

**MERCER COUNTY SPAY NEUTER ORDINANCE**

**Section 1: Mission and Purpose**

It is the purpose of these sections to promote the health, safety and general welfare of Mercer County residents by reducing the number of unaltered stray dogs and free roaming cats.

The Mercer County Commission finds that each year hundreds of dogs and cats in our area are left unaltered and allowed to reproduce at will. This exponential increase in the number of animals can potentially pose a threat to public health with the possibility of these animals becoming ill or injured, as well as being a public nuisance in some circumstances.

It is the purpose of this document to reduce the potential threat to public health and reduce public nuisance by lawfully restricting the indiscriminate breeding practices allowed and/or created by unlicensed, unapproved animal owners or guardians through legislation that is both reasonable and enforceable.

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**Section 1A:**

Dogs, cats and their owners/guardians as well as the community experience many behavioral and health benefits from surgical sterilization. These desirable benefits include but are not limited to:

- Reducing the number of animals being brought into shelters thereby reducing tax dollars which are being used for animal control and housing issues.
- Reducing the desire to roam in unaltered (intact) female animals when they come into a heat cycle, which increases an unaltered (intact) males to be aggressive in their desire to mate with said female. Not having the desire to roam reduces noise nuisance, traffic accidents and injuries from fighting.
- Eliminating the risk of ovarian and testicular cancer.
- Reducing the risk of mammary gland tumors and/or uterine cancer.
- Reduction of blood borne illnesses.
- The reduction of aggressive behavior in males.
- Reduction or elimination of spraying or marking territory by both males and females.

Another significant benefit of surgical sterilization is the overall reduction of unwanted animals being born into our already overpopulated community.

Animals born into unfavorable situations often end up the victims of abuse, neglect, cruelty and abandonment.

Sterilization stops this cycle.

### Schedule of Fees

The schedule of fees for the license and permits as mentioned in this spay and neuter document are as follows.

1) Unaltered Animal License (UAL) annually:

\$ 20 for 1- 5 animals

\$ 25 for 6-10 animals

\$ 30 for 11-15 animals

\$ 35 for 16-20 animals

2) Unaltered Lifetime License:

\$ 50 per each animal

3) Good Samaritan (90) day limit:

NO Charge

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**Section 1B:**

Residents must alter any dogs and cats owned by them or knowingly kept in their possession. It shall be unlawful to own, possess or keep in Mercer County any dog or cat over the age of six (6) months that has not been spayed or neutered except as provided herein.

1. The resident has obtained the Unaltered Animal License from the Mercer County Clerk to harbor or possess unaltered animal(s) for the express purpose of breeding for financial gain **OR** advancement of the chosen breed.
2. The resident has obtained the Unaltered Animal License from the Mercer County Clerk to harbor or possess unaltered animal for the express purpose of maintaining a kennel which engages in responsible and lawful sporting and/or hunting events involving dogs.
3. A currently licensed, local veterinarian (located within a one hundred (100) mile radius of Mercer County) has stated, in writing, the animal is;
  - a. Medically unfit to undergo the sterilization process.
  - b. The animal, by the nature of its breed standard size, should be older than six (6) months to undergo the sterilization process.
4. The animal is kept in Mercer County for fewer than thirty (30) days in a one (1) year period.

Examples including, but not limited to;

- a. Tourism (vacation rentals, time visiting local residents).
- b. Providing foster care for the documented animal advocacy groups that operate within or for the benefit of Mercer County.
- c. Part time residency

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### **Section 2: Licensed breeding practices for financial gain:**

1. It shall not, will not be the duty of the Mercer County Clerk to keep, track or maintain the individual financial records of any breeders approved by the county as it

pertains to the sale of offspring produced by their documented breed stock.

It will be the sole responsibility of each resident in the category referred to as breeder to track, maintain and produce their own financial data as required for any state or federal reporting purposes that may be imposed upon them as individuals.

The Mercer County Clerk will not be held responsible, in any capacity, to create or supply reports regarding the sale of puppies or kittens to;

- a. the Mercer county resident referred to as breeder,
- b. the West Virginia State Tax department,
- c. the Federal Internal Revenue Service.

### 2. DEFINITIONS

2.2.a. Reputable breeder

2.2.b. Backyard breeder

2.2.c. Disreputable breeder

2.2.d. Unaltered (Intact) Animal; any male or female animal which as not been neutered or spayed or otherwise rendered incapable of reproduction

2.2.e. Unaltered Animal License; a written authorization, issued annually by the Mercer County Clerk, giving its lawful, individual holder permission to allow the breeding of any dog or cat OR to maintain an adult animal intact.

### 3. LICENSING and REQUIREMENTS

2.3.a. No person shall cause or allow any dog or cat owned, harbored or kept within Mercer County to breed without first obtaining an unaltered animal license, hereafter referred to as UAL.

2.3.b. Each UAL shall be valid for one year from the date of issuance and may be renewed annually before its expiration date. Refer to s/s 19-20-3 WV Code. Note: Possession of a county issued kennel license is not the same as an Unaltered Animal License. The two licenses are not interchangeable and do not have the same purpose.

2.3.c. The Animal Control Offices shall enforce the UAL to allow the breeding of dogs and cats that are not sterilized consistent with criteria herein. Under no circumstances shall such a license be issued to a person who has been convicted of animal cruelty or neglect. All UAL shall contain the following terms and conditions.

2.3.c-1. No offspring may be sold, adopted, bartered, or otherwise transferred, whether for compensation or otherwise, until it has reached the age of at least seven (7) weeks.

2.3.d. Any holder of a UAL who advertises to the public the availability of any canine or feline for sale, adoption, or transfer, whether for compensation or otherwise, must prominently display the permit number in any such advertisement. Further, the UAL holder must provide the license number to any person who purchases, adopts or received any animal from the license holder and include the permit number on any receipt of sale or transfer document.

2.3.e. Commercial establishments that sell canines or felines bred within

the Mercer County boundaries shall prominently display the UAL number(s) of the breeder(s) whose canines or felines are sold in said establishments and any other pertinent information required by the County Clerk.

Commercial establishments that sell canines or felines which were not bred within Mercer County shall prominently display the name and address of the breeder(s) of such canines or felines and any other pertinent information as required by the County Clerk.

2.3.f. It shall be unlawful for any person(s) or business(es) who does not possess a UAL issued by the Mercer County Clerk to sell, trade, barter, lease, rent, give away, or display for commercial purposes any unaltered animal in OR from Mercer County. Any such transactions are considered violations of this ordinance and as such are subject to the penalties contained herein.

2.3.f-1. The above section (2.3.f) is specific, but not limited to, animals offered in classified advertisements, trading papers, via social media, by handbill or flyer, on a roadside, public right of way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, yard sale, parking lot sale or similar event where the obvious owner or agent thereof seeks to gain monetary profit or other compensation from transfer of said animal(s).

2.3.f-2. Noted exception: Any person(s) acting in good faith and in the best interest of a specific animal which is identified as stray or of unknown origin shall not be held in violation of this ordinance for attempting to advertise in search of the rightful, legal owner OR for attempting to rehome, without compensation, an intact adult animal

or the offspring of said animal via private adoption or by contact with a recognized animal advocacy group. For those individuals who wish to be clearly identified as acting in the capacity of a Good Samaritan as they assist such animals as described above, a Good Samaritan permit will be available from the Mercer County Clerk. This temporary permit allows the person named therein to be held free of contempt of this ordinance by allowing ninety (90) days to provide aid and/or assistance to the animal indicated on the permit in its unaltered (intact) condition. The Good Samaritan permit will recommend that notification of said animal be given to the Mercer County Animal Control officer for entry into their lost/found data base which is held at the Mercer County Animal Shelter.

A list of local advocacy groups may be obtained from the Mercer County Clerk's Office or the Mercer County Animal Shelter to assist the Good Samaritan in finding legitimate help (spay, neuter, placement, rescue) for the animal(s) listed on the permit.

It should be noted the Good Samaritan Permit is *recommended* for the purpose of helping the compassionate, well-meaning citizens of our community continue their good deeds for our local animals in need.

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### Section 3: Violations

1. A citation for any/all, but not limited to, the violations listed herein may be issued by any officer serving as;
  - a. Mercer County Animal Control
  - b. Mercer County Sheriff's Department
  - c. West Virginia State Police
  - d. A representative appointed by Mercer County Commission
  
2. Officers with Mercer County Animal Control and/or select staff of Mercer County Animal Shelter shall use the tracking tools available to them (through data services paid for by the Mercer County Commission) for county related animal matters to;
  - a. track and maintain the specific data of animals involved in violations of this ordinance.
  - b. track and maintain the specific data of the owner or guardian of record for animals involved in violations of this ordinance.
  
3. Any owner of guardian who wishes to redeem an impounded, unaltered, animal from the local animal control facility must produce their Mercer County UAL (issued and dated a minimum of fourteen (14) days prior to first day of impoundment) to avoid being charged with a violation of this ordinance.

The owner of an impounded, unaltered who does not possess a UAL may avoid being in violation of this ordinance by agreeing, in writing, to the sterilization of the animal, at their expense, BEFORE it leaves the animal control facility's possession. This exemption is only applicable for the owners or guardians first offense.
  
4. Any unaltered animal (covered/not covered by UAL) which is impounded at the local animal control facility three (3) times in a two (2) year period will be

microchipped by the facility, prior to being redeemed. The fee for the microchip will be added to any applicable charges related to redemption of said animal.

If the animal referenced in the previous paragraph is impounded at the local county animal control facility a fourth (4) time, said animal WILL BE sterilized, at owner's expense, prior to any redemption or adoption by any party. The microchip which was implanted after the third impoundment will serve as identification of this animal and its owner/guardian as a repeat offender of this ordinance.

5. Failure to obtain a UAL or modify an existing UAL prior to using or offering to use an animal for breeding or stud shall constitute a violation.
6. If a UAL holder refuses to allow an animal care specialist to inspect an animal or the premises as part of due process in addressing a legitimate formal complaint that refusal shall constitute a violation.
7. The act of falsifying or withholding material, misstatement of facts or misrepresentation of information in the UAL application shall be just cause to have the application denied or any UAL previously issued to the applicant shall be revoked.
8. It shall be unlawful for any person convicted of crimes against animals, including but not limited to, cruelty, neglect, abuse, mistreatment, endangerment, or abandonment to submit an application for a UAL.
9. Counterfeiting a UAL, altering an existing UAL, or maliciously destroying a UAL shall constitute a violation.
10. To knowingly allow an unaltered female to remain in an area where she is freely and openly accessible to unaltered male dogs, (be it running loose, tethered, kenneled or fenced) during her estrus (or heat) cycle shall constitute a violation. Refer to WV state code 19-20-22

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### Section 4: Fees, Fines, Penalties & other Financial Information

1. Persons convicted of violations of the Mercer County Spay Neuter Ordinance will find themselves subject to the following penalties:
  1. First offense \$ 150.00 or \$125 with paid microchip, see article 4.2
  2. Second offense \$ 300.00 or 30 hours community service
  3. Third offense \$ 500.00 or 50 hours community service
  4. Fourth offense \$ 1000.00 for every offense after third offense
  5. Fifth offense Fines, plus jail time as determined by the appropriate court
2. For those owners who wish to reclaim their intact animal from impound at the local county animal facility, the amount of the **FIRST** offense will be reduced to \$125.00 if the owner permits the impounded animal to be microchipped and registered by the county animal facility before it is removed from the premises.
3. Spay Neuter Assistance fund.

All monies collected, (fees and penalties) regarding the Mercer County Spay Neuter Ordinance, not to exceed ten thousand dollars (\$10,000.00) each fiscal year shall be deposited into a special fund to be known as the Spay Neuter Assistance Fund. The purpose of the fund shall be to offer financial assistance to qualified Mercer County residents for spay and neuter of their canine and feline companion animals thereby aiding in the control of pet overpopulation in Mercer County WV. It is the intent of this section that the Spay Neuter Assistance Fund be a perpetual, sustaining fund designated for the sole purpose of providing spay neuter assistance to those in our community now affected by this commission mandated ordinance.

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### Section 5: Restrictions and Exemptions

5.1. Lifetime Unaltered Animal License: Whereas it is unlawful to own, harbor or possess an unaltered companion animal in Mercer County WV without Mercer County Commission approved documentation, the following variant UAL is offered in place of the standard UAL.

5.1.a. For those individuals who do not own, possess, or keep more than three (3) companion animals, but do wish to maintain their option to keep said animals intact there is offered a lifetime UAL.

5.1.b. The lifetime UAL may be issued for the one (1) time fee of \$50.00 per each intact animal. The issuance of this lifetime UAL is wholly contingent upon ALL the following criteria being met for each animal.

5.1.b-1. A paid receipt as proof of a valid and current Mercer County animal tax tag which are available from either the Mercer County Clerk's Office or the Mercer County Animal Shelter.

5.1.b-2. A printed certificate (copy is acceptable) as proof of a valid and current rabies vaccination as administered by a licensed practicing veterinarian.

5.1.b-3. A copy of a photo or portrait (that will remain with the application), is provided to the clerk.

5.1.b-4. A printed certificate (copy is acceptable) as proof of a valid and current microchip which clearly, plainly shows the animals name and implant number. Microchips are available from Licensed veterinary clinics (charges vary by location) and the Mercer County Animal Shelter (a nominal fee)

5.1.c. A lifetime UAL is issued individually to one animal for the duration of that animal's existence. As such, a lifetime UAL is not transferrable

from one animal to another. Upon the death of an animal covered by a lifetime UAL, that individual license shall become null and void.

5.1.d. For those owners or guardians unable or unwilling to meet the four (4) mandatory criteria to obtain a Lifetime UAL, the standard yearly UAL is available.

5.2. Exempt from mandatory spay and neuter are any canines and felines harbored by a public shelter, humane society or recognized advocacy group (public or private) whose principal purpose is securing safe placement of animals in their care. It is noted, this exemption is valid for ninety (90) days from the date of intake for each animal. It is the expected obligation of any aforementioned organizations to provide their animals with sterilization as found to be appropriate for the general welfare of the animal based on its medical situation and body condition. Conditions such as emaciation, late term pregnancy, physical injury, major organ issues, age, etc. can render an animal unfit for surgery.

If it is found that such a condition exists in which spay or neuter surgery would likely cause the animals death or substantially aggravate an existing physical condition, a licensed veterinarian must certify the basis for an exemption which would then indefinitely supersede the aforementioned ninety (90) days.

5.3. For those members of the community with documented disabilities whose quality of life is enhanced by the aid of a documented and proven service animal, a UAL shall be issued without fee, as a courtesy to the Mercer County resident. Credentials for the animal must be presented with the application to qualify. \* NOTE: this exemption does not apply to animals in the category of Emotional Support Animal/ESA. Those animals are not exempt from this spay and neuter ordinance.

5.4. The Mercer County Clerk's office, as agent of the Mercer County Commission, maintains the right to grant or deny a UAL, based on the merits of the application. However, an aggrieved owner/guardian has the right to appeal a decision to the Mercer County Commission within thirty (30) days.

5.5. The UAL is nontransferable. The Mercer County Clerk may issue to the owner or guardian of any unaltered animal a nontransferable UAL that expires annually, June 30 of each year. This permit shall be issued to the owner or

guardian of record for unaltered animals owned, kept or maintained in their possession or constant care.

5.6. Multiple owners: If more than one owner or guardian is involved in the interests and/or activities of the unaltered animal, each party must be listed on the application for a UAL

5.7. No person or entity convicted of crime(s) against animal, including but not limited to, cruelty, neglect, abuse, mistreatment, endangerment or abandonment shall be granted a UAL

5.8. Any person or entity in possession of a UAL, who is subsequently convicted of crime(s) against animals will have the license revoked. Refer to section 5.7. of this article.

Proposed Draft

## MERCER COUNTY SPAY NEUTER ORDINANCE

### Section 6: ATTACHMENTS

1. Definition of Reputable Breeder
2. Definition of Backyard Breeder
3. Definition of Disreputable Breeder
4. State Code 19-20-3
5. State Code 19-20-22
6. State Code 19-20-12

## BREEDER DEFINITIONS

### Reputable Breeder:

The term "reputable breeder" describes operations that use responsible methodology and practices.

These breeders are well aware of selective breeding goals and techniques as well as the breed standard of the type of animal being bred. They are also versed in the co-efficient of inbreeding calculations by use of genetic screening. A reputable breeder provides adequate veterinary care and maintenance to both their breed stock and the offspring produced by that stock.

Reputable breeders screen potential new owners or establish good working relationships with a quality (repeat) outlet for the offspring of their breeding adults. They do not breed excessively from individual females, to the detriment of their health. Animals with obviously apparent genetic deficits or illnesses are not offered for sale as top quality specimens. Ethical, responsible breeders are concerned for the safe placement of the litters produced under their care. This is a crucial component to their operation thereby these breeders are NOT a contributing factor to the population of unwanted companion animals which produces physical and financial hardship to the county and local advocacy groups.

The ethical breeder will have no qualms about answering questions and will even encourage them. In most operations each offspring will come with a health guarantee. If disorders/issues arise that are covered by such guarantee the reputable breeder will take steps to make things right.

Note: An addition to the reputable breeder are those operations considered "hobby breeders". Those in this classification do not breed for intended profit. They do it for the betterment of the breed, the love of the animals and for the personal fulfillment. {Sourced. HSUS. Wikipedia.}

## BREEDER DEFINITIONS

### **Backyard Breeder:**

The term "backyard breeder" refers to an amateur animal breeder whose activities are considered substandard, showing little or misguided effort towards ethical, responsible practices.

This type of breeder is usually regarded by ASPCA, HSUS and other welfare advocacy groups as likely to exhibit one of more of the following characteristics:

Ignorance of selective breeding goals and techniques, and lack of familiarity with the breed standard of the type of animal being bred, all the while giving exclusive focus to the breed standard involving little genetic screening or co-efficient of inbreeding calculations.

- Lack of adequate veterinary care and maintenance.
- Excessive breeding from individual females, to the detriment of their health.
- Sale of animals with genetic disorders of undisclosed illnesses before they become evident to buyers.
- Lack of screening of potential owners of the provision of suitable information to prevent buyers from purchasing an animal that may be inappropriate for them or their lifestyle.
- Breeding without concern for the possibility of finding homes for offspring, thus adding to the overpopulation of unwanted companion animals.

The aforementioned characteristics lead to issues on animal welfare, public safety and community nuisance. Furthermore, these indiscriminate practices add a large financial burden to local government, animal shelters and advocacy groups.

Perhaps the most disgraceful and indefensible result of backyard breeding is the euthanasia of healthy animals for no other reason than the lack of adoptive homes in that region. {Source ASPCA, HSUS, Wikipedia.}

## BREEDER DEFINITIONS

### Disreputable Breeder:

The disreputable breeder is an operation in which animals are bred to produce offspring without proper regard to their overall health and general wellbeing.

Common characteristics of a disreputable breeding operation are:

- Sub-standard health and/or environmental issues.
- Sub-standard health care, treatment, and/or socialization.
- Sub-standard breeding practices which lead to genetic defects or hereditary disorders and/or undisclosed illnesses.
- Erroneous or falsified certificates of registration, pedigrees, and/or genetic background.

Disreputable breeders are also highly likely to:

- Be motivated by monetary gain as their only focus.
- Sell juveniles without screening of the purchaser.
- Keep multiple females bred at the same time or repeatedly breed the same females with no regard to their health or wellbeing.
- Keep animals isolated from human interaction: i.e. exclusively in kennels, sheds, garages, trailers, pens, basements and closets.
- Maintain animals in conditions generally accepted by the public to be dirty and unhealthy: in cages and buildings that lack light; outside in rain and cold; in mud; feces and urine.
- Allow animal to exist in a condition generally accepted by veterinarians as unhealthy; skin, ear, eye, penis and vaginal/ureteral infections; rotten and broken teeth; overgrown nails; parasitic infestations; and other disease and unhealthy conditions.
- Frequently dispose of one dog and obtain another (more lucrative) to breed.
- Neglect an aged or overbred female once she is no longer a "money maker", often dumping said female in the shelter system or to fend for herself.

- To be more disposed to the breeding of animals for illegitimate reasons. Such as the usually illegal sports of baiting and dog fighting or to defend venues of criminal activity. Dog fanciers generally believe that such ill-bred dogs are the reason for the bad reputation of some breeds in the public perception, and the resulting breed-specific legislation

The disreputable breeder is often responsible for less than marketable litters being abandoned and left to the elements or surrendered to shelters and rescue groups. In addition, this classification of breeder is often the source of companion animals that end up being destroyed when they are abandoned as unwanted adults.

The shortsighted, selfishness of this group is a physical, emotional and financial burden to the community as a whole, the government as it strives to rectify the issues created and advocacy groups focused on safety and general welfare of all animals. (Sourced NCAC, ASPCA, HSUS, Wikipedia)