

Ellinger
Myers
Lawless
Beard
Feigel
Crosbie
McChord
Martin
Henson
Lane

SERVICES COMMITTEE

June 2, 2009

1:00 P.M.

A G E N D A

1. Animal Cruelty Ordinance - Myers (1-9)
2. Underground Utilities - Feigel (10)
3. Items in Committee (11-12)

"Services Committee, to which should be referred matters relating to public safety, public works, urban county courts, and constitutional officers."

Council Rules & Procedures, Section 2.102(3)

To: Chuck Ellinger, Chair
Services Committee

From: Rick Curtis, Chair
Animal Care and Control Advisory Committee

Subject: Cruelty Ordinance Review (Section 4-2)

Councilman Ellinger,

On April 7th the Services Committee tasked the Animal Care and Control Advisory Committee (ACCAC) to review the existing cruelty ordinance and determine if there was a possibility of strengthening the ordinance to allow Animal Care and Control officers' additional authority to enforce the mistreatment of animals.

The ACCAC has reviewed the current cruelty ordinance and is suggesting a complete change to the ordinance (attached) that if implemented will not only give our ACC officers additional authority, but will enhance the overall care and treatment of all animals. The revised ordinance, although lengthy, addresses numerous animal treatment issues that have been causation factors of inhumane treatment. Additionally, there are other ordinances that will need revision if the cruelty ordinance is amended (also attached).

The revision to the cruelty ordinance and additional amendments to other ordinances was unanimously approved by the committee in a special called meeting on May 6th. Chief Bowling of ACC has reviewed the revisions and has approved the changes. I also had the proposed revision to all ordinances reviewed within the Fayette County Attorney's Office to insure if enacted they could be enforced and prosecuted. They completed their review, and submitted 2 minor changes which have been included, and they approved as well.

We feel as a committee that enactment of these changes will have far reaching beneficial effect on the health and welfare of animals in Fayette County.

Note: I have requested Chief Bowling from ACC, and Keith Horn from the Law Department to attend the next meeting of the Services Committee. I will also be in attendance. Please confirm if this will be on the June 2nd agenda of the Services Committee.

If you need further information prior to the meeting please contact me.

ORDINANCE _____

AN ORDINANCE AMENDING SECTION 4-2 OF THE CODE OF ORDINANCES, RELATING TO THE MISTREATMENT OF ANIMALS, TO CHANGE THE TITLE OF THE SECTION TO "CARE AND TREATMENT OF ANIMALS", TO DEFINE "ADEQUATE FOOD", "ADEQUATE SHELTER", "ADEQUATE WATER" AND "VETERINARY CARE", TO REQUIRE THAT AN ANIMAL BE PROVIDED ADEQUATE FOOD, ADEQUATE WATER, AND ADEQUATE, SAFE AND SANITARY SHELTER, SETTING FORTH STANDARDS FOR COLLARS AND HARNESSSES, AND PROVIDING A PENALTY FOR VIOLATION; AMENDING SECTION 4-12.2 OF THE CODE OF ORDINANCES, RELATING TO NUISANCES CREATED BY ANIMALS, TO MAKE PROHIBITIONS APPLY TO HARBORERS AS WELL AS OWNERS AND CREATING GRADUATED PENALTIES; AMENDING SECTIONS 4-12.5(D) AND 4-12.5(F) OF THE CODE OF ORDINANCES, RELATING TO STANDARDS FOR KENNELS, TO CONFORM TO THE DEFINITIONS ESTABLISHED IN SECTION 4-2; AND AMENDING SECTION 4-19(C), RELATING TO DOGS RUNNING AT LARGE, TO REQUIRE THAT A DOG, WHEN OFF THE OWNER'S OR HARBORER'S PROPERTY, BE RESTRAINED BY A PROPERLY FITTING COLLAR OR HARNESS PHYSICALLY ATTACHED TO A LEASH OR TETHER OF APPROPRIATE MATERIAL AND WEIGHT.

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

Section 1 – That Section 4-2 of the Lexington-Fayette Urban County Government

Code of Ordinances be and hereby is amended to read as follows:

4-2. Care and Treatment of Animals. [~~Cruelty, injury, killing—Beating, etc.~~]

(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 shelter" means 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.
- (3) "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.

- (4) "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 [if] any person [shall] within the urban county to unnecessarily or cruelly beat, torture, abuse or otherwise mistreat any horse[,beast] 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. [he shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisonment for a term not to exceed twelve (12) months, or both, for each act which shall be a separate offense.]
- (2) For the owner or harbinger of an animal to fail to provide the animal with adequate food, water, shelter or veterinary care.
- (3) For a dog's housing area or enclosure to be excessively muddy or contain standing water, due to a lack of groundcover, or be otherwise unsanitary. A dog'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 dog, including, but not limited to, rusty or jagged metal objects, broken glass, or harmful chemical solvents or agents.
- (4) 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 4-12.2 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

- (a) It shall be unlawful for the owner or harbored of an animal
~~[occupant of any building or lot]~~ to permit:
 - (1) Any animal to attack, chase or snap at pedestrians or passersby;
 - (2) The accumulation of animal excrement so as to cause unsightly litter or fouling of the air by odor and thereby create an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 - (3) Unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (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.
- (c) Any animal which is the subject of any violation of this section may be impounded as set forth in section 4-21.

Section 3 – That Section 4-12.5(d) of the Lexington-Fayette Urban County

Government Code of Ordinances be and hereby is amended to read as follows:

- (d) "Housing facility" means any premises, shed, barn, building, trailer, or other structure or area housing or intended to house dogs. All dogs shall be provided with housing facilities which meet the requirements of this section and which may consist of an indoor, outdoor or sheltered housing facility, or any combination thereof.
 - (1) Housing facilities must be kept in good repair, and they must protect the dogs from injury, contain them securely, and restrict other animals from entering.
 - (2) The surfaces of housing facilities, including houses, dens, and other furniture-type fixtures and objects within the facility, must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Interior surfaces and any surfaces that come in contact with dogs must:
 - (A) Be free of excessive rust that prevents the required cleaning and sanitization, or that affects the structural strength of the surface; and
 - (B) Be free of jagged edges or sharp points that might injure the dogs.
 - (3) "Indoor housing facility" means any structure or building with environmental controls housing or intended to house dogs. Indoor housing

facilities must provide adequate protection against weather extremes and must comply with the following requirements:

- (A) Floors, walls and roofs of structures and runs must be of impervious material. Floors must be metal, fiberglass, concrete or covered throughout with a minimum depth of three (3) inches of gravel.
 - (B) The ambient temperature must not fall below forty-five degrees Fahrenheit (45° F) for more than four consecutive hours and must not rise above eighty-five degrees Fahrenheit (85°F) for more than four (4) consecutive hours when dogs are present.
 - (C) Be sufficiently ventilated when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is eighty-five degrees Fahrenheit (85°F) or higher.
 - (D) Be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs. Dog areas must be provided a regular diurnal lighting cycle of either natural and/or artificial light and lighting must be uniformly diffused throughout the facility for the well-being of the dogs. Lighting by either natural and/or artificial means shall provide a minimum sixty (60) watts of candle power for at least eight (8) hours each day unless such lighting will adversely affect the health of the dog. Primary enclosures within indoor housing facilities must be placed so as to protect the dogs from excessive light.
- (4) "Sheltered housing facility" means a housing facility which provides the dogs with shelter, protection from the elements and protection from temperature extremes at all times. A sheltered housing facility 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.
- (A) Dogs kept in sheltered housing facilities must be provided with adequate shelter from the elements at all times to protect their health and well-being.
 - (B) The following areas in sheltered housing facilities must be impervious to moisture:

- (i) Outdoor floor areas in contact with the dogs, when the floor areas are not exposed to the direct sun or are made of a hard material such as wire, wood, metal, or concrete; and
 - (ii) All walls, boxes, houses, dens, and other surfaces in contact with the dogs.
- (5) "Outdoor housing facility" means any structure, building, land, or premise, housing or intended to house dogs, which does not meet the definition of any other type of housing facility provided in this section, and in which temperatures cannot be controlled within set limits.
 - (A) Outdoor housing facilities must include one (1) or more shelter structures that are accessible to each dog. In addition, one or more separate outside areas of shade must be provided, large enough to contain all the dogs at one time and protect them from the direct rays of the sun. Shelters in outdoor housing facilities must meet the definition in section 4-2 for adequate shelter ~~[contain a roof, four sides, and a floor, and must provide the dogs adequate protection and shelter from the cold and heat and from the direct effect of wind, rain, or snow]~~.
 - (B) Building surfaces which come into contact with dogs in outdoor housing facilities must be impervious to moisture. Metal barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures.
- (6) "Primary enclosure" means any structure or device used to restrict a dog to a limited amount of space, such as a room, pen, run, cage, compartment or hutch. Primary enclosures must be constructed and maintained to meet the following minimum requirements:
 - (A) Be designed and constructed of suitable materials so that they are structurally sound and be maintained in good repair;
 - (B) Protect the dogs from injury;
 - (C) Contain the dogs securely and keep other animals from entering the enclosure;
 - (D) Enable the dogs to remain dry and clean;
 - (E) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the dogs;

- (F) Provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;
- (G) Provide all the dogs with easy and convenient access to clean food and water;
- (H) Enable all surfaces in contact with the dogs to be readily cleaned and sanitized or be replaceable when worn or soiled;
- (I) Have floors that are constructed in a manner that protects the dogs' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' feet to pass through any openings in the floor. If the floor of the primary enclosure is constructed of wire, a solid resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably must be provided;
- (J) Provide each female with nursing puppies with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by a licensed veterinarian; and
- (K) Dogs that are housed in the same primary enclosure must be compatible, as determined by observation, with the following restrictions:
 - (i) Not more than ten (10) adult dogs may be housed in the same primary enclosure;
 - (ii) Females in heat (estrus) may not be housed in the same primary enclosure with sexually mature males, except for breeding purposes.
 - (iii) Any dog exhibiting or known to have a vicious or overly aggressive disposition must be housed separately;
 - (iv) Puppies four (4) months of age or less may not be housed in the same primary enclosure with adult dogs, other than their dams or foster dams, except when permanently maintained in breeding colonies;
 - (v) Such housing must not adversely affect the health or the well-being of the dog, in the opinion of a licensed veterinarian; and
 - (vi) Dogs that have or are suspected of having a contagious disease must be isolated from healthy dogs in the colony. When an

entire group or room of dogs is known to have or believed to be exposed to an infectious agent, the group may be kept intact during the process of diagnosis, treatment, and control.

- (7) When dogs are kept on tethers the tether must be attached to the front of the dog's shelter structure or to a post in front of the shelter structure and must be at least three (3) times the length of the dog, as measured from the tip of its nose to the base of its tail. The tether must allow the dog convenient access to the shelter structure and to food and water containers. The tether must be of the type and strength commonly used for the size dog involved and must be attached to the dog by a well-fitted collar or harness that will not cause trauma or injury to the dog. Collars or harnesses made of materials such as wire, flat chains, chains with sharp edges, or chains with rusty or nonuniform links are prohibited. The tether must be attached so that the dog cannot become entangled with other objects or come into physical contact with other dogs in the outside housing facility and so the dog can roam to the full range of the tether.

Section 4 – That Section 4-12.5(f) of the Lexington-Fayette Urban County

Government Code of Ordinances be and hereby is amended to read as follows:

(f) Feeding and watering.

- (1) Adequate food and water shall be provided in accordance with the definitions set forth for those terms in section 4-2. Food and water receptacles shall be readily accessible to all dogs, and shall be located so as to minimize contamination by excreta or pests, and be protected from rain and snow. [Dogs must be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food must be uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the dog. The diet must be appropriate for the individual dog's age and condition.]
- ~~[(2) Food receptacles must be used for dogs, must be readily accessible to all dogs, and must be located so as to minimize contamination by excreta and pests, and be protected from rain and snow. Feeding pans must either be made of a durable material that can be easily cleaned and sanitized or be disposable.]~~
- ~~[(3) If potable water is not continually available to the dogs, it must be offered to the dogs as often as necessary to ensure their health and well-being, but not less than twice daily for at~~

~~least one (1) hour each time, unless restricted by a licensed veterinarian. Water receptacles must be kept clean and must be sanitized.]~~

Section 4 – That Section 4-19(c) of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

(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 ~~[chain or leash]~~.

Section 5 – That this Ordinance shall become effective upon its date of passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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SUBDIVISION REGULATIONS

6-5 UTILITY STANDARDS - The following shall be the minimum standards for utilities such as telephone supply, electric supply, gas supply, water supply or other utilities:

6-5(a) TELEPHONE, NATURAL GAS, AND ELECTRIC SUPPLY - Every subdivision shall be provided with a proper telephone and electric system. Natural gas supply systems shall be provided at the option of the developer, dependent upon the ability of the local gas supplier to meet the demands of new development. All distribution lines or cables for utilities shall be installed below ground within the subdivision. Major facilities such as high-voltage electric transmission lines, distribution feeder circuits of 200 amps or greater or major cables/facilities to provide utilities such as telephone, and cable television to the area as a whole may be located above ground. The installation of these utilities shall conform to commonly accepted construction standards and the requirements of the Kentucky Public Service Commission and utility companies shall work cooperatively with the Division of Engineering during construction. Underground utilities shall be separated from sanitary sewer and/or storm sewer facilities by a minimum of six (6) feet and shall not conflict with designated tree preservation areas, areas where future multipurpose trails are planned, areas designated for future right-of-way, or construction easements.

Services Committee Items

May 27, 2009

<u>Item</u>	<u>Referred By</u>	<u>Date Referred</u>	<u>Status</u>
Taxicab Special Events Permits	Gorton	5-26-09	August 09
Golf Carts on Public Roads	Stinnett	3-10-09	August 09
Underground Utilities in New Developments	Feigel	3-3-09	June Services
2003 Public Utilities Ice Storm Task Force	Gorton	2-13-09	Mar 09/Fall 09
Private Solid Waste Providers	Gorton	2-13-09	Spring 09
Animal Cruelty	Myers	4-2-09	June Services
Dog Tethering/Chaining	Beard	10-28-08	April 09
Sign Ordinance	Myers	9-9-08	Spring 2009
Man O War Truck Traffic Restrictions	Feigel	8-19-08	Mar 09
Multi-Way Stop Glendover Dr @ Valley Rd	Beard	7-8-08	Petition Drive
Employee Automobile Usage and Reimbursement	Blues	5-13-08	General Services Reviewing
Zandale Storm Water Ditch	Beard	11-20-07	

Item (cont)	Referred By	Date Referred	Status
Vicious Dogs	Moloney	9-18-07	
Traffic Safety: Streets Adjacent to Christ the King Church	Feigel	10-23-07	NTMP
New Rack Ordinance	Lawless	5-15-07	Self Policing Policies
Door to Door Peddlers	Stinnett	2-27-07	County Attorney Presentation
Imposing Fines for ROW Signage	Myers	11-14-06	
Curb Replacement Program	Gorton	3-12-05	