and upon conviction thereof shall be fined for each violation not more than \$100 (one hundred dollars) and shall be subject to prosecution on the aforesaid misdemeanor charge in the appropriate court, pursuant to W. Va. Code § 19-20-6(c) and related statutes.

- c. *Warning Period:* Any person found by Animal Control or law enforcement officers to be confining or tethering an animal in violation of this Ordinance may be issued a warning citation and be allowed up to fifteen (15) days to provide means of tethering or confinement that conform to the requirements of this ordinance. *Provided* the warning period is void immediately if the owner or caretaker, at any time during the warning period, fails to comply with W. Va. Code § 61-8-19. *Provided* the Animal Control or law enforcement officer may, but is not required to, issue a second warning to a person who has received a prior warning, but may instead issue a citation under the terms of this ordinance.

- d. Any person who is issued a warning citation and does not conform the keeping of their dogs to the requirements of this Ordinance within the time period provided in the warning citation may be issued a citation immediately and is thereupon subject to fines and penalties stipulated in this Ordinance.

VI. Severability

If any portion of this ordinance shall be found by a Court of competent jurisdiction to be invalid, the remainder of this Ordinance shall remain in full force and effect.

VII. Authority:

W. Va. Code § 7-10-1, et. seq.; W. Va. Code § 19-20-1, et. seq.; W. Va. Code § 19-20A-1, et. seq.; W. Va. Code § 61-8-19.

First Reading: January 12, 2016

Second Reading: February 9, 2016

Adopted: February 9, 2016

Arthur J. Auxer, III
Mayor

Lori Robertston
Recorder