

ORDINANCE NO. **BG2022 - 12**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 5
(ANIMALS) OF THE CITY OF BOWLING
GREEN CODE OF ORDINANCES

WHEREAS, the City of Bowling Green regularly reviews the Code of Ordinances to determine if changes need to be made; and,

WHEREAS, the Neighborhood and Community Services Department recommends revisions be made to the Chapter to update definitions, fees and other necessary revisions; and,

WHEREAS, the proposed amendments as recommended by City staff are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 5 (Animals) is hereby amended as follows:

5-1.01 Definitions.

As used in this Chapter:

“Animal” shall mean any warm-blooded living creature, except humans.

“Animal Control Officer” shall mean all persons designated by the City as the primary enforcement officers of ordinances regulating animals and owners of animals, and for the enforcement of Sections of the Kentucky Revised Statutes and shall have the same meaning as a Code Official [~~or Code Enforcement Officer~~].

“Adequate Shelter” for dogs means a durable, enclosed, permanent structure, or a structure manufactured to serve primarily as an outdoor shelter for a dog, with a roof, at least three (3) sides, and a floor. The shelter shall be large enough to allow all animals present to stand, turn and lie comfortably with a sufficient quantity of suitable bedding to provide insulation and protection against heat, cold and dampness, or other environmental conditions detrimental to the animal. For all other animals,

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“adequate shelter” means an appropriate structure that provides the animal protection and shelter, as determined by the animal’s species, from heat and cold and from direct effect of wind, rain, and snow.”

“Attack” shall mean an unprovoked attack in an aggressive manner on a human that causes a scratch, abrasion, or bruising, or on a domestic animal that causes death or injury that requires veterinary treatment.

“Cat” shall mean any domestic feline three (3) months of age or older for which there exists a U.S. Department of Agriculture approved rabies vaccine.

“Code Enforcement and Nuisance Board” shall mean the administrative body created in Chapter 2 of this Code of Ordinances.

“Code Official” shall have the same meaning as [~~a Code Enforcement Officer as~~] set forth in Chapter 2 of this Code of Ordinances.

“Confinement” shall mean:

a. All animals, except puppies and dogs: confinement shall mean on the premises of the owner, or if off the premises of the owner, under restraint by means of a lead, leash, harness, appropriate animal carrier or other reasonable method and under the control of a responsible person.

b. Puppies and dogs: confinement shall mean on the premises of the owner and confined in a secure enclosure or accompanied by the owner on the owner's property and under his/her direct control. If off the premises of the owner, the animal must be restrained by a lead or leash and under the control of a responsible person, or accompanied by a responsible person into an approved off-leash area and in conformance with all regulations and/or requirements imposed as a condition of utilizing such "off-leash" area.

c. All livestock: confinement shall mean by a fence in good repair sufficient to prevent the livestock from leaving the owner's property.

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d. All non-crowing poultry: confinement shall mean by a fence in good repair, or structure of sufficient height and construction to prevent the poultry from leaving the owner's property. All gates or doors to the fence or structure shall fit properly and shall be locked or secured by a latch.

"Dog" shall mean any domestic canine three (3) months of age or older for which there exists a U.S. Department of Agriculture approved rabies vaccine.

"Domestic animal" shall include dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds and animals raised and/or maintained in confinement.

"Exotic or wild animal" shall mean any wildlife identified by the Kentucky Department of Fish and Wildlife Resources as inherently dangerous to human health and safety.

"Ferret" shall mean any mustelid [~~musteling~~] three (3) months of age or older for which there exists a U.S. Department of Agriculture approved vaccine.

"Housing facility" for the purposes Section 5-1.06 shall mean any premise, shed, barn, building, trailer or other structure or area housing intended to house animals or livestock, and which may consist of an indoor, outdoor or sheltered housing facility, or any combination thereof as follows:

a. "Indoor housing facility" shall mean any structure or building with environmental controls which provides adequate protection against weather extremes, and intended to house animals.

b. "Outdoor housing facility" shall mean any structure, building, land or premise housing or intended to house animals which does not meet the definition of any other type of housing facility provided herein, and in which temperatures cannot be controlled within set limits.

c. "Sheltered housing facility" shall mean a housing facility which provides animals with shelter, protection from the elements and protection from temperature extremes at all times, and may consist of runs or pens totally enclosed in a barn or building, or of connecting outside runs or pens with inside pens in a totally enclosed building.

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“Keeping or harboring” shall mean any person who shall allow any animal to habitually remain, lodge or be fed within his/her home, business, yard, enclosure or premises.

“Kennel” shall mean any person, partnership, corporation, limited liability company or any other business entity maintaining an establishment where dogs or cats are kept for the purpose of breeding, buying, selling, showing or boarding, or engaged in the training of dogs for guard or sentry purposes. Kennel shall not include licensed veterinary clinics, properly licensed and zoned commercial retail pet shops, state or federally regulated animal research facilities, City’s police K-9 unit or the animal shelter operated by the Humane Society.

“Kitten” shall mean any domestic feline younger than three (3) months of age.

“Litter” shall mean the offspring at one birth of any animal herein defined.

“Livestock” shall mean horses, stallions, colts, geldings, mares, fillies, ponies, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine.

“Microchip” shall mean a passive transponder which can be implanted in an animal which is a component of a radio frequency identification (RFID) system. Such system must be compatible with a scanner used by the City.

“Notice of Violation” shall mean written notification to a person violating a specified City ordinance providing the violator with an opportunity to cure the violation.

“Occasional sale” shall mean any sale of a single animal or a single litter of puppies, kittens or otherwise which is on a random, unsystematic basis and does not exceed the sale of one animal or one litter over a 24-month period.

“Owner” shall mean [~~any person caring, keeping or harboring an animal~~] every person having a right of property in the animal and every person who keeps or harbors the animal, or has it in his/her care, or permits it to remain on or about premises owned or occupied by him/her.

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“Poultry” shall mean all domesticated fowl and all game birds which are legally kept in captivity.

“Primary enclosure” shall mean any structure or device used to restrict an animal to a limited amount of space, such as a room, pen, run, cage, compartment or hutch.

“Property Owner” shall mean a person, association, corporation, partnership or other legal entity having a legal or equitable title in real property.

“Puppy” shall mean any domestic canine younger than three (3) months of age.

“Quarantine” shall mean humane confinement of an animal in a secure enclosure, which enclosure prevents the animal coming into unplanned contact with any other animal or human being.

“Shade” shall mean protection from the direct rays of the sun during the months of May through October.

~~“Shelter” shall mean a moisture proof structure of suitable size to accommodate the animal and allow retention of body heat, with a sufficient quantity of suitable bedding to provide insulation and protection against heat, cold and dampness, or other environmental conditions detrimental to the animal.]~~

“Vicious or dangerous animal” shall mean any animal that attacks, bites or physically injures human beings, domestic animals or livestock without adequate provocation ~~[or which because of temperament or training has a known propensity, tendency or disposition to attack, bite or physically injure human beings, domestic animals or livestock].~~ Any ~~[wild animal or any]~~ animal that without provocation has ~~[bitten or]~~ attacked a human being or other animal shall be ~~[prima facie]~~ presumed vicious or dangerous for purposes of this Chapter. This definition shall not apply to dogs used by law enforcement officers in the performance of their duties.

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5-1.08 Animal Nuisances Prohibited.

No person shall own, keep or harbor any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owner's, to enjoyment of life or property. The term "animal nuisances" shall include, but is not limited to any animal that:

a. Barking, Howling, Yelping, Whining. Barks, howls, yelps or whines, in an excessive, continuous, or untimely fashion;

b. Trespassing. Goes upon any property or premises not owned or occupied by the person who keeps, harbors or owns the animal without permission;

c. Damaging Personal Property. Turns over, gets into, or otherwise damages or disturbs garbage cans, or any items or personal property located on any premises other than those owned or occupied by the person who owns, keeps or harbors the animal;

d. Frightening, Molesting People. Runs at, jumps upon, chases, barks at, bites at or in any other way frightens, molests or scares any child or adult other than the one who owns, keeps or harbors the animal and the members of his/her immediate family;

e. [~~Attacking,~~] Chasing [~~Other~~] Domesticated Animals. [~~Attacks or~~] [~~e~~]Chases any [~~other~~] domesticated animal besides those animals who are kept, owned or harbored by the same person;

f. Chasing Vehicles. Chases motor vehicles, bicycles or scooters other than those owned or operated by the same person or his/her immediate family who keeps, owns or harbors the animal;

g. Running at Large in [~~the~~] Public [~~Parks~~]. [~~Goes upon City cemeteries, parks and playgrounds, except at designated parks or under restraint~~] When off private property, any animal must be restrained by a lead or leash and under the control of a responsible person, with the exception of the enclosed area at the H.P. Thomas Bark Park;

h. Vacant or Unoccupied Properties. Is housed in or confined on the premises of any vacant

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or unoccupied residence.

i. Offensive Odors and Sanitary Conditions. Causes fouling of the air by noxious or offensive odors resulting from the accumulation of animal excrement and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored because of the failure to keep the animal's pen, yard, lot or other enclosures in a sanitary condition and free from preventable orders; and,

j. Public Health and Safety. Is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence, or the inadequacy of the facilities, or the inability to provide proper care for those animals.

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5-1.13 Impounding of Unlicensed or Nuisance Animals.

a. Any dog or cat kept or harbored within the corporate limits without a proper and current license registration tag, or any animal which is in violation of any of the provisions of this Chapter, or has committed any one (1) or more of the objectionable acts listed hereinabove may be impounded at any time by any person authorized to enforce this Chapter.

b. It shall be the duty of the Bowling Green-Warren County Humane Society, or such other persons or organizations as may be designated by the Board of Commissioners to receive or to cause to be received impounded animals. Impounded animals may be released to the owner, provided the owner provides proof of vaccination against rabies, pays all applicable license fees, pays a five (\$5.00) dollar per day fee for each twenty-four (24) hour period the animal is impounded or the actual cost of keeping the impounded animal, whichever is greater, and pays the additional sum of twenty (\$20.00) dollars for each impoundment of spayed or neutered animals and fifty (\$50.00) dollars for each impoundment of unspayed or unneutered animals. The impoundment fee for unspayed or unneutered animals will be waived for the first offense if the owner agrees to spay or neuter the animal

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and pays this cost. Spaying or neutering the animal shall be mandatory for the second impoundment.

1. Animals deemed vicious or dangerous as defined hereinabove and only in violation of this Chapter shall not be released by the Bowling Green-Warren County Humane Society until authorized by the Neighborhood and Community Services Department.

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5-1.15 Vicious or Dangerous Animals.

a. It shall be unlawful for any person to keep, own or harbor, or allow to be kept on his/her property, any vicious or dangerous animal, as defined hereinabove, except as follows:

[a]1. ~~[It shall be unlawful for any person within the corporate limits to keep, own or harbor any vicious or dangerous animal, unless]~~ [s]Such person shall keep such animal securely confined indoors or in an enclosure securely fenced so that the animal cannot escape therefrom and is secured from entry by young children. Any outdoor pen or structure must have minimum dimensions of five (5') feet by ten (10') feet and must have secure sides and 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 provide protection from the elements for the animal. A vicious or dangerous animal shall be transported to or from the indoors or to a securely enclosed outdoor pen or shelter only if such animal is muzzled and restrained by a suitable chain, leash or other means of appropriate restraint, which chain or leash is not more than six (6') feet in length and a responsible adult capable of controlling the animal is in physical control of the chain or leash.

b. If a vicious or dangerous animal escapes its enclosure or is found at large, the animal shall be seized and impounded. If during the course of seizure and impoundment the animal poses a physical threat to any person or domestic animal, any enforcement official may render the animal immobile by means of reasonable measures or necessary force, including, but not limited to, the use of tranquilizers or other safe drugs, or if that is not possible under the circumstances, the animal may be

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killed.

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5-1.17 Care of Animals.

a. It shall be unlawful for any person in charge of any animal to fail, refuse or neglect to provide such animal with food, potable water, adequate shelter [or] as defined hereinabove, shade when appropriate, and health care.

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5-4 PENALTIES.

5-4.01 Civil Penalties, Fine Schedule.

a. Any violation of the provisions of this Chapter, with the exception of those Sections specifically listed hereinabove and below as criminal offenses shall be classified as a nuisance and any person violating any of the provisions of this Chapter, with the exception of those Sections specifically listed hereinabove and below as criminal offenses, shall be subject to civil fines as set out below. These civil penalties shall be in addition to all license and impoundment fees charged under this Chapter.

1. If a citation for a violation of this Chapter is not contested by the person charged with the violation, the maximum penalties below shall apply~~;~~ ~~however, the Code Enforcement and Nuisance Board may waive any or all of a penalty for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Chapter. The penalties listed below are for each day a violation continues, beginning on the first day after the ending date of the correction period given in the citation].~~ A second offense is an offense that occurs within five (5) years ~~[of the determination by the Code Enforcement and Nuisance Board]~~ of a prior offense for which a citation is issued against the same property owner at the same property. All others are those that occur within five (5) years ~~[of the determination by the Code Enforcement and Nuisance Board]~~ of two

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(2) or more prior offenses for which a citation is issued against the same property owner at the same property.

| <u>Violation</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd Offense</u> |
|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| License Registration | \$75.00 | \$150.00 | \$300.00 |
| Rabies Vaccination | \$25.00 | \$50.00 | \$100.00 |
| Kennels; Dog/Cat Restrictions | \$100.00 | \$200.00 | \$400.00 |
| Poultry Restrictions | \$50.00 | \$100.00 | \$200.00 |
| Animal Nuisances | \$ 50 75.00 | \$1 0 50.00 | \$ 2 300.00 |
| Confinement | \$75.00 | \$150.00 | \$300.00 |
| Animal Waste Removal | \$25.00 | \$50.00 | \$100.00 |
| Animal Carcasses | \$25.00 | \$50.00 | \$100.00 |
| Exotic or Wild Animals | \$50.00 | \$100.00 | \$200.00 |
| Livestock | \$50.00 | \$100.00 | \$200.00 |
| Care of Animals | \$75.00 | \$150.00 | \$300.00 |
| Vicious or Dangerous Animals | \$100.00 | \$200.00 | \$400.00 |

2. If the citation is contested and a hearing before the Code Enforcement and Nuisance Board is required, the following maximum penalties may be imposed at the discretion of the Board:

| <u>Violation</u> | <u>1st Offense</u> | <u>2nd Offense</u> | <u>3rd Offense</u> |
|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| License Registration | \$150.00 | \$300.00 | \$600.00 |
| Rabies Vaccination | \$50.00 | \$100.00 | \$200.00 |
| Kennels; Dog/Cat Restrictions | \$200.00 | \$400.00 | \$ 6 800.00 |
| Poultry Restrictions | \$100.00 | \$200.00 | \$400.00 |
| Animal Nuisances | \$1 0 50.00 | \$ 2 300.00 | \$ 4 600.00 |
| Confinement | \$150.00 | \$300.00 | \$600.00 |
| Animal Waste Removal | \$50.00 | \$100.00 | \$200.00 |
| Animal Carcasses | \$50.00 | \$100.00 | \$200.00 |
| Exotic or Wild Animals | \$100.00 | \$200.00 | \$400.00 |
| Livestock | \$100.00 | \$200.00 | \$400.00 |
| Care of Animals | \$150.00 | \$300.00 | \$600.00 |
| Vicious or Dangerous Animals | \$200.00 | \$400.00 | \$800.00 |

~~[5-4.02 — Criminal Penalties.]~~

~~[a. Dangerous or Vicious Animals: Any person, firm or corporation violating the Section regarding dangerous or vicious animals shall upon conviction thereof be guilty of a misdemeanor and shall be fined not less than fifty (\$50.00) dollars, and not more than two hundred (\$200.00) dollars, or be imprisoned for not less than ten (10) days, and not more than sixty (60) days, or both. Any person~~

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~~found guilty of violating that Section shall in addition to any other penalties, within seven (7) days of that finding also have the dog implanted with a microchip identification, and the person found guilty shall present the animal to the Humane Society for scanning and verification of the microchip and identification number.]~~

~~[a. Biting and Reporting: Any person, firm or corporation violating the Section regarding animal biting and reporting requirements shall be guilty of a misdemeanor and upon conviction thereof be fined not less than ten (\$10.00) dollars, and not more than one hundred (\$100.00) dollars, or be imprisoned for not less than five (5) days, nor more than sixty (60) days, or both. This penalty shall be in addition to all license and impoundment fees charged under this Chapter.]~~

2. The provisions of this Ordinance are hereby declared to be severable and, if any section, phrase or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

4. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on March 15, 2022, and given final reading on April 19, 2022, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: April 19, 2022

APPROVED: 

Mayor, Chairman of Board of Commissioners

ATTEST: 

City Clerk

SPONSORED BY: Jeffery B. Meisel, City Manager