

COMMONWEALTH OF KENTUCKY
CALLOWAY COUNTY FISCAL COURT
ORDINANCE NO. 06-0321-A

AN ORDINANCE ESTABLISHING MINIMUM REGULATION GOVERNING THE CONDITIONS AND MAINTENANCE OF ANIMALS; PROVIDING THE STANDARDS FOR FOOD SUPPLIES, SHELTER, PHYSICAL NEEDS AND CONDITIONS ESSENTIAL TO ENSURE THE ANIMAL'S WELL-BEING AND SAFETY.

Whereas, it is the intent of the Calloway County Fiscal Court to establish minimum regulations governing the condition and maintenance of animals; and provide basic standards for food supplies, shelter, physical needs and conditions essential to ensure an animal's well-being and safety,

Now therefore be it ordained by the Calloway County Fiscal Court to-wit:

Section 1. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following definitions shall be in effect

Adequate Feed. "Adequate feed" means the provision at suitable intervals, but in no event less than once every twenty-four hours, of a quantity of wholesome food-stuff suitable for the animal's physical condition and age, sufficient to maintain an adequate level of nutrition in the animal, such foodstuff to be served in a clean receptacle, dish or container.

Adequate Water. "Adequate water" means the access to a sufficient supply of clean, fresh, potable water provided at suitable intervals for the animal's physical needs and the climatic conditions.

Animal. "Animal" shall be defined for the purposes of this title to be dogs, cats, horses, mammals, reptiles, birds and other wild, domestic or farm animals that may be found in the care, custody, control or ownership of human beings.

Animal Control Officer. "Animal Control Officer" means any duly authorized person in the employ of the county responsible for the enforcement of this title and regulations promulgated thereunder.

Animal Shelter. "Animal shelter" means any establishment authorized by the county for the confinement, maintenance, safekeeping and control of all animals that come into the custody of any animal control officer, city police officer or deputy sheriff in the performance of his/her official duties.

At Large. "At large" means not confined; any animal which is not directly controlled and contained by an owner is an animal "at large."

Bite. "Bite" means a puncture or tear of the skin inflicted by teeth of an animal.

Confined. "Confined" means a condition whereby an animal is restricted to the property of the owner by enclosed lot, leash, cord or chain of suitable length for the type of animal,

as determined by the Animal Control Officer, deputy sheriff, police officer or peace officer and so placed that the animal has free access to his feed, water and shelter and, further, so affixed as to preclude the animal from becoming entangled on any obstruction; and the cage, coop, stable, leash, cord, chain or fence barrier shall be of such size and length to permit the animal to stand upright and lie down, and of such further dimensions as shall be deemed adequate by the Animal Control Officer or deputy sheriff to allow the animal comfort and safety.

Cruelty or torture. "Cruelty or torture" means every act, omission or commission whereby unjustifiable physical pain, suffering or death is caused to any animal.

Enclosed Lot. "Enclosed lot" means a parcel of land or portion thereof around the perimeter of which a fence or wall adequate to contain any animal kept therein has been constructed.

Impound. "Impound" means the act of taking or receiving into custody by any Animal Control Officer, Peace officer, police officer or deputy sheriff, any animal for the purpose of confinement in an Animal Shelter consistent with the provisions of this Chapter.

Motor Vehicle. "Motor vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.

Owner. "Owner" means any person owning, keeping, possessing, harboring, or having the care, custody or control of any animal.

Person. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity.

Research facility. "Research facility" means any place at which scientific tests, experiments, or investigations involving the use of any animal are conducted, attempted, or carried out.

Stray Animal. "Stray animal" means any animal of which the ownership is unknown.

Vicious Animal. "Vicious animal" means any animal which bites or attempts to bite any human or any animal declared to be vicious, dangerous or ferocious by the animal control officer, city police officer or deputy sheriff, except that any animal that bites or attempts to bite any person unlawfully upon its owner's premises, or which is provoked or teased, shall not be deemed a vicious animal. Evidence of any animal which has bitten or attempted to bite any human for a second time, except under conditions expressly exempted in this subsection is prima facie evidence of that animal being a vicious animal.

Wild Animal. "Wild animal" means any animal found naturally in an undomesticated state, whether indigenous to this state or not.

Section 2. Vehicle Confinement.

No person having charge or custody of an animal, as owner or otherwise, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, cold, lack of food or water, or such other circumstances as may reasonably be expected to cause suffering, disability or death. An officer of the Calloway County Sheriff's Department or any Animal Control Officer, police officer or peace officer who finds an animal in a motor vehicle in violation of this

Chapter may break and enter into the motor vehicle if necessary to remove the animal.

A. The officer removing the animal shall take the animal to the Animal Shelter or to a veterinary clinic for safekeeping and shall, in the event the person having custody cannot be otherwise contacted, leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address where the animal may be claimed by the owner thereof.

B. The animal will be surrendered to the owner if the owner claims the animal within 120 hours from the time the animal was removed from the motor vehicle and pays all reasonable charges that have accrued for the maintenance of the animal.

C. Any person or owner violating this section of this Ordinance shall be guilty of a violation punishable by fine for each occurrence not exceeding \$200 dollars.

Section 3. Fighting.

It is unlawful for any person to own, keep, or use, or be in any manner connected with, or financially interested in, the management of, or to receive money or other thing of value for the admission of any person to, a house, apartment, pit or place procured or permitted to be used or occupied for baiting or fighting of animals; or to instigate, promote, arrange, or carry on a fight between animals, or do any act as assistant, umpire, principal, spectator or otherwise in a fight between animals, or in aid of or calculated to encourage or further any fight between animals.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class A Misdemeanor.

Section 4. Injury, Overwork, Food, Shelter, Medical Care, Cruelty

A. It is unlawful for any person or owner to overdrive, overload, torture, beat, or unjustifiably injure, maim, mutilate, or kill any animal whether belonging to himself or to another, and whether on or off the premises of the owner of said animal. This section does not apply to actions of licensed pest and vermin control businesses.

B. It is unlawful for any person or owner to deprive any animal of necessary food, drink, or shelter, or expose to the elements of the weather and to the extremes of heat or cold, or refuse to obtain veterinary care for illness, injury, disease or infirmity.

C. It is unlawful for any person or owner to willfully instigate, engage in, or in any way further an act of cruelty to any animal, or any act to produce such cruelty.

D. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 5. Noise.

It is unlawful for any person to own, keep, harbor or possess any animal which, by loud or frequent habitual barking, yelping or other noise, causes annoyance to the neighborhood or to any person in the vicinity. Enforcement of this ordinance shall require the following:

A. Three complaints made in person to the responding Animal Control Officer or any deputy sheriff, police officer or peace officer within a 7 (seven) day period with only one

complaint counting toward the required 3 in any 24 hour period. The 24 hour period shall start with the first complaint to the Animal Control Officer, deputy sheriff, police officer or peace officer.

B. The responding Animal Control Officer, deputy sheriff, police officer or peace officer shall on each occasion, be a witness to the offense after having first moved a sufficient distance away from the animal so as to not be the cause of the animal's barking, yelping or other noise making.

C. The Animal Control Officer or deputy sheriff, police officer or peace officer, shall give verbal or written notice to the person keeping such animal that a complaint has been made against the offending animal and that further occurrences may violate this ordinance.

D. Any person or owner violating this section of this Ordinance shall be guilty of a violation and subject to a fine of \$100 for the first offense, \$200 for a second offense and \$300 for a third offense.

Section 6. Unlawful to resist or obstruct animal control officer or deputy sheriff.

It shall be unlawful for any person to resist or obstruct any animal control officer, deputy sheriff, police officer or peace officer in the exercise of duties imposed by this chapter.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 7. Right of entry.

The animal control officer, deputy sheriff, police officer or peace officer, for just cause, shall have the right to enter upon any private property or public property anywhere in the county, in order to examine or capture any animal thereon or therein; provided, however, that no such officer, or employee, agent, or servant thereof, shall have the right to enter a house or structure without having first secured a search warrant therefore or receiving permission from the person in control of said house or structure.

Section 8. Vicious Dogs—Just Cause

It is unlawful for any person to keep, harbor, own or have the care, custody or control of any vicious dog or any dog which by its constant threat of attacking and biting, or by biting, shall cause annoyance to the neighborhood or injury to any person or persons upon the sidewalks, alleys, streets or other public places anywhere in the county; provided, that the person so bitten was not at the time unlawfully upon the property of the owner or person having control of such dog; and provided further, that the person so bitten was not provoking or teasing such dog without cause. In addition to the imposition of a fine and/or imprisonment, the court may order, upon a finding that the dog is vicious, that such dog be muzzled, kept within a sufficient enclosure, or in the alternative, that such dog be delivered to the Animal Control Officer and euthanized.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 9. Abandonment.

It shall be unlawful for any person owning, possessing or having the care, custody, or control of any animal or carcass, to abandon the same on a public street, road, alley, or any other public place, or upon the private property of another. An animal shall be considered to be abandoned when not claimed by a specified date after having been boarded, groomed, trained, handled or cared for by any professional animal handler or veterinarian.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 10. Poisoning.

It shall be unlawful for any person unjustifiably to administer any poisonous drug or substance with intent that the same shall be taken by an animal, whether such animal be on the property of himself or another, or whether said drug or substance be exposed upon such person's property, the private property of another, or any public place.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class A Misdemeanor.

Section 11. Substances on Ground.

It shall be unlawful for any person to unjustifiably or willfully throw, drop or place, or cause to be thrown, dropped or placed upon any road, highway, street, alley, or public place, or upon the private property of himself or another, any glass, nails, pieces of metal or other substance or device calculated to wound, disable or injure any animal. This section of the ordinance shall not apply to lawfully placed devices designed to legally trap wildlife.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 12. Protective Care by Officer.

Whenever the Animal Control Officer, deputy sheriff, police officer or peace officer finds that any animal is, or will be, without proper care, the Animal Control Officer or deputy sheriff may take up such animal for protective care, and in the event of sickness or injury of the animal, where the owner or keeper is unknown, the Animal Control Officer, deputy sheriff, police officer or peace officer may take any action to prevent undue pain and suffering, including immediate destruction of the animal.

Section 13. Research or medical use.

It is unlawful for any person to sell or offer for sale, buy or offer to buy, barter or offer to barter, give or offer to give, or furnish any animal for experimental, laboratory or

vivisection purposes except as hereinafter provided; nothing herein shall interfere with the sale, buying, barter or gift of animals for properly conducted scientific experiments or investigations which are performed under the authority of the faculty of any regularly incorporated medical college or university of this state, or with recognized hospital or laboratory facilities in the course and scope of their work.

A. Any person or owner violating this section of this Ordinance shall be guilty of a Class B Misdemeanor.

Section 14. Promotional sale or gift.

It is unlawful for any person, in connection with any advertising campaign, game or promotion, to use, give, sell, or barter, or offer to use, give, sell or barter, as a gift or prize, any live animal in any manner where there will be a transfer of ownership or possession.

A. Any person or owner violating this section of this Ordinance shall be guilty of a violation and subject to a maximum fine not to exceed \$200 for each animal sold or transferred in violation of this section.

Section 15. Enforcement

The jurisdiction for judicial enforcement of this Ordinance shall be in the Calloway County District Court.

A. Enforcement of this Ordinance shall be accomplished through citation, summons or arrest in compliance with the prescribed section of Kentucky Revised Statutes.

B. Authorized enforcement officers

Deputy Sheriff's, Animal Wardens, police officers and/or peace officers are hereby authorized to enforce this ordinance.

C. Restitution

In addition to the criminal penalties provided for violations of this Ordinance, the County of Calloway may, where applicable, seek restitution from any owner or person found guilty of violating any section where those violations result in the County of Calloway having incurred financial expenses.

D. Nothing in this Ordinance shall limit or restrict Calloway County's ability to institute criminal proceedings against a person or owner for violations of applicable provisions of the Kentucky Revised Statutes.

E. Nothing in this Ordinance shall be construed to effect any suit or proceeding pending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing under any act or statute or other ordinance currently existing or hereby repealed; Nor shall any just or legal right or remedy of any character be lost or impaired or affected by this Ordinance.

F. The Provisions of this Ordinance in no way effect, change, or amend any existing state or federal laws; or state or federal regulations governing the taking, conduct, management, or other administration of any "fish or wildlife" as defined by Kentucky Revised Statutes or appropriate Federal Statutes.

Notice is further given that the above Ordinance will be presented to the Calloway County Fiscal Court of a first reading at the next regularly scheduled meeting for the Calloway County Fiscal Court on the 18th day of April, 2006 at the hour of 7 p.m. Said meeting will be held at the Weaks Community Center, 607 Poplar Street, Murray, Kentucky.

The above Ordinance in its entirety is available for public inspection at the office of the Calloway County judge Executive located at 101 South 5th Street, Murray, Kentucky. This Ordinance is available for review and public inspection during normal business hours from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Passed on the first reading this the _____ day of _____, 2006

Larry Elkins
Calloway County Judge Executive

Bobby Stubblefield
Magistrate

Steve Lax
Magistrate

Johnny Gingles
Magistrate

Kenny Imes
Magistrate