

CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs

Article 3. Pit Bull Dogs and Rottweilers

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ARTICLE 1. GENERAL PROVISIONS

2-101. **DEFINITIONS.** For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Animals means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Shelter means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) At-large means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.

(e) Bite means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(f) Cat means any member of the species *felis catus*, regardless of sex.

(g) Dangerous or Vicious Animal means any animal deemed to be dangerous or vicious per section 2-115.

(h) Dog means any member of the species *canis familiaris*, regardless of sex.

(i) Fowl means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(j) Harbor means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

(k) Humane Live Animal Trap means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

(m) Immediate Control means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(n) Kennel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than five dogs.

(o) Livestock includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(p) Neutered means any male or female cat or dog that has been permanently rendered sterile.

(q) Own means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(r) Owner means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(s) Vaccination means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(t) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

(Code 1998)

2-102.

ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE. (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the governing body of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the governing body.

(b) Except as provided in subsection (c), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this chapter.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter.

(Code 1998)

2-103.

SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture or tranquilize.

(Code 1998)

2-104.

SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(Code 1998)

2-105.

*McPherson
City
Pound*
MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

(a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

(b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

(Code 1998)

2-106.

BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

(Code 1998)

2-107.

CRUELTY TO ANIMALS. It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise

cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-108.

(d) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color. This section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(e) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(f) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal.

(g) Abandon or leave any animal in any place without making provisions for its proper care;

(h) These provisions shall not apply to the exceptions sanctioned under section 2-108.

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible. (Ord. 195; Code 1998)

2-108. SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by commonly recognized research facilities;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the rodeo cowboys' association;

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;

(g) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments. (Code 1998)

2-109. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

(a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(b) The maintaining of dogs which are regulated by Article 2 of this chapter;

(c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;

(d) The transporting of animals through the city by ordinary and customary means.

(Code 1998)

2-110. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 1998)

2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. (a) It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as domestic animals, which are maintained within the city so as to cause discomfort to occupants of other premises by reason of offensive odors, insects or infestation, rodents, noise, non-confinement, or safety hazards are hereby declared to be a nuisance.

(b) No person shall create or cause or maintain such a nuisance by housing, keeping or harboring such animals within the city.

(c) The animals prohibited within the city shall include, but are not limited to: bovine cattle, horses, mules, donkeys, hogs, pigs, goats, sheep, coyotes, raccoons, lynx or bobcats, armadillos, opossums, badgers, foxes, squirrels or other similar animals. Also prohibited are chickens, ducks, geese, turkeys, guineas, pigeons, peacocks, pheasants, bees, and other similar fowl.

(d) An exception to the prohibition of maintaining the animals and fowl in the city shall be as follows:

(1) The animals or fowl are maintained with a fenced enclosure.

(2) The shelters are cleaned at least once a week or as often as necessary to prevent odors.

(3) Disposing of collected fecal material and other solid organic waste at a sanitary landfill or by proper disposal on land used for agricultural purposes.

(4) Storing grain or food in tightly covered rodent-proof metal containers or rodent-proof bins.

(5) Maintaining the premises free of rodent harborage.

(6) Maintaining shelters, enclosures and fences by the use of materials sufficient to prevent the animals or fowl from escaping.

(7) Providing proper drainage so there is no accumulation of rainfall or liquid waste.

(Ord. 218, Secs. 1:4; Code 1998)

2-112.

NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewling, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner. (Code 1998)

2-113.

ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charge fence is protected by an exterior fence.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the

owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.
(Code 1998)

2-113A.

SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter

as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer. (Code 1998)

2-114.

DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 1998)

2-115.

VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

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

(2) Any animal which attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

(3) Likelihood of attacks or bites in the future;

(4) The condition and circumstances under which the animal is kept or confined;

(5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge shall order the impoundment, the muzzling in accordance with subsection (d) and/or the confinement of the animal accused of being in violation of this section in a manner and location that will insure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.
(Code 1998)

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in sections 2-102 or 2-206 (dogs). (Ord. 81; Code 1998)

2-117. **IMPOUNDMENT; FEE; NOTICE; RECORD.** (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$25 plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

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(d) The animal control officer shall each month submit a report to the governing body showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund.
(Code 1998)

2-118. REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Code 1998)

2-119. IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.
(Code 1998)

2-119A. IMPOUNDMENT OF RABIES SUSPECTS. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than 30 days

during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Code 1998)

2-120. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 1998)

2-121. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer. (Code 1998)

2-122. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 1998)

2-123. KENNEL LICENSES. (a) No person or household shall own or harbor more than five dogs of six months of age or older or more than one litter of pups, or more than five cats of more than six months of age or more than one litter of kittens, or more than a total of five dogs and cats more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a kennel license from the city clerk.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the city clerk has not received any protest against the kennel, the city clerk may issue a renewal of an existing kennel license at the same location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(c) The animal control officer, the zoning enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

(1) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.

(2) The kennel is maintained so as to be a public nuisance.

(3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$150. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this chapter.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.
(Code 1998)

ARTICLE 2. DOGS

2-201.

REGISTRATION AND VACCINATION REQUIRED; FEE. (a) Every owner of any dog over six months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or any dog brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this

document, and it shall be unlawful for the owner of any dog over six months of age to fail to maintain effective rabies immunization of such dog.

(c) The owner or harbinger of any dog shall, at the time of registering such dog, present to the city clerk a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed.

(d) The city clerk shall collect an annual registration fee of \$1 for each neutered male dog and for each spayed female dog, and \$5 for each unneutered male dog and for each unspayed female dog.

→ (e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before June 1st of each year without penalty.

Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same prior to the 1st day of June of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$20 \$10.

(Code 1998) caretaker

2-202.

DOG TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor. The keeper of the dog shall attach the rabies vaccination tag to the collar to be used on the dog so registered. (Code 1998)

Ord.

257

Change

2-203.

SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 1998)

2-204.

EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the animal control officer or any law enforcement officer. (Ord. 184, Sec. 2; Code 1998)

2-205.

VISITING DOGS. The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times. (Code 1998)

2-206.

RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time;

(b) Any dog running at large within the city shall be impounded as set out in section 2-207;

Ord 257

Ord 257

(c) The owner of any dog that has not been issued a current city license as required by section 2-202 impounded for running at large shall, for the first offense, pay a fine of \$10 plus the board bill;

(d) For the first offense of an animal that has a current city license as required by section 2-202 running at large, the owner or harbinger claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harbinger shall pay a fine of \$5 plus the board bill. For a third and all subsequent offenses within a one year period, the owner or harbinger shall pay a fine of \$10 plus the cost of the board bill. (Ord. 184, Sec. 2; Code 1998)

\$ 50.

\$ 75. - All subsequent offenses \$ 100. plus court costs + board bill

2-207.

IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE. (a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.

(b) A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.

(c) If the dog impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog's owner, the owner of such dog, as shown by the records of the city clerk shall be notified in writing as soon as possible or at least 24 hours before such dog is disposed of by destruction or sale. If, at the end of five days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized or otherwise disposed of.

(d) If the dog impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding law enforcement officer then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.

(e) If at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and upon compliance with the registration provisions of this article. This subsection shall not apply to any dog alleged as being vicious under section 2-215 or suspected of rabies under section 2-219 of this code.

(f) The minimum impoundment fee shall be established by the impounding facility.

(g) Any dog impounded may not be released without a current rabies vaccination.

Ordinance No. 257

AN ORDINANCE AMENDING CERTAIN PORTIONS OF ORDINANCES 184 & 218 OF THE CODE OF THE CITY OF WINDOM, KANSAS REGARDING THE KEEPING OF ANIMALS WITHIN THE CITY LIMITS. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WINDOM, KANSAS

Section 2-117 IMPOUNDMENT; FEE; NOTICE; RECORD.

- (a) The animal control officer or law enforcement shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer or law enforcement officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.
- (b) The city shall be entitled to receive from such owner an impoundment fee of \$25 plus the actual cost of feeding, maintaining, and/or costs charged by animal pound.

Section 2-206 RUNNING AT LARGE; FINE

- (a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time.
- (b) Any dog running at large within the city shall be impounded as set out in section 2-207;
- (c) The owner of any dog that has not been issued a current city license as required by section 2-202 impounding for running at large shall, for the first offense, pay a fine plus the cost of boarding, and any court costs if applicable, additional offenses will be according to fee schedule in part (d)
- (d) For the first offense of an animal that has a current city license as required by section 2-202 running at large, the owner or harbinger claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harbinger shall pay a fine of \$50 plus the board bill. For a third offense \$75 plus the board bill and all subsequent offenses within a one year period, the owner or harbinger shall pay a fine of \$100 plus the board bill, and any court costs.

Section 3. This ordinance shall take effect from and after its publication in the official city paper and as provided by law.

Passed and approved by the Governing Body of the City of Windom, Kansas, this 12th day of August, 2009

City of Windom, Kansas

Duane Ukens
Mayor

Seal:
Attest

Connie Birkes
City Clerk

(h) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

(i) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog.
(Code 1998)

2-208. **DISPOSITION OF UNCLAIMED DOGS.** If any dog is not redeemed by its owner or harbinger within the time allowed for redemption as specified in section 2-207 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year. (Code 1998)

2-209. **CONFINEMENT OF DOGS IN HEAT.** Any unsprayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement.
(Code 1998)

2-210. **MUZZLING.** Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 1998)

2-211. **LOUD DOGS.** It shall be unlawful for any person to keep or harbor in the city any dog which by loud, frequent or habitual barking, howling or yelping disturbs any person or neighborhood. (Ord. 194, Secs. 1:2)

ARTICLE 3. PIT BULLS AND ROTTWEILERS

2-301. **ANIMALS; KEEPING PROHIBITED.** It shall be unlawful to keep, harbor, own or in any way possess within the city limits:

(a) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes).

(b) Any animal having poisonous bites.
(c) Any pit bull dog; provided, that pit bull dogs registered with the city on the date of publication of this article may be kept within the city subject to the standards and requirements set forth in section 2-302 of this article. Pit bull dog is defined to mean:

- (1) The Staffordshire bull terrier breed of dog;
 - (2) The American pit bull terrier breed of dog; and
 - (3) The American Staffordshire terrier breed of dog.
- (d) Any Rottweiler Dog;
- (e) Any dog which has the appearance and characteristics of being predominately of the breeds of pit bulls or rottweilers or a combination of any of these breeds.
- (Code 1998)

2-302.

KEEPING OF REGISTERED PIT BULLS AND ROTTWEILERS. The provisions of section 2-301 are not applicable to owners, keepers or harborers of pit bull dogs or rottweilers registered with the city. The keeping of such dogs, however, shall be subject to the following standards:

(a) Leash and Muzzle. No person shall permit a pit bull dog or rottweiler to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog or rottweiler to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings or structures. In addition, on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

(b) Confinement. All registered pit bull dogs or rottweilers shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine banned dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house pit bull dogs or rottweilers must comply with all zoning and building ordinances and regulations of the city and shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. No pit bull dog or rottweiler may be kept on a porch, patio or in a part of a house or structure that would allow the dog to exit such building of its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(d) Signs. All owners, keepers, harborers or possessors of registered pit bull dogs or rottweilers within the city shall within 10 days display in a prominent place on their premises a sign easily readable by the public using the words Beware of Dog. In addition, a similar sign is required to be posted on the structure, kennel or pen of such animal.

(e) Insurance. All owners, keepers, harborer or possessors of pit bull dogs or rottweilers must within 10 days provide proof to the city clerk of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the city clerk.

(f) Identification Photographs. All owners, keepers, or harborer of pit bull dogs or rottweilers must within 10 days provide to the city clerk two color photographs of registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements. All owners, keepers, or harborers of registered pit bull dogs or rottweilers must within 10 days of the incident, report the following information in writing to the city clerk as required hereinafter:

- (1) The removal from the city or death of a registered pit bull dog or rottweiler;
- (2) The birth of offspring of a registered pit bull dog or rottweiler;
- (3) The new address of a registered pit bull dog or rottweiler owner should the owner move within the corporate city limits.

(Code 1998)

2-303. **SALE OR TRANSFER OF OWNERSHIP PROHIBITED.** No person shall sell, barter or in any other way dispose of a pit bull dog or rottweiler registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the registered owner of a pit bull dog or rottweiler may sell or otherwise dispose of a registered pit bull dog or rottweiler or the offspring of a pit bull dog or rottweiler to persons who do not reside within the city. (Code 1998)

2-304. **ANIMALS BORN OF REGISTERED PIT BULL DOG OR ROTTWEILERS.** All offspring born of pit bull dogs or rottweilers within the city must be removed from the city within six weeks of the birth of such animal. (Code 1998)

2-305. **IRREBUTTABLE PRESUMPTIONS.** There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or rottweiler or any of those breeds defined by section 2-301 hereof is in fact a dog subject to the requirements of this article. (Code 1998)

2-306. **FAILURE TO COMPLY.** It shall be unlawful for the owner, keeper, harborer or possessor of a pit bull dog or rottweiler within the city to fail to comply with the requirements and conditions set forth in this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city. (Code 1998)

2-307. **VIOLATIONS AND PENALTIES.** Any person violating or permitting the violation of any provisions of this article shall upon conviction in municipal court be fined a sum not less than \$200 nor more than \$1,000. In addition to the fine imposed the court may sentence the defendant to imprisonment in the county jail for

a period not to exceed 30 days. In addition, the court may order the registration of the subject pit bull or rottweiler revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this article. (Code 1998)

ARTICLE 4. OTHER ANIMALS

2-401.

EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians, 30 inches in length or more.
- (10) Constrictor snakes, six feet in length or more.
- (11) Coyotes.
- (12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.

(28) Wolves.

(29) Emus.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

(1) Their location conforms to the provisions of the zoning ordinance of the city.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Code 1998)

