

**MCCREARY COUNTY FISCAL COURT
ORDINANCE NO. 840.1**

AN ORDINANCE OF McCREARY COUNTY, KENTUCKY RELATING TO LICENSING OF COMMERCIAL
KENNEL ESTABLISHMENTS AND CONTROL AND CARE OF ANIMALS

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Section 1

DEFINITIONS:

ANIMAL: Any living non-human creature, domestic or wild, including but not limited to livestock, canines, felines, pet rodents, pet birds, bovine, equine, swine, and poultry.

ANIMAL CONTROL OFFICER (ACO): Any person designated by the Fiscal Court who is qualified to perform duties under the laws and ordinances of the Commonwealth of Kentucky and the county relating to cruelty, mistreatment, or torture of animals, and local animal control ordinance. An Animal Control Officer shall be a Law Enforcement Officer for the purpose of animal control only.

ANIMAL SHELTER: Any premises designated, operated, or contracted with by the McCreary County Fiscal Court for the purpose of impounding and caring for animals held under authority of this Ordinance.

BOVINES: Cattle including bulls, cows, bullocks, steers, heifers, calves, and buffalo.

CAT: Any domestic feline six (6) months of age and over (less than six months is considered a kitten). A feral cat is a stray or abandoned cat that has reverted back to a wild state.

COMMERCIAL KENNEL ESTABLISHMENT: Any commercial establishment, excluding a licensed veterinary establishment, involved in the sale, purchase, and or re-sale of dogs and is so constructed that dogs cannot stray therefrom. Any establishment with ten (10) or more adult dogs shall be considered a Commercial Kennel.

DAY: For the purposes of this ordinance, a twenty-four (24) hour period shall constitute a day.

DESIGNATED LICENSE FACILITY: Any person, facility, or business designated by resolution of the governing body of the county to collect license fees under KRS 258.135.

DOG: Any canine six (6) months of age or older (less than six months is considered a puppy).

DOMESTICATED ANIMAL: An animal adapted to live in human environments or to be of use to humans.

EQUINE: Horses, ponies, mules, jackasses, jennies, donkeys, and burros, and all miniature versions of these.

LIVESTOCK: Equine, bovine, sheep, goats, swine, llamas, alpacas, vicunas, ostriches, emus, rheas, and poultry.

OWNER or OPERATOR: Any person, group of persons, partnership, or any entity owning or operating a Commercial Kennel Establishment or any person owning, keeping, harboring or sheltering one or more

dogs in McCreary County; “owner”, when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him.

QUARANTINE: Confinement for the observation of symptoms of rabies, of dog, cat, or ferret that has bitten a human being. The animal will be held at the Animal Shelter, or other approved facility, in a secure enclosure that prevents contact with other animals or humans for a period of ten (10) days from the date of a bite incident.

RABIES 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.

RESTRAINT: An animal shall be deemed to be under restraint if within fences adequate for that species, or on the premises of its owner, or if accompanied by a responsible person and under that person’s control.

VETERINARIAN: A licensed practitioner of veterinary medicine, accredited by the Bureau of Animal Husbandry, United States Department of Agriculture.

WILDLIFE: Any animal not domesticated, not ordinarily tame, or which by nature lives apart from human beings in a wild state. This includes any animal which is part wildlife, not to include emus, ostrich, rhea (ratites), llama, and alpaca.

REASONABLE GROOMING: To maintain an animal’s coat to prevent conditions which inhibits normal walking or eliminating body waste or which is medically harmful to the animal.

COMMERCIAL KENNEL ESTABLISHMENTS

Section 2

Licensing Provisions for Commercial Kennel Establishments:

- a. All Commercial Kennel Establishments shall obtain and maintain a valid Kennel License in order to operate within the County.
- b. The County Judge/Executive or the Animal Control Officer shall issue the Commercial Kennel Establishment license.
- c. The Commercial Kennel License shall be valid for a period of one year, effective July 1 through June 30 of each year. License fees for Commercial Kennel Establishments shall be \$100, and may be changed by resolution of the fiscal court.
- d. The Commercial Kennel Establishment license shall be renewed annually.

Section 3

Minimum Standards for Commercial Kennel Establishments:

- a. All Commercial Kennel Establishments shall supply documentation from either the McCreary County Health Department or the Kentucky Division of Water (Kentucky Pollution Discharge Elimination System Branch) that the waste disposal system utilized by the establishment is of proper design and in good working order. This shall be done in order to obtain the initial license as well as annually for any later renewals of said license.
- b. All Commercial Kennel Establishments, outside of any incorporated limits, shall have their facilities set back a minimum of 1000 feet from any property line.
- c. All Commercial Kennel Establishments shall provide an adequate environment for each dog, which is compatible with the general health and welfare of the dogs.
- d. All Commercial Kennel Establishments shall provide adequate space for each dog. Each cage or enclosure shall be large enough for the dog to stand, sit, lay and turn around without touching the walls and ceiling of the cage or enclosure, or another dog.
- e. All Commercial Kennel Establishments shall provide adequate sanitation. Each cage or enclosure shall be maintained as follows:

1. Cages or enclosures containing dogs of any age shall be cleaned with hot water, disinfectant and detergent daily (including holidays) or more if conditions require additional cleaning or disinfecting to keep dogs out of contact with feces or urine.
- f. All Commercial Kennel Establishments shall provide adequate nourishment and water for each dog as follows:
1. Each dog shall be given fresh food and water daily, including holidays.
 2. Soft food shall be available to those dogs unable to chew standard dry food.
 3. Potable water shall be available to each dog at all times.
 4. Food and water containers shall be washed and disinfected daily.
- g. All Commercial Kennel Establishments shall provide proper medical treatment from a veterinarian or other qualified person for sick or injured dogs.
- h. All Commercial Kennel Establishments shall provide adequate room (cage) temperature for the general health and welfare of the dogs.
- i. All Commercial Kennel Establishments shall provide a general cleanliness of its establishment and shall not permit an insect or rodent infestation.

Section 4

Inspections of Commercial Kennel Establishments:

The Animal Control Officer, a representative of either the McCreary County Health Department, or the Kentucky Division of Water shall be permitted and empowered to make an inspection of any Commercial Kennel Establishment within McCreary County, and shall further be permitted to take photographs of the establishment during the inspection. The inspection shall take place during normal business hours of the Animal Control Officer or any peace officer of the Commonwealth of Kentucky or above-named agency or individual during regular business hours of the Commercial Kennel Establishment.

Section 5

License Revocation of Commercial Kennel Establishments

The Animal Control Officer may revoke any Kennel License issued by McCreary County. Grounds for such revocation include, but are not limited to, conviction pursuant to any violation of this ordinance or conviction pursuant to any related state or federal law. Failure to adhere to the standards set forth in this chapter or failure to permit the inspection of any establishment, business, or person regulated by this ordinance during regular business hours shall be grounds for revocation of any said license. License revocation notices shall be in writing, specify the number of days for animal removal, not to exceed seven (7) days, and shall state the grounds therefore. The owner shall be responsible for all fees and expenses associated with the removal and impoundment of dogs. Any person who receives such license revocation notice issued pursuant to this section may appeal such notice to the McCreary County Fiscal Court within five (5) days following the receipt of such notice unless the revocation was made for a conviction of a violation of any related state or federal law. No appeal shall be granted for any license revocation based on a conviction of any state or federal law. Any appeal shall be in writing, shall state grounds therefore and shall be signed by the person bringing the appeal or their authorized representative. Notice of the appeal shall be sent by certified mail to the County Judge/Executive at Post Office Box 579, Whitley City, Kentucky 42653. Failure to file a timely appeal to a license revocation notice shall result in license revocation. A hearing for an appeal shall be held within fifteen (15) days of receipt of the notice of appeal before the Fiscal Court or a committee established by the Fiscal Court, which shall be the sole arbiter of the appeal.

Section 6

Location of Commercial Kennel Establishments:

- a. It shall be unlawful to establish, operate, or cause to be operated a Commercial Kennel Establishment in McCreary County unless said business is at least:
 - 1) 1,000 feet from any parcel occupied by another Commercial Kennel Establishment business;
 - 2) 1,000 feet from any parcel occupied by a house of worship, daycare center, public or private elementary or secondary school; or
 - 3) 1,000 feet from any parcel occupied by any structure used or zoned for residential purposes;

Provided that any Commercial Kennel Establishment in existence and legally operating at a non-conforming location on the effective date of this Ordinance shall not be subject to the locational requirements of this section,

- b. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the nearest property line of the parcel

upon which the Commercial Kennel Establishment is situated to the nearest property line of the use(s) identified in subsections a1 – a3 above.

Section 7

Penalty – Commercial Kennel Establishments:

Each day that a violation occurs shall constitute a separate violation, unless the context clearly indicates otherwise. Any Commercial Kennel Establishment violating the minimum standards of KRS 258 or the provisions of this ordinance as applicable shall on the first offence be fined not less than \$50 nor more than \$250 per offense; on a second or subsequent offence be fined not less than \$100 nor more than \$500 per offence and may have the Kennel License revoked and may be banned from operating a Commercial Kennel Establishment in McCreary County for a period of not less than six (6) months.

CONTROL AND CARE OF ANIMALS

Section 8

Control of Animals:

In addition to the provisions of KRS 258.265, McCreary County shall require that the owner or keeper of every dog shall at all times between the hours of sunset and sunrise of each day keep such dog:

- a. Confined within an enclosure from which it cannot escape, or
- b. Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured, or
- c. Under the reasonable control of some person or, when engaged in lawful hunting accompanied by an owner or handler. A hound or other hunting dog which has been released from confinement 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 such hunting dog becomes temporarily lost from a pack or wanders from actual sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this ordinance as a result of such dog's having become temporarily lost or having wandered from the immediate control or sight of the owner or handler.

Situations pertaining to control of animals in specific situations are as follows:

- a. **DOGS AND CATS IN HEAT.** Every female dog/cat (except feral cats) in heat shall be confined in a secure enclosure in such a manner that the animal cannot come into contact with an unaltered male dog/cat except for planned breeding. Tying, chaining, or staking an animal in heat in an unfenced area shall not constitute a “secure enclosure”.
- b. **DANGEROUS DOGS.** Any dog which, unprovoked, in an aggressive manner commits an attack on a human or other animal causing death or injury requiring medical treatment shall be considered a dangerous dog. If the offending animal can be positively identified by a credible witness, the dog will be impounded by the ACO and the Owner cited for violation of this Ordinance. (Exemptions: A dog that bites or attacks anyone assaulting its Owner, entering Owner’s property to commit a crime, or any person in the act of tormenting or abusing the animal. These exemptions shall not include any peace officer attempting to subdue or affect the arrest of a suspect with trained police dogs while performing law enforcement agency work. Simple trespass by a person onto private property shall not be considered provocation for any attack.)
- c. **NUISANCE.** Owners shall control dogs to prevent excessive, continuous or untimely barking or howling, molesting of passersby, chasing of vehicles, attacking of persons and/or domestic animals, or trespassing upon school grounds or private property.
- d. **AUTHORITY TO KILL OR SEIZE DOG** (In accordance with KRS 258.235):
 - 1. Any person, without liability, may kill or seize any dog which is observed attacking any person.
 - 2. Any livestock owner or his agent, without liability, may kill any dog trespassing on that owner’s property and observed in the act of pursuing or wounding his/her livestock.
 - 3. Any owner whose dog is found to have caused damage to a person, livestock, or other property shall be responsible for that damage.

Section 9

HUMANE TREATMENT OF ANIMALS

- a. **ABANDONMENT.** No person shall abandon any animal on public or private property or roadway, nor shall any person leave any non-pastured animal untended for a period in excess of twenty-four (24) hours without providing an agent to feed, water and check on the animal’s welfare. If an animal is found to be abandoned, such animal may be taken by the ACO or police and impounded in the Meade County Animal Shelter or other approved facility in accordance with this Ordinance.

- b. ABUSE. No person shall neglect, beat, cruelly mistreat, torment, leave non-pastured animals out in extreme weather, nor fail to provide proper nourishment. In hot weather no animal shall be left unattended in any enclosed vehicle or trailer. In the event there is reasonable cause to suspect an animal has suffered any of the above forms of abuse, the animal may be taken by the ACO or peace officer and impounded, the owner shall be charged with animal cruelty, with said animal(s) held as evidence of abuse. Upon a finding by the courts that the animal has been abused, the animal shall become the property of McCreary County.
- c. RESTRAINT BY CHAIN. If any dog is restrained by a chain or similar restraint, the restraint shall be no less than ten (10) feet long and either on a swivel or a chain run, and must be attached to a properly fitted collar or harness. A choke chain does not constitute a "properly fitted collar." Livestock shall not be restrained permanently by use of a rope, chain, or similar restraint.
- d. MUTILATION. No person shall mutilate any animal whether dead or alive. Cropping ears, docking tails, and spaying or neutering of animals, shall only be performed by a licensed veterinarian. (Exceptions: Accepted livestock practices.)
- e. PENS. Animals confined to outdoor pens or runs shall be provided shelter from the weather, shade during the summer, and constant access to fresh water. Pen(s) must be kept in good repair with sanitary conditions free of accumulated waste and debris so that the animal(s) shall be free to walk or lie down without coming into contact with said waste and debris. Pen size must be appropriate for the size and quantity of the animal(s) and permit proper exercise and adequate safety.
- f. POISONS. No person shall place any poisonous substance which may be harmful to any domesticated animal in any location where it may be readily found and ingested by such animal.
- g. REMOVAL OF ANIMAL IN DANGER. Any animal observed by the ACO or peace officer to be in immediate danger shall be removed from such situation by the quickest and most reasonable means available and impounded for its safety and welfare.
- h. CRUELTY. A person shall be cited for Animal Cruelty for failing to provide adequate food and water; failing to detect the need for or withholding veterinary or health care that results in suffering, serious illness, or death; creating or allowing unhealthy living conditions; inflicting pain, injury or death to an animal by striking, beating, dropping, kicking, dragging, choking or use of object or weapon; causing pain, injury or death by means of caustic, flammable, boiling or heated substances; causing suffocation or drowning; failing to provide health-related grooming; performing ear cropping, tail docking, or castration on a dog, cat, ferret, or horse, by someone other than a licensed veterinarian (Exemptions: standard livestock practices); failure to provide shade from the sun or shelter from extreme cold temperatures.

Section 10

CONFINEMENT OF ANIMALS

- a. **IMPOUNDMENT.** Unrestrained animals shall be taken by the ACO or peace officer and impounded in the Animal Shelter or other designated facility. Impounded animals shall be kept for not less than five (5) days unless reclaimed by their owners. (Exception: If an impounded animal has an injury or physical condition which causes it to suffer, the ACO or veterinarian may immediately humanely euthanize the animal.)
- b. **CONFISCATION.** Any animal found involved in violation of this ordinance may be confiscated by any ACO or peace officer, and impounded in a humane manner. The owner or person responsible for violation of this Ordinance, upon conviction in a court of law, shall surrender any confiscated animals which will become the property of McCreary County, and such Owner shall pay all veterinary fees, impoundment fees, and any charges incidental to maintaining the animal(s) up to the date of conviction.
- c. **QUARANTINE.** Any animal which has bitten or scratched and broken the skin of a person shall be quarantined for the observation of symptoms of rabies. This shall be in a secure enclosure which prevents the animal from coming into unplanned contact with other animals or persons for a period of ten (10) days from the date of the incident. Quarantined animals will be held at the Animal Shelter, an approved boarding facility, or veterinarian. The animal owner shall be responsible for all quarantine fees.
- d. **RECLAIMING.** Every owner reclaiming an impounded animal shall show proof of ownership and have proof of rabies vaccination (dogs, cats, and ferrets), and pay reclaiming fees and any veterinary medical costs before the animal is released from the Animal Shelter.

Section 11

STANDARDS OF CARE FOR ANIMALS

- a. **RABIES VACCINATIONS:** Rabies vaccinations and tags shall only be given by licensed veterinarian or person granted a permit by the Secretary for Health Services. This Ordinance Section is in accordance with KRS 258.015.
 1. Every Owner shall have their dog, cat, and ferret vaccinated by the age of four (4) months and re-vaccinated against rabies at each expiration of the immunization period, and a certificate and metal tag be given to Owner. The metal tag furnished shall be affixed to the collar or harness and shall be worn by the dog for which the certificate was issued. No one except the Owner or duly authorized agent shall remove from any dog the collar or harness with the attached tag. Cats and ferrets need not wear a collar or rabies tag, but the owner must provide proof of vaccination upon request by the ACO or peace officer.

b. **GENERAL STANDARDS OF CARE:** Facilities used to house animals include but are not limited to having enclosures to provide adequate protection against weather extremes, including adequate shelter appropriate for each species. Building temperatures and ventilation must be maintained at a comfortable level for animals housed within a building. Food shall be free from contamination, wholesome and palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of each animal. Fresh water must be available at all times. All areas housing animals shall be free of accumulated waste, debris and accumulated or standing water, and shall be maintained regularly to promote proper health. Living conditions for all animals shall be subject to inspection by an ACO during reasonable hours, and failure to meet standards shall be grounds for issuance of citations. In addition to the standards of care listed above, the following specific requirements shall be met:

1. **GUARD AND SENTRY DOG CONFINEMENT AREAS.** Due to the unique and potentially dangerous nature of guard and sentry dogs, the following additional safeguards shall be met: Runs, training areas and kennels must have fences at least eight (8) feet in height completely surrounding the dog(s). The tops of runs must be completely covered unless anti-climbers are added. All gates and entrances to the runs, kennel and training areas must be kept locked when not in use. Fences must be maintained to prevent escape. Dogs must be confined at all times unless under control of handler, and cannot be trained by use of chemical, electrical or mechanical devices which may cause extreme or excessive pain, injury or death. Any individual involved in training guard or sentry dogs must have completed a recognized course or be able to demonstrate equivalent training to the ACO or peace officer. (Exceptions: Livestock guard dogs for herding or protecting animals.) All dogs housed at the facility must have a current Rabies vaccination.
2. **LIVESTOCK.** All livestock must be confined by a fence in good repair sufficient to prevent the animal(s) from leaving the owner's property. Livestock found not restrained which present a threat to public safety may be removed and the owner charged with a violation of this ordinance. All livestock must be provided adequate shelter, continuous access to fresh water; wholesome and palatable food of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, size, and species of each animal.
3. **EQUINE:** The following additional standards are required for adequate care of all equine. Unrestricted access to a building, barn, shed, or other structure must be provided for shelter during extreme weather. Pastures containing equine shall be free of debris, and shall have adequate drainage to prevent the animal from having to continuously stand in mud or muck.

Section 12
ENFORCEMENT

(1) CITATIONS. Citations issued by ACO or peace officer shall impose upon the individual the obligation to answer charges specified on the Citation to the McCreary County District Court at the time and place indicated.

(2) INTERFERENCE WITH ENFORCEMENT. No person shall in any manner interfere with, hinder, molest or abuse any ACO or peace officer authorized to enforce the provisions of this Ordinance.

(3) PENALTIES. Any person violating any provision of this Ordinance shall be charged with a misdemeanor and shall upon conviction be punished by a fine not to exceed five hundred dollars (\$500) dollars or be imprisoned for not more than ninety (90) days, or both. Each day that a violation persists constitutes a separate offense.

(4) In addition to any penalties and fines imposed upon conviction for animal cruelty, the abuser of the animal subjected to cruelty shall pay all costs of housing and caring for the animal while in the care of the Animal Shelter that is operated by or contracted with McCreary County, including necessary veterinary treatment.

Section 13
Severability:

This ordinance and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to an person or circumstances other than those to which it is held invalid, shall not be affected hereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this ordinance.

Section 14
Conflicting Code Provisions Repealed:

Any provision(s) in the McCreary County Code specifically in conflict with any provision in this ordinance is hereby deemed inoperative and repealed, to the extent that said provision(s) would prevent the operation of the specific provision(s) in this ordinance.