

ORDINANCE NO. 2013-012

**AN ORDINANCE REGARDING THE CONTROL OF DOGS WITHIN THE
CITY OF EMINENCE, KENTUCKY AND REPEALING PRIOR
INCONSISTENT ORDINANCES**

Be it hereby ordained by the city council of the City of Eminence, Kentucky as follows:

Policy Statement:

The City of Eminence states that it is its' policy to enforce KRS Chapter 258 as well as this ordinance in a manner so as to assure responsible animal ownership and control.

(01) Sec. 90.05 Definitions

As used in this ordinance, unless the context requires otherwise:

- (1) "Dog" means any canine three (3) months of age or older;
- (2) "Owner" means any person owning, keeping, or harboring a dog in Kentucky; and 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, frequently waters or frequently feeds the dog, or has it in his/her care, or permits it to remain on or about premises owned or occupied by him or her;
- (3) "Veterinarian" means a licensed practitioner of veterinary medicine;
- (4) "Qualified person" means a person granted a permit by the Secretary for Health and Family Services to vaccinate his own dog against rabies;
- (5) "Vaccination" means the administration by a veterinarian or other qualified person of rabies vaccine approved by and administered in accordance with administrative regulations promulgated by the Secretary for Health and Family Services;
- (6) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:
 - (a) A city or county government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of dogs, and local animal control ordinances; or
 - (b) An entity that has contracted with a city or county government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of dogs, and local dog control ordinances;
- (7) "Quarantine" means the confinement of a dog for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other dog.
- (8) "Permit" or "Allow" means, in addition to its normative use, to make possible to occur through either action or inaction.
- (9) "Assistance dog," means any dog that is trained to meet the requirements of KRS 258.500;
- (10) "Attack," in addition to its ordinary meaning, means a dog's attempt to bite or a successful bite of a human being.
- (11) "Sitter," in the context of this section, means a person who has been delegated the temporary task or responsibility for the control, upkeep or management of a dog in the absence or direction of an owner.

(02) Sec. 90.06 - Nuisances created by dogs.

- (1) It shall be unlawful for a sitter, keeper, owner or harbinger of a dog, due to his or her control or because of a lack of his or her control of a dog, to permit or allow such dog to:
 - (a) Attack, chase, snap at, lunge at or to otherwise threaten or menace a pedestrian or passerby.
 - (b) Evidence barking or howling to the extent or degree that such barking or howling unduly interferes with a person's reasonable enjoyment and occupation of commercial or residential premises, or such barking or howling unduly interferes with a person's reasonable expectation to be free of such extraneous noise in the environment in which he or she works or resides. A dog shall be presumed to be a

nuisance and in violation of this section, if such dog engages in a tireless, persistent, sustained or continuing course of such howling or barking:

1. For a period exceeding, in the aggregate, two minutes on more than one occasion within an uninterrupted half-hour period after sunset but before sunrise; or,

2. For a period exceeding, in the aggregate, five minutes on more than one occasion within any uninterrupted half-hour period after sunrise but before sunset.

(2) It shall be unlawful for a sitter, keeper, owner or harbinger of a dog, to permit or allow:

(a) The accumulation of dog excrement so as to cause unsightly litter or a malodorous fouling of the air and thereby create an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored; or,

(b) Unsanitary conditions in enclosures or surroundings where the dog is kept or harbored.

(3) Any dog which is the subject of any violation of this section may be seized and thereafter impounded as set forth by the policy of dog control authorities.

(4) A police dog which is under the command and control of its handler during a specific police-related duty, not including continuous housing and care, so long as the handler is acting under color of official authority and performing such duties shall not be deemed in violation of subsection (1) of this section.

(03) Sec. 90.11 - Vicious dogs.

(1) A "vicious" dog is defined to include:

(a) Any dog with a propensity, tendency or disposition to attack, to cause injury to or to otherwise endanger the safety of human beings or domestic animals;

(b) Any dog that violates subsection (1) (a) of Section 90.06 of this ordinance;

(c) Any dog which chases, snarls, growls at or approaches a person who is upon a street, sidewalk, roadway, alley, or a parking lot used by the public, or in or upon any public place in a menacing fashion or with an apparent attitude of attack;

(d) Any dog owned or harbored primarily or in part for purposes of fighting, or any dog trained for fighting; or

(e) Any dog which attacks a human being or domestic animal without provocation.

(2) It shall be unlawful for any person to keep or harbor within the City of Eminence a dog known to be vicious unless it is at all times kept on the owner's or harbinger's property securely confined indoors or in a securely enclosed and locked outdoor pen or shelter suitable to prevent the entry of young children and in all respects designed to prevent the dog from escaping, and in fact preventing the dog from escaping. Such pen or structure must have minimum dimensions of five (5) feet by ten (10) feet, must have secure sides and must be at least seven (7) feet high and have 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 for the dog protection from the environmental elements. A vicious dog shall only be transported to or from the indoors and/or to or from the securely enclosed and locked outdoor pen or shelter if such dog is securely muzzled and securely restrained by a suitable chain or leash not exceeding six (6) feet in length and the vicious dog is under the manifest control of a responsible adult. The muzzle must be made in such manner that it will not cause injury to the dog or interfere with its vision or respiration but will in all respects prevent the dog from biting any person or animal.

(3) Vicious dogs shall be permitted off the owner's or harbinger's property only if such dogs are muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and are under the manifest control of a responsible adult; and then, only for the purposes authorized by KRS 258.235—to visit the veterinarian or to be turned in to an animal shelter. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any person or animal.

(4) When any dog is required by this section to be confined, it shall also be required that a conspicuous notice be posted at the place of confinement of such a nature as to warn the public of the nature of the dog therein confined.

(5) No person under the age of eighteen (18) years shall be permitted to own, harbor or handle a vicious dog.

(6) It shall be unlawful for any person to keep or harbor within the City of Eminence a vicious dog unless it is at all times wearing a vicious dog collar issued by Henry County Animal Control. It shall be unlawful for any person to remove such collar from a vicious dog.

(04) Sec. 90.14 from 4-17. - Taking or permitting an unleashed dog to go into or upon the grounds of any public place or public park.

(1) It shall be unlawful for any owner, harbinger or person in charge of any dog to accompany or take any such dog, or permit any such dog, male or female, except when such dog is manifestly controlled by a person who has the dog upon a leash or tether of appropriate material and weight with the capacity to physically restrain the dog, into or upon any public place within the City of Eminence, including any public park within the of City of Eminence.

(2) Any owner or person in charge of such dog, and who is in violation of subsection (1) of this section who does not instantly leash or tether such dog upon the request of another person or upon the request or direction of a public servant, shall subject such dog to immediate seizure by a peace officer or animal control officer.

(05) Sec. 90.15 from 4-18. - Female dogs in heat not to run at large.

It shall be unlawful for the owner of any female dog to permit her, when in heat or estrus, proud or rutting, to run at large in the City of Eminence.

(06) Sec. 90.16 - Dogs running at large.

(1) It shall be unlawful for any dog to run at large within the City of Eminence.

(2) While on an owner or harbinger's property: Any dog that is not under the direct, unimpeded control and within a line of unobstructed sight and direct supervision of its owner or harbinger (or the owner's or harbinger's designee), shall at all times be, while not under such control and supervision, confined behind a fence or within an enclosed area or otherwise be securely restrained upon a tether of suitable strength and weight to prevent the dog's escape, which if a tether is used, must be attached to an immobile object that prevents the dog from escaping the tether and boundaries of the property upon which it is located. An underground electric fence designed to and capable of restraining a dog shall be considered a fence pursuant to this section

(3) No dog shall be permitted off of an owner or harbinger's property within the City of Eminence unless a responsible adult has the dog under control and supervision; and, the dog is restrained from escape from the said adult by a tether or enclosure of appropriate material and weight to prevent the dog's escape; and, if not in an enclosure, the tether is attached to the dog by way of a properly fitting collar or harness.

(4) A police or certified rescue dog which is under the command and control of its handler, which handler is acting under color of official authority and performing rescue or police-related duties, shall not be deemed to be in violation of this section whether or not the dog is unleashed or untethered.

(5) Any dog found to be unconfined or unrestrained or otherwise not in compliance with this section, whether on public or private property shall, by the fact of non-compliance, be presumed to be running at large and may be impounded by a peace officer or by Henry County Animal Control.

(07) Sec. 90.18 from 4-21. - Impoundment.

(1) Any dog, found running at large or otherwise in violation of Section 90.16, within the City of Eminence, shall be taken up by an animal control officer and held in the animal shelter so designated. Each dog shall be there confined in a humane manner for a period of not less than five (5) days, unless sooner claimed by their owners, custodians or persons entitled to possession thereof, and may be disposed of in a humane manner if not otherwise claimed, sold or adopted.

(2) The animal control officer may transfer title to all dogs held after the legal detention period in subsection (1) hereof has expired and the dog has not been claimed by its owner, custodian or other person entitled to possession thereof,

provided the person to whom title is being transferred licenses said dog and pays for rabies inoculation for said dog, together with the boarding, adoption charges and redemption fees levied by animal control as set forth in subsection (3) of this section. (Animal control may waive all impoundment and boarding fees if the impoundment of the animal resulted from an emergency situation, such as fire or natural disaster.)

(3) Any owner, custodian or other person entitled to the possession of a dog under subsection (1) hereof may claim the dog upon proof that said dog has been inoculated against rabies or upon purchase of a vaccination voucher from animal control; payment of boarding charges at a rate as may be set from time to time, including the first and last day of impoundment, which shall be levied by animal control; and compliance with the redemption requirements set by animal control under subsection (4) of this section.

(4) In addition to the requirements set forth in subsection (3) above, any owner, custodian or other person entitled to the possession of an impounded dog may redeem the dog by paying a redemption fee. For the first impound within a twelve-month period, the fee shall be twenty-five dollars (\$25.00) for an altered dog and seventy-five (\$75.00) for an unaltered dog. For the second and each subsequent impound within a twelve-month period, the fee shall be doubled. Redemption fees shall be used by animal control to assist in defraying the costs incurred by their unit of government to maintain the animal control program, with excess fees, if any, remitted to the unit of government's general fund.

(08) Sec. 90.20 – Responsibility of owner or harborer to immediately remove dog waste or feces from waste removal areas.

(1) The owner, custodian and/or harborer and/or dog-walker or other person who accompanies a dog outside the boundaries or confines of the owner or harborer's property shall at all times while off the owner or harborer's property, be equipped with a suitable device or devices to remove and collect intestinal waste or feces that is discharged or deposited or may be discharged or deposited by the dog onto any property that is not owned by the custodian and/or harborer and/or walker. (A "suitable device," as used in this section, may include a plastic bag or baggie or other device that may reasonably be used to pick up the aforementioned waste without discernibly contaminating one's clothing or person during either the collection of such waste or after securing possession of such waste.)

(2) The owner, custodian and/or harborer and/or walker or other person who accompanies a dog outside the boundaries or confines of the owner or harborer's property shall, then and there and immediately after the dog he or she is accompanying discharges or deposits feces outside the custodian and/or harborer and/or dog-walker's property, remove the said discharge or deposit from the property where it is originally discharged or deposited and thereafter maintain possession of the discharge or deposit until such time as he or she can legally deposit the discharge or deposit in a trash receptacle with a closed lid.

(3) Any person who is accompanying a dog off his or her own property or off the owner, custodian and/or harborer and/or dog-walker or other person's property, who has control of such dog, shall be guilty of a violation of this section if he or she advances more than ten- (10) yards away from the location of a discharge or deposit that is described in subsection (1) or (2) of this section without removing said discharge or deposit; or, fails to remove such discharge or deposit within a span of two- (2) minutes after the deposit is originally made.

(09) Sec. 90.30 Penalties

(1) Any person who violates any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for a first offense and to a fine of not less than two hundred-fifty dollars (\$250) nor more than one thousand dollars (\$1,000) for any subsequent offence within a twelve (12) month period.

(2) In addition to any other penalties hereunder, any dog engaging in conduct that is in violation of the provision of this ordinance may be impounded by the animal control officer or by any police officer.

This ordinance repeals Ordinance No. 84-013 called “An Ordinance Providing For The Control Of Dogs On Premises Located Within The City Limits Of The City Of Eminence, Kentucky” and any other prior inconsistent ordinance.

The invalidity of any item or provision of this ordinance should not affect the remainder of this ordinance. This ordinance shall be considered item by item.

DONE THIS 12th DAY OF AUGUST, 2013

**DRANE STEPHENS, MAYOR
CITY OF EMINENCE, KENTUCKY**

ATTEST:

**SANDRA A. DOANE, CITY CLERK
CITY OF EMINENCE, KENTUCKY**

First Reading: July 8, 2013
Second Reading: August 12, 2013
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