



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Agriculture TITLE-SERIES: 61-24
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: West Virginia Spay Neuter Assistance Program
CITE STATUTORY AUTHORITY: §19-20C-1

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4252

Section §64-9-3 Passed On 3/6/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2020

This rule shall terminate and have no further force or effect from the following date:

April 30, 2030

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 24
WEST VIRGINIA SPAY NEUTER ASSISTANCE PROGRAM

§61-24-1. General

1.1. Scope. -- This rule sets forth the requirements for the West Virginia Spay Neuter Assistance Program. The purpose of this rule is to establish a spay neuter assistance program to have more dogs and cats sterilized, and provide a rabies vaccination if the animal is not currently vaccinated, thereby reducing shelter populations and costs, euthanasia rates and threats to public health and safety from rabies and other problems posed by the growing population of stray, feral and abandoned dogs and cats.

1.2. Authority. -- W. Va. Code §19-20C-1

1.3. Filing Date. – April 30, 2020

1.4. Effective Date. – April 30, 2020

1.5. Sunset Date. -- This rule shall terminate and have no further effect April 30, 2030.

§61-24-2. Enforcement.

2.1. This rule is enforced by the Commissioner of the Department of Agriculture

§61-24-3. Definitions.

3.1. "Animal" means a dog or cat that has not been spayed or neutered:

3.2. "Caretaker" means a person, organization or agency that captures or facilitates the capture of free roaming cats for the purpose of spaying or neutering them and returning them to the environment from which they were captured.

3.3. "Cat" means a member of the genus and species known as *felis catus*.

3.4. "Commissioner" means the Commissioner of the Department of Agriculture.

3.5. "Dog" means a member of the genus and species known as *canis familiaris*.

3.6. "Feral cat" means a domesticated cat that has returned to the wild or the offspring of such a cat.

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3.7. "Free roaming cat" includes feral, stray, community, or abandoned cats that may or may not have a caretaker and do not have an owner or are otherwise homeless. The term does not include a stray pet cat that might have been lost or abandoned and which has identifiable ownership such as, but not limited to, a tag, microchip or tattoo.

3.8. "Fund" means the Spay Neuter Assistance Fund established in the State Treasury and maintained by the Commissioner.

3.9. "Grant" means a monetary amount from the Fund awarded to a grantee along with the associated terms and conditions.

3.10. "Grantee" means a nonprofit spay neuter organization or program that receives a grant from the Commissioner under this rule to perform spay neuter services for eligible owners and caretakers. "Nonprofit spay neuter organization or program" means:

3.10.a. A nongovernmental entity that is incorporated in and is in good standing with the state, has its principal place of business in the state, maintains a 501(c)(3) status under the federal Internal Revenue Code and meets one or more of the following criteria:

3.10.a.1. Provides or facilitates spay neuter services by a veterinarian to the general public;

3.10.a.2. Rescues stray, abandoned or feral animals and provides or facilitates adoptions services for the animals to the general public; or

3.10.a.3. Advocates and furthers effective means for the propagation of humane principles to prevent animal cruelty, abuse, neglect and overpopulation; or

3.10.b. A county or municipal shelter or animal control agency.

3.11 "Low-income restricted program" means a spay neuter program that provides spay neuter services to owners or caretakers currently receiving assistance from at least one of the state and federal public assistance programs:

3.11.a. The Supplemental Nutrition Assistance Program (SNAP);

3.11.b. Medicaid;

3.11.c. Supplemental Security Income (SSI);

3.11.d. The West Virginia Low Income Energy Assistance Program (LIEAP);

3.11.e. Social Security Disability;

3.11.f. Temporary Assistance for Needy Families (TANF);

3.11.g. Aid to Families with Dependent Children (AFCD);

3.11.h. Children's Health Insurance Program (CHIP); or

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3.11.i. Low Income Veterans Assistance under 38 USC 2044.

3.12. "Owner" means a person who is a resident of this state who owns an animal that has not been spayed or neutered.

3.13. "Spay neuter assistance program" means the program authorized by W. Va. Code §19-20C-1 *et seq.* and this rule.

3.14. "Spay neuter" means to sterilize a female animal by removing the reproductive organs or by tubal ligation, or castration of a male animal by removing the testicles or by vasectomy or by FDA approved pharmaceutical sterilization.

3.15. "Veterinarian" means a person, firm or corporation licensed to practice veterinary medicine under the provisions of W. Va. Code §30-10-1 *et seq.* and doing business in this state.

§61-24-4. Spay neuter assistance program created.

4.1. A spay neuter program is established for the purpose of providing grants to approved nonprofit spay neuter organizations or programs for advancing the cause of spaying and neutering of animals. The Commissioner shall administer the program and may establish other grant programs consistent with this rule.

§61-24-5. Grant application by nonprofit spay neuter organizations or programs.

5.1. In order to participate as a grantee, a nonprofit spay neuter organization or program shall complete and file the form provided by the Commissioner. The application shall contain at a minimum:

5.1.a. The applicant's name, physical address, mailing address, e-mail address, phone number, and primary contact person;

5.1.b. The applicant's federal employer identification number (FEIN);

5.1.c. The applicant's business registration account number from the W. Va. State Tax Department;

5.1.d. A description of the applicant's business, mission or purpose;

5.1.e. A copy of the applicant's latest financial statement, annual budget, or current balance sheet;

5.1.f. If the applicant is a 501(c)(3) entity, the most recent IRS Form 990, 990-EZ or 990-N;

5.1.g. A listing of the applicant's officers, executive director (if applicable) and a primary contact person;

5.1.h. The amount of the grant requested;

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5.1.i. A detailed description of how the applicant intends to use the grant to advance spay neuter services, including a project budget, intended outcomes, and the expected amount of time in which the grant funds will be used;

5.1.j. Information regarding previous participation in the spay neuter program; and

5.1.k. Attestation that the information provided by the applicant is true and accurate to the best of the applicant's knowledge.

§61-24-6. Awarding grants by the commissioner

6.1. The Commissioner may establish an advisory committee of animal welfare advocates. The Advisory Committee shall conduct a preliminary review of grant applications, and make recommendations to the Commissioner for grants based on animal welfare best practices, volume of spay neuter services contemplated to be provided, and the efficiency of spay neuter service delivery. The Advisory Committee shall give preference to applicants that intend to operate a low-income restricted program. The Advisory Committee shall make recommendations for action, if necessary, on interim and post-grant reports by grantees on the use of grant funds. The committee shall abide by standard 'conflict of interest' policies.

6.2. The Commissioner shall review grant applications and the recommendations of the advisory committee to approve, reject or modify the amount requested within 90 days of receipt of an application. The Commission shall give preference to applicants that intend to operate a low-income restricted program. The Commissioner shall notify the applicant of the final disposition of their application within 30 days of the Commissioner's decision.

6.3. The Commissioner shall enter into a grant contract with the grantee which shall include the terms, conditions and requirements of the grant.

6.4. The grantee shall disburse funds within the grant term determined by the Commissioner and stated in the grant contract. Thereafter, the Commissioner may extend a grant term; otherwise the grant and any undisbursed grant amounts expire and all unused monies shall be returned to the Fund. A grantee may apply for a subsequent or concurrent grant.

6.5. The Commissioner may amend a current grant to a higher or lower amount at any point during the grant term following the initial approval.

6.6. A grantee shall notify the Commissioner of any subsequent change in its 501(c)(3) status that would disqualify it from participation in the spay neuter assistance program or otherwise negatively affect its ability to participate. A grantee shall execute the program as designated in the grant contract unless changes are approved in writing by the Commissioner.

6.7. The Commissioner may revoke a grant and deny further participation by a grantee in the spay neuter program, if it is determined that the grantee has failed to comply with the requirements of the program and this rule.

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6.8. The Commissioner shall maintain and make available to the public, a current list of grantees and their contact information.

6.9. A grantee shall comply with the provisions of W. Va. Code §12-4-14, and legislative rules promulgated regarding accountability of persons receiving state funds or grants.

6.10. A grantee may not impose any administrative, processing or other extraneous fee or charge upon an owner or caretaker. A grantee shall not charge a fee incident to adoption to cover spay neuter services paid for under the spay neuter assistance program. If such a fee is charged, the spay neuter services are not eligible for reimbursement.

6.11. A grantee shall maintain proper financial records on the use of grant monies.

6.12. Upon completion of a grant, a grantee shall file, with the Commissioner, a report on the outcomes of the grant in fulfillment of its terms, conditions and requirements. For grants with a term of 12 months or longer, the grantee shall also file with the Commissioner an interim report within six (6) months of receiving the grant.

§61-24-7. Reimbursement rules.

7.1. The Commissioner may reimburse grantees for costs of spay neuter services and reasonably related expenses, including but not limited to anesthesia, pain medication, increased expenses due to cryptorchidism and pregnancy, and rabies vaccinations incident to spay neuter services. The Commissioner shall not reimburse grantees for unrelated veterinary care, administrative costs, overhead, advertising, or facilities or equipment related to the provision of spay neuter services.

7.2. The Commissioner shall enter into a grant contract with the grantee which shall include, at a minimum, the terms, conditions and requirements of the grant and instructions for requesting reimbursement.

7.3. A grantee shall submit invoices supported by documents sufficient to prove all costs for which the grantee is requesting reimbursement.

7.4. To be eligible for reimbursement, spay neuter services must be performed by a person, firm, or corporation licensed to practice veterinary medicine under the provisions of W. Va. Code §30-10-1 *et seq.* and doing business in the state of West Virginia.