

ORDINANCE NO. _____, SERIES 2017

AN ORDINANCE AMENDING THE PENALTY SECTION OF CHAPTER 91 OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES RELATING TO ANIMALS (AS AMENDED).

SPONSORED BY: COUNCILMAN BRANDON COAN

WHEREAS, Louisville/Jefferson County Metro Government Code of Ordinances (“LMCO”) Chapter 91 currently governs the ownership, care, and treatment of animals as provided pursuant to KRS §§ 258.195 and 258.265; and

WHEREAS, LMCO Chapter 91.999 sets the penalties for violations of LMCO Chapter 91; and

WHEREAS, KRS § 258.265(1) requires an owner to maintain proper control of his or her dog to prevent it from violating local nuisance ordinances; and

WHEREAS, KRS § 258.990(1) sets a penalty for failure to report an animal bite at a fine of not less than \$10 nor more than \$100; and

WHEREAS, KRS § 258.990(3) sets the penalty for violating KRS § 258.265(1) and additional offenses involving animal control and/or treatment at a fine of not less than \$5 nor more than \$100 or not less than 5 days nor more than 60 days jail or both; and

WHEREAS, KRS §§ 525.125, 525.130, and 525.135 assess criminal penalties for cruelty to animals and torture of animals; and

WHEREAS, KRS 83A.065 permits cities to establish penalties for violations of ordinances, however when setting a penalty for an ordinance which also constitutes a penalty of a state statute, said penalty can be no less than nor greater than the penalty proscribed in the state statute.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: LMCO Chapter 91.999 shall be amended to read:

(A) *Criminal penalty.*

(1) Any person cited for a criminal offense under LMCO § 91.075 ~~violating any of the following provisions: §§~~

~~91.007, 91.072, 91.090 through 91.095, 91.097 through 91.099, 91.150 or 91.152 , or committing a second or subsequent violation of any other provision of this chapter shall be deemed guilty of a Class A misdemeanor and shall may be punished by a fine not less than \$10 nor more than \$100 ~~\$500~~ or be imprisoned for a period not to exceed 12 months in jail, or both so fined and imprisoned. Each day a violation continues shall constitute a separate offense.~~

(2) ~~Except as provided in subsection (A)(1) directly above,~~ Any person cited for a criminal offense violating under any other provision of this chapter, except for violations of LMCO § 91.075 or any offense designated a criminal offense under the Kentucky Revised Statutes, shall be deemed guilty of ~~up to a Class B misdemeanor, so long as this is the party's first offense for any violation,~~ and may be punished by a fine not less than \$5 nor more than \$100 ~~up to a \$250 fine~~ or imprisoned for a period not less than 5 days but not to exceed 960 days in jail, or both so fined and imprisoned. Each day a violation continues shall constitute a separate offense.

(3) Any person found guilty of ~~owning a dangerous dog violating LMCO §§ 91.150 or 91.152,~~ in addition to any of the penalties imposed in subsection (A)(2), may shall be required by a District Court Judge to either have the dog spayed or neutered or have the dog humanely euthanized, if in the opinion of that judge the severe attack warrants such

action. The procedure must be performed within seven days of a court order with proof provided to the District Court and MAS.

~~(4) Any person found guilty of owning a potentially dangerous dog or dangerous dog, shall be fined not less than \$250 and shall have the dog spayed, or neutered within seven days of that finding. Proof of the surgery must be provided to MAS within 24 hours of its performance.~~

~~(5) Any person found guilty of owning a potentially dangerous dog or dangerous dog, in addition to any other penalties or stipulations imposed, shall within seven days of that finding also have the dog implanted with a microchip identification. Within seven days of that implantation, the owner shall present the animal to MAS for scanning and verification of the microchip and identification number.~~

(64) In addition to any penalties and/or stipulations imposed, anyone convicted of violations of §§ 91.090 through 91.100 shall also be required to relinquish ownership of the animal(s) to the Metro Government immediately upon that conviction.

~~(7) Any person found guilty of violating the provision of § 91.160 shall be fined not less than \$50 nor more than \$250 for each offense.~~

(85) Notwithstanding any other provision of subsections (A)(1) through (A)(74), no fine or penalty imposed under this section for a violation of this chapter shall be less than or greater than that imposed under any provision of the Kentucky Revised Statutes for the same offense.

(B) *Civil penalty.*

(1) Any person cited for a civil offense ~~who violates any of the provisions of~~ under this chapter shall may be subject to a civil penalty. Any person cited pursuant to this

subsection may pay the minimum civil penalty within seven days from the date of issuance or request a hearing of such penalty by the Code Enforcement Board ("Board") in accordance with §§ 32.275 et seq. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing. ~~In this event, the Board shall enter a final order determining that the violation was committed and impose the maximum civil penalty set forth in the citation.~~

(2) Any person ~~who violates any provision of~~ cited for a civil offense ~~any of the provisions of~~ under this chapter shall be subject to a civil penalty of not less than \$150 nor more than \$1,000. Penalties for each subsequent offense shall be cumulated as multiples of the number of previous offenses.

(3) Notwithstanding any other provision of subsection (B) under this chapter, no violation shall constitute a civil offense, if the same conduct regulated by this chapter also constitutes a criminal offense under any provision of the Kentucky Revised Statutes.

(4) The Director may waive or reduce any civil penalty set forth in this subsection (B) due to financial hardship or on the basis of income level, as the case may be, and/or (1) if the violator attends and satisfactorily completes an education or training course established under § 91.060, and/or (2) if the dog or cat is spayed or neutered, at the expense of the owner, as prescribed by the Director of Metro Animal Services.

SECTION II. This Ordinance shall take effect upon passage and approval.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. O'CONNELL
Jefferson County Attorney

By: _____

AMEND 91.009 FOR NUISANCE PENALTY.LKB.08.08.17.DOCX