

AN ORDINANCE RELOCATING A PROHIBITION ON THE ACCUMULATION OF ANIMAL EXCREMENT WHERE AN ANIMAL IS KEPT FROM SECTION 4-12.2 OF THE LEXINGTON-FAYETTE URBAN COUNTY CODE OF ORDINANCES TO SECTION 4-2 OF THE CODE, CONCERNING THE CARE AND TREATMENT OF ANIMALS, AND EXTENDING ANIMAL HOUSING SANITATION STANDARDS TO ANIMALS OTHER THAN DOGS; AMENDING SECTION 4-9 OF THE CODE TO CLARIFY THAT THE OWNER OF AN ANIMAL SEIZED FOR BEING KEPT IN UNSANITARY OR UNSAFE CONDITIONS IS LIABLE FOR THE COST OF IMPOUNDMENT; AMENDING SECTION 4-12.2 OF THE CODE OF ORDINANCES TO PROHIBIT AN OWNER FROM ALLOWING HIS OR HER ANIMAL TO GIVE ANY HUMAN THE REASONABLE IMPRESSION OF IMMEDIATE PHYSICAL DANGER; AMENDING SECTION 4-14 OF THE CODE OF ORDINANCES TO AUTHORIZE LEXINGTON-FAYETTE URBAN COUNTY ANIMAL CONTROL OFFICERS TO TAKE TEMPORARY CUSTODY OF ANY DOG THAT HAS BITTEN A PERSON OR DOMESTIC ANIMAL WITHOUT PROVOCATION OR ANY VICIOUS DOG KEPT IN VIOLATION OF LOCAL AND STATE KENNELING REQUIREMENTS, AND TO HOLD SUCH DOG PENDING JUDICIAL RESOLUTION OF THE MATTER; REQUIRING THE OWNER OF ANY DOG SO HELD TO PAY A BOARDING FEE OF \$8.00 PER DAY; PERMITTING THE ANIMAL CONTROL OFFICER TO DISPOSE OF THE DOG SHOULD ITS OWNER FAIL TO RECLAIM IT IN A TIMELY MANNER; REQUIRING THE ANIMAL CONTROL OFFICER TO MAINTAIN A PHOTOGRAPHIC REGISTRY OF ALL DOGS IN LEXINGTON-FAYETTE COUNTY DECLARED VICIOUS BY THE COURT AND REQUIRING THE OWNER OF ANY DOG DECLARED VICIOUS TO PROVIDE THE REGISTRY WITH INFORMATION CONCERNING THE ANIMAL; REQUIRING ALL VICIOUS DOGS IN LEXINGTON-FAYETTE COUNTY TO BE SPAYED OR NEUTERED AND TAGGED WITH MICROCHIP IDENTIFICATION; AND AMENDING SECTION 4-19 OF THE CODE OF ORDINANCES TO DEFINE ANY UNATTENDED DOG ON PRIVATE OR PUBLIC PROPERTY WITHOUT THE PERMISSION OF THE PROPERTY OWNER AS RUNNING AT LARGE.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 4-2 of the Code of Ordinance of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

Sec. 4-2. - Care and treatment of animals.

(a) Definitions.

(1) Adequate food means the provision of foodstuff that is uncontaminated, wholesome, palatable, and of sufficient quality and nutritive value to maintain the normal condition and weight of the animal. Food shall be provided at suitable intervals or at least once a day, unless restricted by a veterinarian. The diet shall be appropriate for the animal's species, age and condition. Food shall be served in a receptacle, dish or container that is physically clean and absent of agents injurious to the health of the animal.

(2) Adequate shade means for dogs one (1) or more separate outside areas of shade, large enough to contain all dogs at one time and to protect them from the direct rays of the sun. A doghouse shall not constitute adequate shade. For all other animals that, as determined by species, require shade, "adequate shade" means one (1) or more outside areas of shade large enough to protect all the animals present from the direct rays of the sun.

(3) Adequate shelter means for dogs an appropriate, durable, enclosed, permanent structure, or a structure manufactured to serve primarily as an outdoor shelter for a dog, with a roof, four (4) sides and a floor constructed in a manner to protect a dog's feet and legs from injury and with dimensions appropriate for breed and size. The shelter shall provide the dog adequate protection and shelter from heat and cold and from the direct effect of wind, rain and snow. The shelter shall have a sufficient amount of clean organic bedding material, e.g., straw, hay or wood shavings, to keep the dog warm and dry. For all other animals, "adequate shelter" means an appropriate structure that provides the animal adequate protection and shelter, as determined by the animal's species, from heat and cold and from the direct effect of wind, rain and snow.

(4) Adequate water means constant access to a supply of clean, fresh, drinkable water, unless restricted by a veterinarian, which is provided in a sanitary manner.

(5) Veterinary care means an appropriate level of professional medical care and treatment by a licensed veterinarian to maintain the proper health and condition of an animal as determined by its species, breed and age.

(b) It shall be unlawful:

(1) For any person within the urban county to unnecessarily or cruelly beat, torture, abuse or otherwise mistreat any horse or other animal, whether his own or that of another, or to subject such an animal to any condition that is likely to result in harm to the animal.

(2) For the owner or harbinger of an animal to fail to provide the animal with adequate food, water, shelter, shade or veterinary care.

(3) For any animal's housing area or enclosure to be excessively muddy or contain standing water, due to a lack of groundcover, or be otherwise unsanitary. Any animal's area or enclosure shall be free of objects or contaminants which are likely to cause injury or be detrimental to the health of the animal, including, but not limited to, rusty or jagged metal objects, broken glass, or harmful chemical solvents or agents.

(4) For any person to permit the accumulation of animal excrement on property he or she owns or leases so as to cause unsightly litter or fouling of the air by odor, thereby creating an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.

(5) For the owner or harbinger of a dog to use a collar or harness made of wire, flat chain, chain with sharp edges, or chain with rusty or non-uniform links. If attached to a tether, the collar or harness shall be properly fitting and not primarily metal or choke-type. The tether attached to a collar or harness shall be of a weight and material appropriate for the breed and size of the animal; cannot weigh more than five (5) pounds total weight; be no less than twelve (12) feet in length; and have swivels at both ends. A person shall not wrap a tether directly around a dog's neck. An area where a dog is tethered shall be free of objects which could become tangled in the tether. The tether shall be secured to a fixed immobile point that allows freedom of

movement while withstanding the force necessary to restrain the dog.

(c) Any person who violates this section shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or be imprisoned for a term not to exceed twelve (12) months, or both, for each act, which shall constitute a separate offense.

Section 2 – That Section 4-9 of the Code of Ordinances of the Lexington-Fayette

Urban County Government be and hereby is amended to read as follows:

Sec. 4-9. - Same—Aid to S.P.C.A., Humane Society.

(a) It shall be the duty of police officers of the urban county government to aid any member of the Society for the Prevention of Cruelty to Animals or of the Lexington Humane Society in the arrest of any persons who may be in the act of violating any of the provisions of sections 4-2 through 4-12.1, or of the statutes of the state relating to cruelty, mistreatment, or torture of animals.

(b) Any police officer failing to perform the duty required of him in this section shall be fined five dollars (\$5.00) for each offense.

(c) Animal control officers may seize and impound any animal or fowl which is the subject of a violation of the provisions of sections 4-2 through 4-12.1 of this Code. In addition to any other penalties provided in this Code, any person whose animal or fowl is impounded under this section shall be liable to the urban county animal control officer for the actual costs incurred in seizing, impounding and confining the animal or fowl.

Section 3 – That Section 4-12.2 of the Code of Ordinances of the Lexington-Fayette

Urban County Government be and hereby is amended to read as follows:

Sec. 4-12.2. - Nuisances created by animals.

(a) It shall be unlawful for the owner or harbinger of an animal to permit the animal, without cause, to cause physical injury to any human being or domestic animal, or to give any human being the reasonable impression that he or she is in immediate danger of being physically injured by the animal.

(b) Any person who violates this section shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for a first offense; not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a second offense in a twelve-month period; not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for a third offense in a twelve-month period; and not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for a fourth and each subsequent offense in a twelve-month period. Each day's continuance of any such violation shall be a separate offense.

Section 4 – That Section 4-14 of the Code of Ordinances of the Lexington-Fayette

Urban County Government be and hereby is amended to read as follows:

Sec. 4-14. - Vicious dogs.

(a) A "vicious" dog is defined to include:

(1) Any dog owned or harbored primarily or in part for purposes of fighting, or any dog trained for

fighting;

(2) Any dog that has bitten a human being or animal, excluding wildlife, without; or

(3) Any dog declared by a court to be a vicious dog.

(b) Any Lexington-Fayette County animal control officer may immediately take temporary possession of any dog that he or she has probable cause to believe has bitten a human being or domestic animal without provocation, and may cause the dog to be held at the Lexington-Fayette County animal shelter for no longer than ten (10) days, after which time the dog shall be returned to its owner if no civil or criminal complaint seeking to have the dog declared vicious has been filed in a court of competent jurisdiction. If a civil or criminal complaint seeking to have the dog declared vicious has been filed in a court of competent jurisdiction, the urban county animal control officer may retain temporary possession of the dog until the court enters a final determination that the dog is or is not vicious under KRS 258.235 or LFUCG Code of Ordinances Section 4-14, or until the court otherwise orders the dog released to its owner. The owner of any dog held under this section shall be liable to the urban county animal control officer for a boarding charge of eight dollars (\$8.00) per day, including the first and last day of impoundment. The urban county animal control officer may withhold release of the dog until all boarding charges incurred by the dog's impoundment hereunder have been paid in full. Any owner of a dog held hereunder that fails to take possession of the dog within five (5) days of being notified that the owner may reclaim possession shall forfeit ownership of the dog to the urban county animal control officer, who may dispose of the dog in any humane manner permitted by law.

(c) Vicious Dog Kenneling Requirements.

(1) It shall be unlawful for any person to keep or harbor within Lexington-Fayette County a dog declared vicious by a court of competent jurisdiction unless it is at all times kept on the owner's or harborer's property securely confined indoors or in a securely enclosed and locked outdoor pen or shelter suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure must have minimum dimensions of five (5) feet by ten (10) feet, must have secure sides and must be at least seven (7) feet high and have a secure top. If it has no concrete, cement or asphalt bottom, the sides must be imbedded into the ground no less than two (2) feet. The enclosure must also satisfy the care and treatment standards of Section 4-2 of the LFUCG Code of Ordinances. A vicious dog shall be transported to or from the indoors and the securely enclosed and locked outdoor pen or shelter only if such dog is muzzled and restrained by a suitable chain or leash not exceeding six (6) feet in length and under the control of a responsible adult. The muzzle must be made in a manner that it will not cause injury to the dog or interfere with its vision or respiration but will prevent the dog from biting any person or animal.

(2) Any Lexington-Fayette County animal control officer that witnesses a vicious dog being housed or harbored in violation of the kenneling requirements for

vicious dogs contained herein and in KRS 258.235 may immediately take temporary possession of the dog and may cause the dog to be held at the Lexington-Fayette County animal shelter. Before taking temporary possession of the dog hereunder, or as soon thereafter as reasonably possible, the urban county animal control officer shall issue a citation to, or cause charges to be filed against, the dog's owner or harbinger for violation of state or local kenneling requirements for vicious dogs. The urban county animal control officer may hold the dog until the complaint against the owner or harbinger has been resolved by the court. The owner or harbinger of any dog held under this subsection shall be liable to the urban county animal control officer for a boarding charge of eight dollars (\$8.00) per day, including the first and last day of impoundment. The urban county animal control officer may withhold release of the dog until all boarding charges incurred by the dog's impoundment hereunder have been paid in full. Any owner or harbinger of a dog held hereunder that fails to take possession of the dog within five (5) days of being notified that the owner may reclaim possession shall forfeit ownership of the dog to the urban county animal control officer, who may dispose of the dog in any humane manner permitted by law.

(d) Vicious dogs shall be permitted off the owner's or harbinger's property only if such dogs are muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and under the control of a responsible adult and only for the purposes authorized by KRS 258.235. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any person or animal.

(e) When any dog is required by this section to be confined, it shall also be required that a conspicuous notice be posted at the place of confinement of such a nature as to warn the public of the nature of the dog therein confined.

(f) No person under the age of eighteen (18) years shall be permitted to own, harbor or handle a vicious dog.

(g) The urban-county animal control officer shall maintain a photographic registry of all dogs in Lexington-Fayette County that have been declared vicious by a court of competent jurisdiction, which registry shall contain the following information for each dog:

(1) The legal name, date of birth, and permanent address of the dog's owner;

(2) The address for each location at which the dog is regularly kept;

(3) A list of all vaccinations the dog has received;

(4) The dog's microchip identification information;

(h) The owner of any dog declared vicious by a court of competent jurisdiction shall thereafter have thirty (30) days to comply with the following provisions:

(1) The owner shall ensure that the dog is spayed or neutered;

(2) The owner shall present the dog to the urban-county animal control officer so that it may be tagged with a microchip identifier if not already tagged and added to the photographic registry of vicious dogs in Lexington-Fayette County established in subsection (h) of this section;

(3) Should any of the information provided to the urban-county animal control officer for the photographic registry of vicious dogs in Lexington-Fayette County become inaccurate in any way, the owner shall contact the urban-county animal control officer within ten (10) days thereof to provide updated information. The urban-county animal control officer may require owners to provide reasonable verification of all information to be included in the photographic registry of vicious dogs in Lexington-Fayette County.

(i) The urban-county animal control officer may charge a reasonable fee for spaying or neutering a vicious dog and for tagging a vicious dog with a microchip identifier as required in subsection (h) of this section.

(j) Any person violating any of the provisions of this section shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each offense.

Section 5 – That Section 4-19 of the Code of Ordinances of the Lexington-Fayette

Urban County Government be and hereby is amended to read as follows:

Sec. 4-19. - Dogs running at large.

(a) It shall be unlawful for any dog to run at large within the urban county; provided that a hound or hunting dog may be unrestrained when engaged in lawful hunting activities while on private or public property designated or authorized for that purpose.

(b) Dogs shall be confined behind a fence or within an enclosed area or otherwise securely restrained at all times while on the owner's or harborer's property. A dog may be unconfined or unrestrained while on the owner's or harborer's property where the dog is in the company of the owner or harborer and the dog is under the owner's or harborer's direct control and supervision.

(c) A dog shall be permitted off the owner's or harborer's property only if it is restrained by a properly fitting collar or harness physically attached to a leash or tether of appropriate material and weight with the capacity to physically restrain the dog.

(d) Any dog found to be on public or private property without the permission of the property owner and unattended by the owner or harborer shall be presumed to be running at large and may be impounded by the division of animal control as set forth in section 4-21.

(e) The owner or harborer of any dog found running at large in violation of this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a first offense, not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for a second offense during a thirty-six-month period, not less than two hundred-fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for a third offense during a thirty-six-month period, and not less than five hundred dollars (\$500.00) for a fourth and each subsequent offense during a thirty-six-month period.

Section 6 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

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