

ORDINANCE 086

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ELKINS, WEST VIRGINIA, ADDING SECTION 4-17A TO THE ELKINS CITY CODE ENTITLED "TETHERING OF DOGS", TO PREVENT THE CRUEL AND INHUMANE TREATMENT OF DOGS BY TETHERING, PURSUANT TO THE RECENT REVISION OF WEST VIRGINIA STATE CODE 61-8-19 ENTITLED "CRUELTY TO ANIMALS"

WHEREAS, the West Virginia Legislature has recently passed revisions to West Virginia Code 61-8-19 regarding chaining and tethering animals; and

WHEREAS, the Common Council of the City of Elkins, in compliance with State Code, desires to restrict the chaining or tethering of dogs within the Elkins City Limits; and

WHEREAS, the Common Council of the City of Elkins recognizes that inhumane treatment of animals, and dogs, represent a reflection of our community values as a whole; and

NOW, THEREFORE, be it ordained and enacted by the Common Council of the City of Elkins, West Virginia, Section 4-17A to the Elkins City Code be added follows:

Sec. 4-17A: Regulated Tethering Ordinance

- A. No person shall tether a dog:
1. when the outside temperature, as measured on site by the Animal Services Officer, is equal to or greater than 90° Fahrenheit or equal to or less than 20° Fahrenheit.
2. in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man-made or natural obstacles.
3. for a continuous period of time, if the dog is under 6 months of age.
4. that is sick or injured.
B. Dogs may be restrained by means of a trolley system, or a tether attached to a pulley on a cable run, if the following conditions are met:
1. Only a dog may be tethered to each cable run.
2. The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering a dog to a cable run. There must be a swivel on at least one end of the tether to

minimize tangling of the tether with stoppers on either side of the cable to ensure the dog is not able to entangle himself.

- 3. The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the Animal Services Officer, considering the age, size and health of the dog.
4. The cable run must be at least (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level, taking into account uneven ground.
5. The length of the tether from the cable run to the dog's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the dog to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the tether from becoming tangled with other objects or animals. The tether must be long enough for the animal to move around or be able to urinate or defecate in an area separate from where it must eat, drink or lie down and allows the animal convenient access to food, water, dry ground or shelter. No vegetation or obstacles can restrict the movement of the dog on the tether.
C. 1. All tethered animals must have a dog house which is defined as any natural or artificial area which provides protection from the direct sunlight when that sunlight is likely to cause heat exhaustion of a dog tied or kenneled outside. Metal barrels as well as any uninsulated metal structures are prohibited for use as a dog house.
2. A dog house shall be a windproof and moisture-proof structure and shall include 4 walls, a roof, a door flap for winter and a solid floor raised off the ground, containing a sufficient quantity of suitable dry bedding material.
3. The containment area of any dog house shall be free of accumulated debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. A suitable method of draining shall be provided to eliminate excess water or moisture inside the dog house.
4. A dog house shall have an entrance large enough to allow access to the dog, have an area within the dog house to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained. Recommended dog house size specifications are:

Depth = dog's length + 12 inches
Width = dog's length + 18 inches
Height = dog's height at the top of its head + 4 inches

If kenneled, the kennel shall measure a minimum of 100 square feet per dog enclosure with the dog house specifications listed above.

- D. 1. Any person caught violating Elkins City Code Section 4-17A in the first instance shall be given a warning, stating what subsection of the Elkins City Code they are violating and how to comply with the violated subsection. The person shall be subject to a follow-up visit by the Animal Services Officer, at a later time that is adequate to allow the person to correct the violation, to determine if the person is in compliance with said City Code Section.
2. Any person caught violating Elkins City Code Section 4-17A after being given a warning as specified in the above subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300.00 nor more than \$500.00 or confined in jail not more than thirty days, or both.
3. Any person convicted of a violation of Elkins City Code Section 4-17A forfeits his or her interests in any animal and all interest in the animal vests in the Randolph County Humane Society and is responsible for any costs incurred by the Randolph County Humane Society as a result.
4. The Animal Services Officer may exercise discretion in citing violators pursuant to Elkins City Code Section 4-17A. In determining whether to cite under Elkins City Code Section 4-17A, the Animal Services Officer shall consider the overall condition of the dog, and whether the alleged violator is in substantial compliance with Elkins City Code Section 4-17A.

This measure shall become effective immediately upon its final passage.

PASSED AND APPROVED ON FIRST READING NOVEMBER 20, 2008.

PASSED AND APPROVED ON SECOND AND FINAL READING THIS 4TH DAY OF DECEMBER 2008.

CITY OF ELKINS, WEST VIRGINIA

Judith A. Guye, Mayor

Attest:
Philip I. Criziani, City Clerk