

NUISANCE: HABITUALLY BARKING, HOWLING OR YELPING DOGS

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BEFORE THE COUNTY COMMISSION OF HAMPSHIRE COUNTY, WEST VIRGINIA

The Members of the County Commission of Hampshire County, West Virginia, hereby find that habitually barking, howling or yelping dogs are a public nuisance and, as such, they are under the jurisdiction of this body. Accordingly, and upon motion duly made and seconded, the following Ordinance is adopted, pursuant to the provisions of West Virginia Code Sec. 7-1-3kk, as amended.

NUISANCE: HABITUALLY BARKING, HOWLING OR YELPING DOGS

The keeping or harboring of any dog with the County of Hampshire, State of West Virginia, which dog by frequent and habitual howling, barking or yelping, creates unreasonably loud and disturbing noises of such character, intensity and duration as to disturb the peace, quiet and good order of the neighborhood or resident or business neighbors as may be in close proximity to such dog, is prohibited.

- A. Any person, who shall allow such dog to habitually remain, be lodged or fed within or on any property, which he/she occupies or owns, shall be considered as harboring such dog and shall be guilty of a misdemeanor. Upon a finding by the Magistrate Court of Hampshire County, West Virginia, that this Ordinance has been violated, such Magistrate shall impose a fine in the amount of not less than \$25.00 nor more than \$100.00 for a first offense. Subsequent offenses shall result in fines of not less than \$100.00, but not more than \$500.00, for each subsequent offense.
- B. It shall be prima facie evidence that any such dog is a public nuisance if the dog's barking, howling, or yelping, is unprovoked and occurs continually and is audible beyond the property line of the premises upon which the dog is located for any continuous period beyond thirty (30) minutes, and such fact is sworn and attested to by members of two (2) separate households.
- C. The Hampshire County, West Virginia, Animal Control Officer and his or her deputies, shall be authorized to enforce this ordinance, investigate complaints made hereunder and represent Hampshire County, West Virginia and its County Commission in all matters concerning the Ordinance and its enforcement.
- D. Appeals from any conviction in Magistrate Court shall be to the Circuit Court of Hampshire County, West Virginia.
- E. Nothing in this Ordinance shall restrict the bringing of a civil action, in an appropriate court of law, to seek a remedy for imposition of such offending nuisance.
- F. The enumeration of element constituting prima facie evidence of a violation of this Ordinance shall not limit or be construed as limiting a Court of competent jurisdiction from finding a violation of the Ordinance.
- G. This Ordinance shall be effective the 10th day of June, 2008.
- H. Done this 10th day of June, 2008, at Romney, Hampshire County, West Virginia.**

[signed]

Donald F. Cookman, President
Steve Slonaker, Commissioner
Robert Q. Hott, Commissioner