

ORDINANCE NO. 1

**AN ORDINANCE PROVIDING FOR THE CONTROL
OF DOMESTICATED ANIMALS WITHIN MERCER COUNTY,
KENTUCKY, FOR THE PROTECTION OF THE PUBLIC
AND FOR THE ANIMALS THEREIN
AND PROVIDING PENALTIES FOR THE VIOLATION**

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF MERCER,
COMMONWEALTH OF KENTUCKY:

SECTION 1. DEFINITIONS

As used in this ordinance, the following terms shall mean:

ANIMAL: Any live, vertebrate creature, domestic or wild;

ANIMAL CONTROL OFFICER: Any person designated by the County and/or the City as required by KRS 258.195 to respond and to act on complaints of dogs and other animals being at large within the County, or any city therein, not under restraint or otherwise in violation of this ordinance. This person shall be the primary enforcement officer for Mercer County of the sections of this Ordinance and the state laws regulating animals and owners of animals;

ANIMAL SHELTER: Any facility operated by any governmental agency or humane society for the purpose of impounding or caring for animals;

CIRCUS: A commercial variety show featuring animal acts for the public entertainment;

COMMERCIAL ANIMAL ESTABLISHMENT: Any pet shop, grooming shop, riding school or stable, zoological park, circus, performing animal exhibition or kennel;

HUMANE SOCIETY: Any organization existing for the purpose of the prevention of cruelty to animals;

KENNEL: Any premises where any person engages in the business of boarding, breeding, buying, letting for hire, training for fee, or selling dogs, to include animal rescue facilities; and is so constructed that dogs cannot stray therefrom;

NON-DOMESTIC ANIMAL: All felines (other than the domestic house cat), non-human primates, bears, wolves, coyotes, foxes, and venomous reptiles, deer and any crossbreed of such animals which have similar characteristics of the animals specified herein. In order to properly administer the provisions of this section, the Mercer County

Fiscal Court may add to or remove from the classification of non-domestic animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to the list may be made only if the Fiscal Court determines, after public hearing, that such species because of habit, mode of life, or natural instinct is incapable of being domesticated; requires the exercise of art, force, or skill to keep them safely in subjection; and would create a reasonable likelihood of hazard to the public. Each determination by the Legislative body as to additions or deletions shall become effective when filed with the County Judge/Executive;

OWNER: Any person who keeps, harbors, or has charge, care or custody of an animal, except a veterinarian who is treating or caring for an animal in the regular practice of veterinary medicine or an operation of a kennel or pet shop engaged in the regular practice of his business as such. Any animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more. This shall not include non-domesticated cats.

PET: Any animal kept for pleasure rather than utility; under no circumstances shall a non-domestic animal as defined in this Ordinance be considered a pet unless specifically provided for herein;

PUBLIC NUISANCE: Any animal or animals which:

1. Molest passerby or passing vehicles.
2. Attacks other animals.
3. Trespasses on school grounds.
4. Is repeatedly at large.
5. Damages private or public property.
6. Barks, whines, or howls in excessive, continuous or untimely fashion.
7. Disturbs the peace, comfort or health of persons in any other manner.

RESIDENTIAL PROPERTY OWNER: Any person owning, renting or leasing real estate in Mercer County, Kentucky;

RESTRAINT: The act of restraining any animal secured by a leash or lead and under control of a responsible person and obedient to that person's commands, or within the real property limits of its owner;

RUNNING AT LARGE: Any animal that is off the property of the owner, custodian, possessor or harbinger and is not restrained. Except that a hound or other hunting dog which has been released from restraint for hunting purposes shall be deemed

to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if the hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler it shall not be deemed to be in violation;

VACCINATION: The injection by a veterinarian or other qualified person of rabies vaccine approved by and administered in accordance with the regulations of the Kentucky State Board of Health;

VICIOUS ANIMAL: Any animal or animals that constitute a physical threat to human beings or other animals;

1. Exceptions. An animal shall not be deemed vicious solely because;
 - a. It bites, attacks or menaces;
 1. Any person assaulting its owner;
 2. Any person or animal who has tormented or abused it; or
 - b. It is otherwise acting in defense of any attack from a person or other animal upon its owner or another person; or
 - c. It is protecting or defending its young or the young of any other animal.

SECTION 2. RESTRAINT

Restraint is required for all animals in the county.

- (a) It shall be unlawful for any owner or person in charge of any animal to permit or allow such animal to run at large in the county, or any city therein, or to permit such animal to be on the streets of the county, or any city therein, unless such animal is on a leash or otherwise under the absolute control of the owner or his agent.
- (b) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.
- (c) **EXCEPTION** – Any dog used to assist in hunting during a lawful hunting season shall not be subject to this section while engaged in any hunting activity unless such animal constitutes a physical threat to human beings or other animals, in which case all related provisions hereto shall apply.
- (d) **EXCEPTION** – Any farm animal raised for commercial purposes and maintained on any farm in the county or other area except incorporated cities, unincorporated residential neighborhoods and towns, shall not be subject to the provisions of this section to the extent that said animal does not constitute a physical threat to human beings or other animals.

- (e) **PENALTY** – Any person violating this provision of this ordinance shall be subject to a fine of not less than \$25.00 nor more than \$250.00 for first offense. For second offense not less than \$50.00 nor more than \$500.00.

SECTION 3. VICIOUS ANIMALS PROHIBITED

It shall be unlawful for any person to harbor or keep, within the corporate limits of the county, or any city therein, any animal with a vicious propensity. It shall be prima facie evidence of the viciousness of any dog to bite or attack any person off the owner's own premises.

SECTION 4. HOWLING, BARKING ANIMALS DISTURBING NEIGHBORHOOD PROHIBITED

It shall be unlawful for any owner or person in charge of an animal to suffer or permit on his premises the loud or frequent barking, howling, or yelping of such animal so as to annoy or disturb any person located in the county at any time of the day or night regardless of whether the dog is physically situated in or upon private property; provided, however, that at the time the dog is barking or making any other noise, a person is not trespassing or threatening to trespass upon private property in or upon which the dog is situated or any other legitimate cause which teased or provoked the dog.

- (a) **PENALTY** – Any person violating this provision of this ordinance shall be subject to a fine of not less than \$25.00 nor more than \$250.00 for first offense. For second offense not less than \$50.00 nor more than \$500.00.

SECTION 5. PUBLIC NUISANCE

It shall be unlawful for any owner or person in charge of an animal to permit that animal to create a public nuisance as defined herein.

- (a) **PENALTY** – Any person violating this provision of this ordinance shall be subject to a fine of not less than \$25.00 nor more than \$250.00 for first offense. For second offense not less than \$50.00 nor more than \$500.00.

SECTION 6. LICENSING FOR KENNELS

- (a) On any premises where a person, or group of persons, partnerships of any entity owning or operating a kennel, as defined herein, for more than 30 days shall obtain a kennel license from the Mercer County Animal Control Officer.
- (b) The location of this establishment must be approved by Mercer County Planning and Zoning. The establishment of a kennel shall be considered a rural occupation by The Greater Harrodsburg/Mercer County Planning and Zoning Commission, except a kennel shall only be allowed in areas zoned A-1 or A-2.

- (c) The commercial animal establishment license shall be valid for a period of one (1) year, effective July 1 through June 30 of each year.
- (d) The commercial animal establishment license or kennel license shall be renewed annually.
- (e) The license fee shall be approved by order of the Mercer County Fiscal Court pursuant to County Ordinance # _____ . (see Fiscal Court Order Book 21, page 633)
- (f) **PENALTY** – Any person violating, failing or refusing to comply with the licensing requirement may be subject to the penalties set forth in KRS 258.990, being subject to a fine not less than \$25.00 nor more than \$250.00. Each day constitutes a separate offense. This supersedes the penalty set out in County Ordinance # _____. (see Fiscal Court Order Book 21, page 633)

SECTION 7. IMPOUNDMENT

- (a) Unrestrained dogs and nuisance animals shall be taken to an animal shelter by the animal control officer, or other authorized person, and impounded. The duty of the law enforcement officer shall be to respond to the scene; if the animal is a danger to the public or other animals, then he is to notify the animal control officer to pick up the animal, and the law enforcement officer is to keep the animal under surveillance until it can be caught and transported by the animal control officer.
- (b) Impounded dogs and cats shall be kept for not less than 5 days unless reclaimed by owner. However, this requirement may be waived by the animal control officer or his agent if an impounded animal has an injury or physical condition which causes the animal to suffer or causes other animals to suffer. In addition, any animal voluntarily surrendered by its owner, does not have to be impounded for the 5 day limit.
- (c) If by license, tag or other means the owner of an impounded animal can be identified, the animal control officer shall immediately notify the owner by telephone or mail.

- (d) An owner reclaiming an impounded dog shall pay a fee approved by the Mercer County Animal Shelter, plus any additional necessary charges or costs to the Mercer County Animal Shelter. Any owner failing to pay the impoundment fee shall not be permitted to reclaim the cat or dog.
- (e) Any animal not reclaimed by its owner within 5 days shall become the property of the animal shelter and shall be placed for adoption or humanely euthanized.

In addition to, or in lieu of, impounding any animal found at large in the county, or any city therein, law enforcement officer, or other animal control officer may proceed against the owner as provided in Section 12 of this ordinance.

SECTION 8. ANIMAL CARE

- (a) No owner shall fail to provide his animals with sufficient food and water, proper shelter and protection from the weather. Veterinary care when needed to prevent suffering and with humane care and treatment. Any owner or keeper of animals shall maintain a clean shelter or living area for any animal being kept which area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. All such shelters or living areas must be cleaned on a regular basis.
- (b) If any animal is restrained by a chain, leash, or similar restraint, such chain or restraint shall not be less than 10 feet in length and either on swivels designed to prevent the animal from choking or strangling itself or else on a chain run.
- (c) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans. In the event there is reasonable cause to suspect that an animal is being beaten, cruelly ill-treated, or tormented, or involved in a dogfight, cockfight or other combat, the custody of such animal may be taken by the law enforcement officer, or animal control officer and impounded by the Mercer County Animal Shelter. Said animal shall be held as evidence and confined in such facility in a humane manner. Upon a finding by the Court that the animal has been beaten, cruelly ill-treated or tormented, or involved in a dogfight, cockfight or other combat between animals, the animal shall become the property of the Mercer County Animal Shelter and be disposed pursuant to the provision of Section 7(e) as set forth herein.
- (d) No owner of an animal shall abandon such animal. Abandonment shall consist of leaving such animal for a period of excess 24 hours without food or water. An abandoned animal may be taken by the animal control officer or law enforcement officer and impounded in the Mercer County Animal Shelter. The owner shall be subject to all impoundment fees as set forth in Section 13.
- (e) No person shall crop a dog's ears, except a licensed veterinarian and then only if the dog is an animal whose ears are normally cropped for show or if the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation.

- (f) Any operator of a motor vehicle who strikes a domestic animal shall immediately report such accident to any of the following: the animal's owner, a law enforcement officer, the animal control officer or to the local humane society.
- (g) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same be liable to be eaten by any animal, provided that it shall be unlawful for a person to place on his property rat poison mixed only with vegetable substances.
- (h) **PENALTY** – The penalties for the foregoing section are set forth in KRS 525.125 (Cruelty to Animals 1st Degree, KRS 525.130 Cruelty to Animals 2nd Degree, a class A Misdemeanor, and KRS 525.135 Torture of dog or cat, a Class A. Misdemeanor.

SECTION 9. STANDARDS FOR KENNELS & PET SHOPS

- (a) All kennels, whether commercial or noncommercial, and pet shops shall in addition to the other requirements of this ordinance, comply with minimum standards as set out by Resolution of the Mercer County Fiscal Court and this section. Failure to meet these standards shall be grounds for denial or revocation of a license and the issuance of a citation subjecting the owner to the penalties herein. Facilities shall be subject to inspection by the Animal Control Officer upon officer's request during reasonable hours.
- (b) Enclosures must be provided with adequate protection against weather extremes. Floors of buildings, runs and walks shall be of such material to permit proper cleaning and disinfecting.
- (c) The building temperature shall be maintained at a comfortable level. Adequate ventilation shall be maintained.
- (d) Each animal shall have sufficient space to stand up, lie down and turn around in a natural position without touching the sides or top of the cage.
- (e) Cages are to be of material and construction to permit cleaning and sanitizing.
- (f) Runs shall provide an adequate exercise area and protection from the weather.
- (g) All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
- (h) All animals, other than certain reptiles and amphibians living in the kennel or pet shop shall be fed daily, except as otherwise prescribed by a veterinarian. Reptiles and amphibians shall be fed in accordance with the customary feeding habits of the species. The food shall be free from contamination,

wholesome, palatable and of a sufficient quantity and nutritive value to meet the normal daily requirement for the condition and size of the animal.

- (i) All animals shall have fresh water available at all times. Water vessels shall be mounted or secure in a manner that prevents tipping and be of a removal type.
- (j) No animal shall be taken from the kennel or rescue shelter except on a leash or mussel to prevent barking and biting.
- (k) Failure of property or kennel owner to comply with any of the foregoing shall result in forfeiture of any kennel license and subject to a fine of not less than \$100.00 nor more than \$500.00, and subject to confinement in the county jail for up to 90 days.

SECTION 10. KEEPING OF NON-DOMESTIC ANIMALS

No person shall keep or permit to be kept on their premises any non-domestic animal, as defined herein. This section does not apply to performing animal exhibitions and circuses.

SECTION 11. STERILIZATION

No unclaimed dog or cat or other animal shall be released for adoption unless the new owner agrees to subject the animal to the spay-neuter program sponsored by the Mercer County Humane Society and/or the Mercer County Animal Shelter and the payment of any and all applicable fees required thereof.

SECTION 12. ENFORCEMENT

- (a) It shall be a violation of this ordinance to interfere with law enforcement officer or animal control officer in carrying out and enforcing this ordinance.
- (b) The animal control officers, pursuant to the provisions in KRS 258.195 (3) shall have the authority to issue uniform citations, for this ordinance and other violations listed in KRS 258.195 (3).
- (c) This ordinance shall apply to the current provisions of KRS Chapter 258 and all subsequent amendments thereto from the date of their enactment into law unless specifically limited or qualified by amendment to this ordinance.
- (d) Every owner of a dog, cat or ferret shall have his animal vaccinated against rabies pursuant to KRS 258.015. Violators shall result in penalties set out in KRS 258.990.

SECTION 13. NOTICES AND WARNINGS

- (a) Where first offense violations of restraint requirements under Section 2. Restraint are observed, any Animal Control Officer may issue a RESTRAINT NOTICE in lieu of a Uniform Citation. The RESTRAINT NOTICE will stipulate the violation observed, associated fees and a compliance date, as well as a waiver provision providing that the person to whom the RESTRAINT NOTICE is issued waives all rights to protest such notice and waives all rights to a hearing on the issue relating to that notice. All associated fees shall be paid to the Mercer County Animal Shelter. Failure to pay the associated fees by the compliance date or failure to waive rights by the compliance date may result in the issuance of a Uniform Citation.
- (b) Where first offense violations of howling, barking animals disturbing Neighborhood requirements under Section 4. Howling, Barking animals Disturbing Neighborhood Prohibited are observed, any Animal Control Officer may issue a DISTURBANCE NOTICE in lieu of a Uniform Citation. The DISTURBANCE NOTICE will stipulate the violation observed, associated fees and compliance date, as well as a waiver provision providing that the person to whom the DISTURBANCE NOTICE is issued waives all rights to protest such notice and waives all rights to a hearing on the issue relating to that notice. All associated fees shall be paid to the Mercer County Animal Shelter. Failure to pay the associated fees by the compliance date or failure to waive rights by the compliance date may result in the issuance of a Uniform Citation.
- (c) Where violations of the licensing requirements under SECTION 5. LICENSING of this ordinance are observed, any Animal Control Officer may issue a LICENSING NOTICE in lieu of a uniform citation. The LICENSING NOTICE will stipulate a compliance date and associated fee and late fee, as well as a waiver provision providing that the person to whom the LICENSING NOTICE is issued waives all rights to protest such violation and waives all rights to a hearing on the issues relating to that violation. All associated fees and late fees shall be paid to the Mercer County Animal Shelter. Failure to pay associated fees and/or late fees and failure to waive rights by the compliance date may result in the issuance of a uniform citation.
- (d) Where violations of the vaccination requirements of this ordinance or KRS Chapter 258, as amended from time to time, are observed, any Animal Control Officer may issue a VACCINATION NOTICE in lieu of a uniform citation. The VACCINATION NOTICE will stipulate a compliance date and associated fee and late fee, as well as a waiver provision providing that the person to whom the VACCINATION NOTICE is issued waives all rights to protest such violation and waives all rights to a hearing on the issues relating to that violation. All associated fees and late fees shall be paid to the Mercer County Animal Shelter. Failure to pay associated fees and/or late fees and

failure to waive rights by the compliance date may result in the issuance of a uniform citation.

- (e) Where violations of the animal care requirements under SECTION 8 . ANIMAL CARE of this ordinance are observed, any Animal Control Officer may issue an ANIMAL CARE NOTICE in lieu of a uniform citation. The ANIMAL CARE NOTICE will stipulate a compliance date and associated fee and late fee, as well as a waiver provision providing that the person to whom the ANIMAL CARE NOTICE is issued waives all rights to protest such violation and waives all rights to a hearing on the issues relating to that violation. All associated fees and late fees shall be paid to the Mercer County Animal Shelter. Failure to pay associated fees and/or late fees and failure to waive rights by the compliance date may result in the issuance of a uniform citation.
- (f) Where violations of the sterilization requirements under SECTION 11. STERILIZATION of this ordinance are observed, any Animal Control Officer may issue a STERILIZATION NOTICE in lieu of a uniform citation. The STERILIZATION NOTICE will stipulate a compliance date and associated fee and late fee, as well as a waiver provision providing that the person to whom the STERILIZATION NOTICE is issued waives all rights to protest such violation and waives all rights to a hearing on the issues relating to that violation. All associated fees and late fees shall be paid to the Mercer County Animal Shelter. Failure to pay associated fees and/or late fees and failure to waive rights by the compliance date may result in the issuance of a uniform citation.

Where an Animal Control Officer observes a violation of any of the provisions of this ordinance, the officer may issue a WARNING CITATION in lieu of a Violation Notice or Uniform Citation, stipulating a time by which corrective action must be administered. If the specified item, a Violation Notice or Uniform Citation may be issued.

All fees provided for in this ordinance are set forth by the Humane Society at the Mercer County Animal Shelter, and may be modified by future Mercer County Fiscal Court Action.

SECTION 14. RUNNING AT LARGE

Dogs or other animals shall not be allowed to run at large. Any peace officer or animal control officer may seize or destroy any dog found running at large. A peace officer or animal control officer shall make a reasonable effort to determine the owner of the animal and return the animal unless it is in the act of pursuing or wounding livestock, or wounding or killing poultry, or attacking human beings. Any person without liability may kill or seize any dog which is observed attacking people, domesticated animals or non-domesticated animals. Any person in charge of the animal or animals running at

large shall be subject a fine between \$25.00 to \$500.00. Each day constitutes a separate offense.

SECTION 15. PENALTIES

In the event none of the foregoing sections provide for a penalty for violation of this ordinance, then such violation shall constitute a misdemeanor and shall, upon conviction be punishable by a fine of not less than \$25.00 nor more than \$500.00. Each day that a violation continues shall constitute a separate offense.

SECTION 16. CONFLICTING ORDINANCES

All other ordinances of Mercer County that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 17. SEVERABILITY CLAUSE

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof will not affect the remaining parts of the ordinance.

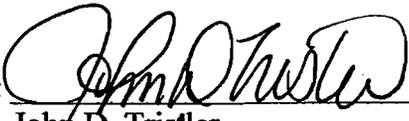
SECTION 18. EFFECTIVE DATE

This Ordinance shall effective on the second reading of this Ordinance and shall apply retrospectively and prospectively.

INTRODUCED AND PUBLICLY READ at first reading this the 8 day of February, 2005.

PUBLICLY READ AND APPROVED at second reading this the 22 day of February, 2005.

MERCER COUNTY FISCAL COURT

By: 
John D. Tristler
Mercer County Judge/Executive

ATTEST:


Gayle Horn
Mercer County Fiscal Court Clerk
PREPARED BY:

Douglas L. Greenburg
Mercer County Attorney
319 S. Main Street
Harrodsburg, KY 40330

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