

ORDINANCE # 07 - 2021

AN ORDINANCE OF THE CITY OF BEREА, KENTUCKY, AMENDING THE CODE OF ORDINANCES OF THE CITY OF BEREА, KENTUCKY, BY REVISING SECTION 51.211, TO PROVIDE ADDITIONAL PROVISIONS FOR DOG RESTRAINT AND SANITATION.

WHEREAS, Section 51.211 of the Bereа City Code provides for Containment of Dogs on public property; and

WHEREAS, the City is in the process of opening a public dog park; and

WHEREAS, the current provisions of Section 51.211 of the City Code do not address cleaning up and disposing of animal waste on public property; and

WHEREAS, Council desires to refine the definitions of dogs "at large" in the Code and to specify the requirements of dog restraint and sanitation;

NOW, THEREFORE, be it ordained by the City Council of the City of Bereа, Kentucky, that the Code of Ordinances of the City of Bereа be revised as follows:

SECTION I

That the Code of Ordinances is hereby amended to revise Section 51.211, so that such section shall read as follows:

§ 51.211 CONTAINMENT RESTRAINT AND SANITATION

(A) Definitions. For purpose of this section, the following definitions shall apply unless the context indicates or clearly requires a different meaning.

(1) "At Large." Any dog that is (a) not under control by means of a collar, leash, electronic collar/leash, or other device so that the dog cannot stray from it's owner's custody and on property open to the public, or on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained in writing; a dog is not "at large" if it is within a public dog park and is in full compliance with the rules and regulations of such dog park;

(2) "Harbor." To provide food or shelter to any dog or to have possession, charge, care, custody, or control of any dog;

(3) "Impoundment." or "to impound." To be in the control and custody of the Madison County Animal Shelter. The "impound period" shall be consistent with the period by the Madison County Animal Shelter.

(4) "Owner." Any person who has temporary or permanent custody of, or who harbors or keeps, or has any property rights in, or exercises any control over, any

dog. If any dog found in violation of this ordinance is owned by a person under eighteen years of age, the owner shall be deemed to be the parent or guardian of such person or the head of the household in which said person resides;

(5) "Seizure." Capturing or taking a dog into custody, either by a police officer, other peace officer, or dog control officer.

(B) Restrictions. It shall be unlawful for any owner or person having possession, charge, care, custody, or control of any dog to fail to keep such dog exclusively upon the premises of said owner or person having possession, or on the private premises of another with prior written consent provided, however, that a dog may leave such premises only if:

(1) A dog is under restraint by virtue of being in the custody of a person able to restrain and control the dog and held by a leash, chain, electronic collar/leash, or other device of sufficient strength to maintain control of the dog by that person; or

(2) A dog is under direct control by virtue of being held within a secure enclosure, either physical or electronic; or

(3) A dog is a police work dog in use for police work or seeing eye dog.

(C) Licensing and Vaccination; Proof required. It shall be unlawful for any owner or person having possession, charge, care, custody, or control of any dog to fail to license and register the dog; to provide and keep current vaccination shots for rabies and other communicable diseases; and to attach to the dog proof of registration, vaccination, with name of owner, address, phone number, if any, and name of dog.

(D) Sanitation

(1) Any Owner or other person who has custody or control of a dog on public property, including any public dog park, shall clean up any solid waste or feces from the dog and dispose of it in a sanitary manner by placement in designated waste receptacles or other suitable container, or disposed of into a system designed to convey domestic sewage for proper treatment and disposal.

(2) It shall be the duty of the Owner or other person who has the custody or control of a dog on public property to have in his or her possession suitable equipment or supplies to pick up, remove, and dispose of the animal waste or feces.

~~(D)~~ (E) Enforcement.

(1) Any dog found in violation of sub-section (B) ~~or~~, (C) or (D) of this section, or § 51.203 of this Code, shall be subject to seizure and impoundment. Seizure may take place upon the property of the owner or person having possession of the dog if probable cause exists that the animal has violated this ordinance within the past thirty (30) days. This section shall be enforced by any dog control officer, peace officer when acting pursuant to his or her special duties, or police officer in the employ of the city.

(2) Every dog impounded shall be properly cared for, sheltered, fed, and watered for the redemption period set forth herein;

(3) Impounded dogs may be redeemed by paying the fines and any impound fee set by the animal shelter and producing proof of compliance with the licensing and vaccination provisions of sub-section (C).

(4) If the owner of any unredeemed dog is known, such owner shall be required to pay the impound fee whether or not such owner chooses to redeem his or her dog.

(5) Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the policies of the Madison County Fiscal Court.

(6) If after the redemption period has expired, a dog has not been claimed by the owner, the dog control officer has the authority to offer the dog for adoption for the adoption fee to be set by the animal shelter, plus any required licensing fee.

~~(E)~~ (F) Complaint. Any person who observes a dog in violation of any provisions of §§ 51.100-51.211 may file a written complaint under oath with the Madison County Attorney, specifying the nature of the violation, the date thereof, a description of the dog, and the name of the residence, if known, of the owner of the dog. Such complaint may serve as the basis for enforcing the provisions of this section.

~~(F)~~ (G) Civil Liability. The owner of any dog which violates any provisions of §§ 51.100-51.211 of this Code and causes damage to injury to any person or property thereby, shall be civilly liable to such person injured or damaged for such damages or injury.

(G) (H) Penalty. Any person convicted of a violation of this section shall be deemed to have committed a violation and shall be subject to a maximum fine for the first offense of two hundred-fifty dollars (\$250.00) and a maximum fine of five hundred dollars (\$500.00) for any subsequent offense. Violations by individual dogs shall constitute separate violations.

SECTION II

All ordinances or parts of ordinances in conflict herewith are repealed. This ordinance shall be published according to law.

FIRST READING: April 6, 2021.

SECOND READING AND ENACTMENT: April 20, 2021.

APPROVED BY:

Bruce Fraley
Bruce Fraley, Mayor

ATTEST:

Robin Adams
Clerk of the City Council

Published this 21 day of April, 2021.

PREPARED BY:

[Signature]
Corporate Counsel