

Citizen Petition to Weston Municipal Court to Address Barking and Nuisance Dogs

WHEREAS, the City of Weston has determined that barking dogs can be a nuisance to people;

WHEREAS, it is difficult for City of Weston law enforcement to observe every instance of a dog barking;

WHEREAS, citizens are more likely to observe various instances of a dog barking;

WHEREAS, these citizens are more likely to be annoyed, threatened, or otherwise disproportionately bothered by the barking of dogs;

WHEREAS, the City of Weston now enacts the following ordinance to better provide an avenue for affected citizens to seek a remedy for an alleged nuisance of a barking dog:

- A) A citizen affected by the nuisance of a barking dog may petition the Weston Municipal Court to hold a hearing on the merits of whether an alleged barking dog(s) is, in fact, a nuisance;
- B) Said petition shall include a short, concise statement explaining the situation and be signed by the affected citizen(s);
- C) Upon receipt of said petition, the Weston Municipal Court shall set a hearing date for said petition;
- D) The affected citizen(s) shall cause service of the petition to be made to the alleged offender;
- E) The Weston Municipal Court shall alert the Defendant through personal service or Certified Mail or other means of service acceptable per West Virginia Code that the Defendant has a petition filed against him/her and that a hearing has been set to hear the contentions of the parties;
- F) Both parties (petitioner as well as dog owner/controller) are expected to appear at all Court proceedings;
- G) In the event a party does not appear, the Court shall have the discretion to dispose of the case via dismissal or default judgment or other means of disposition;
- H) The parties may be represented by a lawyer;
- I) Parties may produce evidence such as witnesses or other evidence the Weston Municipal Court shall allow as relevant; the formal Rules of Evidence shall not apply in these proceedings;
- J) An appearance by a lawyer for a party shall be considered an appearance;
- K) The decision of the Weston Municipal Court may be appealed to any court of competent jurisdiction;

- L) An aggrieved party may appeal said decision within ten (10) days of the date of the decision;
- M) In the event that a guilty party does not appeal and then does not pay any fines ordered by the Municipal Court, the Weston Municipal Court shall have the authority to order the dog(s) at issue be removed from the owner's possession and placed in an animal shelter; the costs of obtaining and the costs of keeping the dog at the animal shelter shall be charged to the Owner of the dog(s);
- N) If the Weston Municipal Court orders a dog to be placed in an animal shelter, then the City of Weston is not responsible for the upkeep, release, or ultimate disposition of the dog;
- O) However, the Weston Municipal Court, under clear and convincing evidence provided by the Owner that the dog is no longer a nuisance, may order the dog returned to the Owner

The Fine Schedule for Defendants who are found guilty of having a nuisance dog as found by the Court shall be:

1st Offense: \$250-\$500 fine (at the discretion of the Weston Municipal Court)

2nd Offense: \$501-\$750 fine and/or imprisonment not to exceed seven (7) days (the fine and imprisonment time shall be determined at the discretion of the Weston Municipal Court)

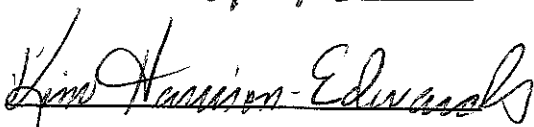
3rd Offense: \$751-\$1,000 fine and/or imprisonment not to exceed fifteen (15) days (the fine and imprisonment time shall be determined at the discretion of the Weston Municipal Court)

4th Offense: mandatory \$1,000 fine and mandatory 15-30 day imprisonment and removal of dog from Owner's property to a location deemed appropriate by the Weston Municipal Court (the length of imprisonment shall be at the discretion of the Weston Municipal Court)

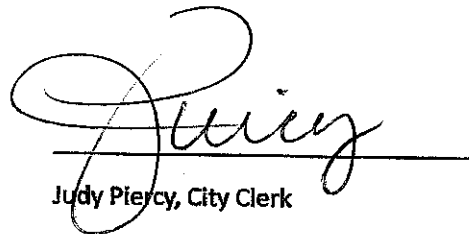
If a court of competent jurisdiction finds that any portion of this ordinance is unconstitutional or otherwise defective, then the remaining portions shall remain in full effect.

First Reading 5/1/2023

Second Reading 6/5/2023



Kim Harrison-Edwards, Mayor



Judy Piercy, City Clerk