

**COMMONWEALTH OF KENTUCKY
COUNTY OF PENDLETON
PENDLETON COUNTY FISCAL COURT**

ORDINANCE: 841.1

AN ORDINANCE TO HELP PREVENT THE STARVING AND/OR TOTAL NEGLECT OF AN EQUINE AND/OR EQUINES BY THEIR OWNERS, GUARDIANS, CARETAKERS AND/OR HARBORERS WITHIN PENDLETON COUNTY.

WHEREAS, over the past five years, Pendleton County has addressed several cases where horses have suffered neglect and starvation by their owners and/or caretakers, and

WHEREAS, such neglect and starvation has resulted in horses having to endure protracted pain and suffering resulting in an irrevocable deterioration in their health that resulted in the need to humanely euthanize them so as to prevent further agony and self-inflicted physical harm, and

WHEREAS, regarding cases of mass animal abuse or neglect (commonly termed “animal hoarding”) peer-reviewed research has repeatedly demonstrated that the recidivism rate for these offenders is well over 90 percent, and

WHEREAS, the State of Kentucky’s procedural and substantive animal cruelty laws fail to provide a county or state magistrate with the statutory tools necessary to prevent further criminal conduct of a nature similar to that resulting in a conviction for animal abuse (including neglect or starvation of horses or other equine), and

WHEREAS, the Pendleton County Fiscal Court wishes to take the necessary action in order to prevent any further neglect, abuse or cruelty to horses in Pendleton County, to ensure that those persons who engage in this conduct are held fully accountable for the harm they inflict and to prevent those convicted of such conduct from reoffending.

NOW THEREFORE BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF PENDLETON, COMMONWEALTH OF KENTUCKY AS FOLLOWS:

**SECTION ONE
DEFINITIONS**

1. Animal Control Officer – A peace officer in Pendleton County recognized by the Kentucky Department of Justice, holding a valid ORI #, who has been trained and certified in both Level I and II Livestock Abuse Investigation Training which is provided through the Kentucky Justice Cabinet
2. Culpable mental-state terms are defined as follows:

- a. “Recklessly,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.
 - b. “Criminal negligence” or “criminally negligent,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.
3. “Harboring” means any person who, with respect to an equine found in that person’s control, custody, or possession or on that person’s land, is asserting that an equine was left or abandoned on the person’s property or is otherwise not required to provide the equine with minimum care.
4. “Henneke system” means the system of equine body condition scoring developed by Dr. Don R. Henneke, Ph.D., first published in the Equine Veterinary Journal in 1983 where a person evaluates an equine both visually and by palpating the equine’s neck, withers, loin, tailhead, ribs and area behind the shoulders and resulting in a body condition score of 1 (poor/extremely thin) to 9 (obese).
5. “Licensed veterinarian” means any veterinarian who has graduated from a college or university with a degree in veterinarian medicine and who is licensed by and in good standing with the State of Kentucky’s Board of Veterinarian Medicine.
6. “Minimum care” means care sufficient to preserve the health and well-being of an equine and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:
 - a. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
 - b. Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the equine’s needs;
 - c. If an equine is in a shelter for protection from wind, rain, snow or sun, said shelter shall have adequate and appropriate bedding to protect against cold and dampness; and
 - d. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
 - e. Continuous access to an area:
 - i. With adequate space for exercise necessary for the health of the animal. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

- ii. With air temperature suitable for the health of the animal.
 - iii. With adequate ventilation.
 - iv. With regular diurnal lighting cycles of either natural or artificial light.
 - v. Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.
7. "Owner" means a person who has control, custody, possession, or title to any equine or other animal.

SECTION TWO
DETERMINING A HORSE'S WELL-BEING

1. Where upon, if the animal control office is contacted and/or notified of a starving and/or neglected equine and/or equines in Pendleton County, he shall investigate such information and/or complaint so as to determine if there is just cause to pursue action described in this ordinance. Should he determine that action is needed, he shall contact a licensed veterinary to assist with his investigation.
2. The animal control officer and the licensed veterinary shall use the Henneke Scoring System, equine stored body fat, blood analysis, evidence from their other physical parameters and their professional training, so as to determine if action in the matter is required.
3. Should it be determined by both aforementioned parties that necessary action be taken in order to protect and to nurture a neglected and/or starved equine and/or equines, the animal control officer shall act in a manner as described in Section 3 of this ordinance

SECTION THREE
ENFORCEMENT ACTION

1. Party and/or parties owning, guarding, caring for and/or harboring an equine and/or equines in Pendleton County, determined by the animal control office and licensed veterinary to be neglected and/or starved, shall be charged with a Class A Misdemeanor. Such charges shall carry a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars per equine, or be sentenced to no more than Twelve (12) months in jail, or both fine and incarceration.
2. A harbinger shall be presumed to have knowledge of neglected and/or starving equines found under that person's control, custody, or possession or on that person's land and shall be subject to the penalties set forth in Section 3 (1) if that person fails to make a written report of the abandonment of an equine to an animal control officer within 24 hours of actual or constructive notice of the equine abandonment

3. Should it be determined by both the animal control officer and the licensed veterinary, that in order to better protect and nurture neglected and/or starved equine and/or equines they be remove from the property and/or the housing location of the owner, guardian, caretaker and/or harboree of an equine and/or equines, any and all associated cost of caring for, transporting, veterinary cost and housing such equine and/or equines shall be the direct responsibility owner, guardian, caretaker and/or harboree and the County and/or its designee shall be reimbursed fully for any and all such cost. Should it be determined by both the animal control officer and the licensed veterinary that the equine and/or equines be permitted to stay in the care of the owner, guardian, caretaker and/or harboree, the animal control officer shall obtain a random sample of feed/forage provided to the equine and/or equines on a bi-weekly basis. The animal control officer may, at his discretion, have such feed and/or forage tested by the Kentucky Department of Agriculture in order to determine if the equine and/or equines are receiving proper nutrition.
4. Should it be determined by both the animal control officer and the licensed veterinary, that neglected and/or starved equine and/or equines are at the degree of starvation and/or neglect beyond that of rehabilitation, such equine and/or equines shall be humanely euthanized and any and all associated cost shall be borne by the owner, guardian, caretaker and/or harboree
5. Pursuant to a search warrant or a recognized exception to the warrant requirement, an animal control officer, in consultation with a licensed veterinarian, may seize and impound any equine if that officer has probable cause to believe that the owner or harboree has violated this ordinance. The owner or harboree of an equine shall be liable to the county for any and all costs of housing, feeding, treating and caring for any lawfully impounded equine. The county shall have a possessory chattel lien in any lawfully impounded equine for such costs.

**SECTION FOUR
SEVERABLE**

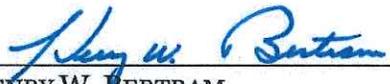
1. The provisions of this ordinance are severable. If any sentence, clause or section or part of this ordinance or the application thereof to any particular case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or part of this ordinance, it being the legislative intent of this body to ordain and enact such provision, section, paragraph, sentence, and part hereof separately and independently of such other provision.

This ordinance shall become effective upon passage and publication.

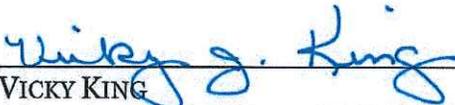
GIVEN FIRST READING AND ORDERED PUBLISHED BY THE PENDLETON COUNTY FISCAL COURT ON THIS THE 9 DAY OF JANUARY, 2013.

APPROVED BY THE PENDLETON COUNTY FISCAL COURT AND ORDERED RECORDED ON THIS 22
DAY OF JANUARY, 2013.

ATTEST:



HENRY W. BERTRAM
PENDLETON COUNTY JUDGE/EXECUTIVE



VICKY KING
PENDLETON COUNTY FISCAL COURT
CLERK

FIRST READING: JANUARY 8, 2013
PUBLICATION: JANUARY 15, 2013
SECOND READING: JANUARY 22, 2013
PASSAGE: JANUARY 22, 2013
PUBLICATION: JANUARY 29, 2013