

CHAPTER II. ANIMALS AND FOWL

- Article 1. Animals and Fowl Generally
 - Article 2. Dogs and Cats
 - Article 3. Animal Bite Procedure - Generally
 - Article 4. Inherently Dangerous or Destructive Animals
 - Article 5. Dangerous Dogs and Cats
 - Article 6. Dogs Putting Persons in Fear
 - Article 7. Animal Welfare
 - Article 8. Chapter Enforcement
 - Article 9. Conflicting Ordinances
 - Article 10. Violations and Penalties
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ARTICLE 1. ANIMALS AND FOWL GENERALLY

2-101. PUBLIC NUISANCE, NOISE, ODOR

- A. A public nuisance is any animal that:
- 1) Materially damages private or public property;
 - 2) Make disturbing noises, including but not limited to, continued, and repeated or untimely howling, barking, whining, or other utterances causing reasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored or, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, type or manner of keeping. And that the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
 - 3) Such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;
 - 4) If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
 - 5) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully, or maliciously permit such an animal to become a public nuisance.
 - 6) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

2-102. DOGS AND CATS KEEPING IN CITY.

- A. It shall be unlawful for any person, firm, corporation, or household to rear or keep more than two animals (dogs or cats) at the same address in this city:
- 1) That the animals will be kept or maintained at all times in a safe and sanitary manner;
 - 2) Condition of the premises being maintained so as not to be detrimental to the health, safety, or welfare of persons residing within the immediate vicinity.
- B. A special permit can be issued to persons requesting permission to house a total of 3 or more dogs, cats, or combination thereof.

2-103. SPECIAL ANIMAL PERMIT REQUIRED WITHIN CITY LIMITS.

- A. Special Permits are required for animals as provided for in Section 1-102.B and Section 2-103.D.
- B. It shall be unlawful for any person to rear or keep any livestock including, but not limited to, cattle,

sheep, goats, and equine in the city.

- C. It shall be unlawful for any person to rear or keep any fowl such as turkeys, ducks, geese, guinea, or other domestic fowl in the city, except for the following:
 - 1) Fowl permitted by Section 17.336.A. of the Spring Hill Unified Zoning Ordinance within zoning districts AG or R-R.
- D. It shall be unlawful for any person to rear or keep any swine in the city except for miniature Vietnamese potbelly pigs or similar miniature pigs which may be granted, by special permit, under the following conditions:
 - 1) It weighs less than 80 pounds;
 - 2) It is not used for breeding purposes;
 - 3) It is tested free of Pseudorabies;
 - 4) It is not for a food source;
 - 5) No household shall have more than one.
 - 6) A special animal permit needs to be kept current; a new permit will need to be filed any time an animal is lost or replaced, and the city notified when the permit is no longer needed.
- E. This section shall not apply to veterinary, or animal hospitals operated by a Doctor of Veterinary Medicine licensed in the State of Kansas.

2-104. SPECIAL PERMITS. A special permit can be issued to persons requesting permission to keep or harbor any animal pursuant to Section 1-102 and Section 2-103.

- A. To obtain a special permit, persons shall make an application in writing to the City Clerk, detailing the purpose and circumstances for the special permit. The Chief of Police, Animal Control Officer or designee can grant a special permit, to include any special conditions and/or restrictions, only after review of the application and pertinent documents/reports and the applicable fees are paid.
- B. If the special permit application is denied by the Chief of Police, or designee, the animal(s) shall immediately be removed from the City limits. If the animal(s) are not immediately removed from the City, the Animal Control Officer may issue a summons into court for the specified violation(s). Additionally, the animal(s) shall immediately be removed from the location where they are being housed and lodged at the Animal Control Facility, at the owner's expense, until final disposition of the case by the court, or special order(s) is rendered by the Municipal Court Judge.
- C. Upon approval of the special permit, periodic checks by the Animal Control Officer can be made to ensure that any of the required conditions or restrictions for the special permit(s) are being adhered to. Failure to comply with any of the conditions or restrictions of the special permit(s) shall be grounds for revocation of the special permit by the Chief of Police or designee.
- D. In the event a special permit is revoked, the Animal Control Officer may issue a summons into court for the specified violation(s). Additionally, the animal(s) shall immediately be removed from the location where they are being housed and lodged at the Animal Control Facility, at the owner's expense, until final disposition of the case by the court, or special order(s) are rendered by the Municipal Court Judge.
- E. All animals will be kept or maintained at all times in a safe and sanitary manner; with the condition of the premises being maintained so as not to be detrimental to the health, safety, or welfare of persons residing within the immediate vicinity.
- F. The permission described in this section may be revoked by the City upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of City zoning regulations has occurred, or that the permittee had provided false information in their application.
- G. Considerations for denial or revocation of special permit may include but not limited to violations related to noise or odor complaints or when an applicant fails to meet the requirements of this section. The Police Department or Animal Control will submit a report stating the factual basis for its recommendation to grant, deny, or revoke any special permit application. The Police Department or Animal Control shall consider the comments of neighbors, past violations by applicant, the size, condition, and location of the area where the animal is or will be kept, the size of the animal, the number of animals, past complaints concerning the applicant, or any other factors relative to the issue of keeping prohibited animals in the city.

- H. Appeal. Any person who is denied a special permit or who has his/her existing permission revoked may, within ten days thereafter, file a written notice or statement of appeal from said decision, ruling, action, or finding to the City Administrator.

ARTICLE 2. DOGS AND CATS

2-201. DEFINITIONS.

- A. OFFICERS shall include police officers, animal control officers of the City and/or any other person, firm, partnership, or corporation designated by the Governing Body as an employee of said City or as an independent contractor for said City to perform and/or enforce the provisions of this ordinance.
- B. ANIMAL POUND – a place where dogs and cats are to be impounded, and such pound shall be at any place where designated by the Governing Body.
- C. ANIMAL BITE – is any contact between an animal’s mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, or break to the skin.
- D. CONFINED TO PREMISES - means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- E. HARBORERS OR OWNERS – See Section 2-209 herein.
- F. LICENSED VETERINARIAN – A veterinarian duly licensed to practice the profession by the State of Kansas and maintaining an office in the State of Kansas.
- G. DOGS AND CATS AT LARGE – means the dog or cat off property of the person responsible for an animal.

2-202. Repealed.

2-203. Repealed.

2-204. Repealed.

2-205. Repealed.

2-206. RABIES VACCINATION.

- A. It shall be unlawful for any Owner, Keeper, or Harboring to maintain or possess any Cat or Dog over the age of six (6) months unless such Cat or Dog has been vaccinated by a licensed veterinarian with an anti-rabies vaccination, and that vaccination is current. A vaccination is current if the vaccination duration period has not expired, or an owner can provide proof of sufficient rabies titer within the past twenty-four (24) months.
- B. Waiver of Vaccination. If a licensed veterinarian indicates that the rabies vaccination may endanger a Cat or Dog’s health due to age, infirmity, debility, or other physiological consideration, the vaccination requirement shall be waived provided such Animal shall be **Confined to The Premises** at all times to prevent escape. The deferment shall be valid only during the period that is indicated by the certificate of a licensed veterinarian.

2-207. Repealed.

2-208. Repealed.

2-209. THREE DAYS FOR OWNERSHIP. Any person owning, keeping, or harboring a dog or cat within the limits of the City for three consecutive days shall be deemed the owner thereof.

2-210. Repealed.

2-211. DOGS AND CATS RUNNING AT LARGE; TIED. It shall be unlawful for the owner or person in charge of any dog or cat to permit any such dog or cat to run at large within the City of Spring Hill, Kansas; PROVIDED, that any dog or cat kept securely tied or kept within the owner's private property, or led by a chain, strap, or rope by some person in charge of such dog or cat shall not be deemed to be running at large within the provisions of this ordinance.

2-212. IMPOUNDING DOGS AND CATS AT LARGE; FEES, REDEEMING, DISPOSAL OR ADOPTION OF DOGS OR CATS.

- A. It shall be the duty of the police officers or animal control officers of the City to immediately take into custody and impound the dog or cat found running at large in the City contrary to this chapter. If taken into custody and impounded, the dog or cat shall be kept for three (3) days, and if claimed by any person, shall be delivered to such claimant upon satisfactory proof that he or she is the owner or is entitled to possession thereof and upon the payment of the following fees and charges:
- 1) Impoundment/Board Fee.
 - 2) Pick-Up Charge. If applicable, the owner shall reimburse the City for the pick-up charge incurred by the City for the services of the independent contractor designated to perform pick-up services.
 - 3) Veterinary Fees.
 - 4) Redemption Fee as established by Fee Schedule Resolution.
- All payments shall be to the City Office; however, all funds received and receipted for shall be the responsibility of the City Clerk as provided by this ordinance.
- B. If any dog or cat shall not be claimed within three (3) days of the impounding of such animal, such dog or cat may be disposed of by the City's contractor or a veterinarian in a humane manner and/or may be offered for adoption.

2-213. DEVICES OR METHODS OF CATCHING DOGS AND CATS. It shall be lawful for any officer or person designated to enforce the provisions of this ordinance to use any device, rope, net, or enticement now devised or hereafter devised or any other method to enforce such ordinance so long as such method is humane.

2-214. ESTABLISHMENT OF ANIMAL POUND. There shall be and is hereby established a city designated kennel, or any other place as may be designated by the Governing Body of said City for the purpose of impounding and keeping dogs, cats, and other animals collected by the City, its agents, and employees.

2-215. INTERFERENCE WITH OFFICER OF THE CITY. It shall be unlawful for any person in any manner to interfere with or hinder any officer of this City in catching or taking up any dog, cat, or other animal under the provisions of this Chapter.

2-216. FEES, CHARGES AND PENALTIES TO GENERAL FUND. All, fees, charges, and penalties paid to the City of Spring Hill at the City Hall location under the provisions of this ordinance shall be paid over to the City Treasurer and by him/her credited to the general operating fund of said City. Provided, however, that all boarding fees, and any fees obtained from the disposal of said animals in accordance with the provisions of this ordinance and the order of the City of Spring Hill, Kansas, shall be retained in the event the City is operating under the provisions hereof providing for a contractor to provide the impounding facilities.

- A. All redemption fees collected by the City of Spring Hill shall be paid over to the City Treasurer and by him/her credited to the general operating fund of said City.
- B. During the period of time the City of Spring Hill, Kansas is designating an impounding facility, then in such event all fees collected from any source whether the same be for boarding fees, redemption fees, or fees for the disposal of said animals, shall then be paid over to the City Treasurer of said City and by him/her credited to the general operating fund of said City.

2-217. ENFORCEMENT OF ORDINANCE. It is made the duty of the police officers or animal control officers of the City to enforce the provisions of this ordinance. The Governing Body of the City may appoint some suitable person as a collector of dogs, cats, and other animals, whose duties it shall be to assist in the enforcement of this ordinance, and that the Governing Body of said City may appoint such other persons or contractors as enforcing officers under the provisions of this ordinance. Such appointments shall be confirmed by the Governing Body.

ARTICLE 3. ANIMAL BITE PROCEDURE - GENERALLY.

2-301. ANIMAL BITE VIOLATION. Persons who are responsible for or in control of animals in the city shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

2-302. ANIMAL BITE PROCEDURE-GENERALLY.

- A. Except as provided in Section 2-303, a dog, cat, other domestic animal and any other warm-blooded animal which bites, scratches, or otherwise injures a person shall immediately be quarantined at the owner's expense by city personnel with a veterinarian whose place of business is within Johnson or Miami County, Kansas of the owner's choice or with the city's impounding agent, for a period of not less than 10 days nor more than 12 days.
- B. If the initial impoundment is not during regular office hours, the city personnel shall immediately impound such dog, cat, other domestic animal, or warm-blooded animal with a city-authorized impounding agent at the owner's expense for a period of not less than 10 days nor more than 12 days.
- C. If the person responsible for the animal cannot be immediately notified, city personnel shall immediately, or as soon as practicable, impound such animal with a city-approved shelter, at the expense of the person responsible, for a period of not less than 10 days nor more than 12 days. If the address of the person responsible for the animal can be determined, the animal control officer or police department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and penalty fees then due and owing to the city.
- D. In the event the original place of impoundment is not the choice of the owner, the owner may cause the animal's place of impoundment to be changed to a licensed veterinarian, whose place of business is located within Johnson or Miami County, Kansas, of the owner's choice provided all other provisions of this title are complied with.
- E. The total period of confinement of the animal at the one or more locations is to be for a period of not less than 10 days nor more than 12 days, from the date of the actual bite itself. Provided, however, that any animal which is not located, apprehended, or picked up within the 10-to-12-day period from the date of the bite, shall immediately upon apprehension, be taken to a qualified veterinarian for the purposes of testing or checking the animal for rabies or any other communicable diseases. Such tests or checks shall be made at the animal owner's expense.

2-303. HOME CONFINEMENT ALTERNATIVES FOR ANIMAL - In the event the investigating officer determines:

- A. The animal which injured the person did so while confined on a chain or leash on property under the control of the animal's owner or within a fence or building enclosing property under the control of the animal's owner;
- B. The person injured was upon the property without the consent of the owner;
- C. The animal owner has no prior animal violations;
- D. The animal is not vicious nor likely to attack or bite someone else; and

- E. The animal had an effective rabies inoculation at the time of the injury, then, the animal need not be impounded in accordance with Section 2-302 but the following alternative procedure shall be followed:
- 1) If the injured person, his parent, or guardian desires the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in Section 2-302 notwithstanding any other provision of this title.
 - 2) If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain on the property of its owner or keeper; provided no animal shall be allowed to remain on the property of its owner or keeper under this section unless such person signs a written agreement to keep the animal confined to the property for the period specified in Section 2-302 and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. If the owner or keeper is unwilling to sign such agreement, the animal shall be immediately impounded in accordance with Section 2-302.
 - 3) Animal control shall have the authority to remove an animal from home confinement and place it within an animal shelter or veterinarian if the animal becomes ill during the confinement period or it is believed the conditions of home confinement or requirements are not being met.

2-304. NOTICE OF IMPOUNDMENT OF BITING ANIMAL TO POLICE CHIEF. In all cases of impoundment under this section, the veterinarian or impounding officer with whom the dog, cat, other domestic animal, or warm-blooded animal is impounded, shall give immediate written notice to the Chief of Police or Animal Control Officer that such animal has been confined and will be confined not less than 10 days nor more than 12 days. At the expiration of the aforesaid confinement period, the veterinarian or city impounding agency shall give immediate written notice to the Police Chief or Animal Control Officer as to the health of such animal pertaining to the diagnosis of rabies.

2-305. Repealed.

2-306. DESTRUCTION OF CERTAIN ANIMALS. Law enforcement officers or animal control officers of the City or anyone having the authority of an animal control officer, may kill any dog, cat, domestic animal, or warm-blooded animal without notice to the owner if such dog, cat, domestic animal, or warm-blooded animal is:

- A. Deemed by the officer as a dangerous animal putting persons or property in immediate and reasonable danger, or
- B. Injured severely with no apparent chance of survival, or in such pain as to warrant humane destruction, or
- C. The police officers of the city may kill any dog, cat, domestic animal, or warm-blooded animal without notice to the owner, keeper or harbinger thereof, if such animal is suspected of being rabid.

The remains of any such animal so destroyed shall be preserved by such officers to permit a test to be conducted for rabies.

2-307. ENFORCEMENT. It is made the duty of the animal control officer, or anyone having the authority of animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this title, and the police chief may appoint some suitable person to be known as an animal control officer, whose duties it shall be to assist in the enforcement of this title and to work under the immediate supervision and direction of the police department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the city limits when he has reasonable grounds to believe the animal committed any act within the city which is prohibited by the provisions of this title or which subjects the animal to seizure if found within the city. Any private person may, upon signed complaint, bring charges against any owner of a dog, cat, other domestic, and any other warm-blooded animal for the violation of any of the provisions of this title.

ARTICLE 4. INHERENTLY DANGEROUS OR DESTRUCTIVE ANIMALS

2-401. DEFINITIONS.

- A. Exotic Animal: means any wild animal not ordinarily confined by humans for domestic purposes. An exotic animal shall include but not be limited to, wild cats, wolves, foxes, bears, nonhuman primates, crocodiles, alligators, caimans, venomous snakes, or, other animals not indigenous to this region of the United States.
- B. Non-venomous Snakes: snakes that present a risk of physical harm or death to human beings such as Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, amethystine pythons, Boelen's pythons and all members of the family pythondiae that exceed six feet in length.
- C. Birds: certain domestic birds commonly kept as pets and sold at pet stores, such as Cockatoos, Macaws, Parakeets, and Parrots; are not considered an exotic animal for purposes of this article.

2-402. LEGISLATIVE FINDINGS. The Governing Body of the City of Spring Hill finds and determines Warm blooded, carnivorous, or omnivorous, wild, or exotic animals, and poisonous animals are inherently dangerous or destructive, and-the possession of said animals within the city pose a significant threat to the public's health, safety, and welfare.

2-403. PROHIBITED ANIMALS - GENERALLY.

- A. It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the city:
 - 1) Any warm-blooded, carnivorous, or omnivorous, wild, or exotic animals, including, but not limited to, nonhuman primates, raccoons, skunks, foxes, and wild and exotic cats, but excluding ferrets and small rodents of varieties used for laboratory purposes.
 - 2) Any animal having poisonous bites.
- B. Failure to Comply:
 - 1) Whenever law enforcement officers or animal control officers of the City or anyone having the authority of an animal control officer, has reasonable grounds to believe that any animal is in violation of this section, the animal shall be subject to immediate seizure and impoundment.
 - 2) A prominent written notice shall be left on or in the premises occupied by the animal advising that the animal has been removed under the authority of this section and impounded.
 - 3) Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.
 - 4) If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief of Police may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.
 - 5) Any reasonable costs incurred by the Chief of Police in seizing, impounding and for confining any animal shall be charged against the owner, keeper, or harbinger of such animal and shall be collected by the City. Such charges shall be in addition to any fine or penalty provided for in violating this ordinance.

ARTICLE 5. DANGEROUS DOGS AND CATS

2-501. DEFINITIONS.

- A. "DANGEROUS ANIMAL" means a dog or cat which:
- 1) When unprovoked, has attacked or bitten a human being or domestic animal on public or private property;
 - 2) Has chased or approached a person, including a person on a conveyance, upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or
 - 3) When unprovoked, has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
 - 4) Bitten one or more persons within the prior twelve (12) months.
 - 5) Has been found to be potentially dangerous and after the person responsible therefore has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
 - 6) Is owned, harbored, sheltered, kept, controlled managed or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- B. "VICIOUS ANIMAL"² means a dog or cat which has:
- 1) When unprovoked, inflicted substantial bodily harm on a human being on public or private property;
 - 2) When unprovoked, killed a domestic animal without provocation while off the owner's or harborer's property; or
 - 3) Been declared to be dangerous and after the owner or harborer has notice that the animal is dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.
 - 4) A vicious bite is any attack by any animal which results in serious physical injury or death to a human and/or domestic animal in which the attacking animal uses its teeth and/or claws.
- C. UNPROVOKED means that the person the domestic animal approached, chased, bit or attacked:
- 1) did not mischievously or carelessly provoke or aggravate the animal;
 - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the animal?
 - 3) Was not tormenting, abusing, assaulting or attacking the animal;
 - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the animal; or
 - 5) Was not committing or attempting to commit a crime.

2-502. DANGEROUS DOGS OR CATS, EXEMPTIONS.

- A. No dog or cat may be declared dangerous if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harborer of the dog or cat, or was physically abusing or assaulting the dog or cat.
- B. No dog or cat may be declared dangerous if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was attacking, or assaulting the dog or cat.
- C. No dog or cat may be declared dangerous if the dog or cat was protecting or defending a human being within the immediate vicinity of the dog or cat from an unjustified attack or assault.
- D. No dog or cat may be declared vicious if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harborer of the dog or cat or was physically abusing or assaulting the dog or cat.
- E. No dog or cat may be declared vicious if any injury or damage was sustained by a domestic

animal which, at the time such injury or damage was sustained, was attacking, or assaulting the dog or cat.

- F. No dog or cat may be declared vicious if the dog or cat was protecting or defending a human being within the immediate vicinity of the dog or cat from an unjustified attack or assault.

2-503. POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS.

Determination.

- A. In the event the animal control officer or a law enforcement officer has probable cause to believe an animal (dog or cat) is potentially dangerous, dangerous, or vicious, as defined in section 2-501, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the animal in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within 14 days, at which time the person responsible, may present evidence to the Municipal Court as to why the animal should not be declared potentially dangerous, dangerous, or vicious.
- B. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
- C. The Municipal Court, after considering the evidence, may issue its determination and order, declaring the animal to be potentially dangerous, dangerous, or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the animal is potentially dangerous, dangerous, or vicious, the person responsible shall comply with the provisions of this chapter as directed by the Municipal Court in accordance with a timetable established by the Municipal Court, within 30 days after the date of the determination. If the person responsible for the animal contests the determination, he or she may within ten days, exclusive of Saturdays, Sundays, and holidays, of such determination appeal to the district court.
- D. In the event, pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination, the impounded animal is potentially dangerous, dangerous, or vicious, the person responsible for the animal shall be liable to the city for the costs and expenses of impounding such animal.

2-504. Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of this section.

2-505. DISPOSITION OF VICIOUS ANIMALS. If the Municipal Court determines that an animal is vicious, the Municipal Court shall order that the animal be euthanized or that the person responsible for such animal remove the animal from the city limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious animal. The animal shall not be returned to the city limits after removal. It shall be unlawful for the person responsible for a vicious animal to maintain such animal in violation of the Municipal Court's order and this section.

2-506. PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS ANIMALS (CATS/DOGS).

- A. Leash and Muzzle. No person shall permit the dog or cat to go outside its kennel or pen unless such dog or cat is securely leashed with a leash no longer than four feet in length. No person shall permit the dog or cat to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, the dog or cat on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog or cat from biting persons or other animals.
- B. Confinement. The dog or cat 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 the dog or cat must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or 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 the dog or cat must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- C. Confinement Indoors. No such dog or cat may be kept on a porch, patio, or in any part of a house or structure that would allow the dog or cat to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- D. Signs. The owner, keeper, or harbinger of the said dog or cat within the city shall display in a prominent place on their premises a sign easily readable by the public, using the words "Beware of Dog or Cat". In addition, a similar sign is required to be posted on the kennel or pen of such dog or cat.
- E. Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip must be provided to the City Clerk.
- E. Insurance. The owner, keeper or harbinger of the said dog or cat must provide proof to the Chief of Police or designee 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 maintenance of such dog or cat. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the Chief of Police.
- F. Identification Photographs. The owner, keeper or harbinger of the dog or cat must provide to the Chief of Police or designee two color photographs of two different poses of the dog or cat clearly showing the color and approximate size of the dog or cat.
- G. Reporting Requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide written notification to the city clerk (or police department) at least ten days prior to any of the following situations:
 - 1) The removal from the city of such animal, and provide the City Clerk (or police dept.) with the contact information of the new person responsible for such animal.
 - 2) The birth of offspring of such animal.
 - 3) The new address of the person responsible for such animal should the person responsible move within the corporate city limits.
 - 4) In the event of the death of such animal, the city clerk (police dept.) must be notified in writing within ten days of the death.
- H. Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous animal to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the city.
- I. Failure to Comply.
 - 1) It is unlawful for the owner, keeper, or harbinger of the dog or cat to fail to comply with the requirements and conditions set forth in this section. Failure to comply will result in the immediate removal of the animal from the city.

- 2) Whenever law enforcement officers or animal control officers of the City or anyone having the authority of an animal control officer, has reasonable grounds to believe that any dog or cat is in violation of this Section, the dog or cat shall be subject to immediate seizure and impoundment.
- 3) A prominent written notice shall be left on or in the premises occupied by the dog or cat advising that the animal has been removed under the authority of this section and impounded.
- 4) Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep, or harbor such animals.
- 5) If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief of Police may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

2-507. COSTS AND FEES. Any reasonable costs incurred by the Chief of Police in seizing, impounding and for confining any potentially dangerous, dangerous, or vicious dog or cat shall be charged against the owner, keeper, or harbinger of such animal and shall be collected by the City. Such charges shall be in addition to any fine or penalty provided for violating this ordinance.

2-508. GUARD DOG.

- A. Any guard dog used in the city must be effectively physically restrained to the premises guarded; must be controllable by its keeper; and must not be used in a manner which, as determined by a police officer, endangers individuals not on the premises guarded. Any person operating a guard dog service in the city shall notify the Police Department and shall list all premises to be guarded with the supervisor of animal control before such services begin.
- B. For purposes of this section "guard dog" is defined as a dog not owned by a governmental unit or the dog is used to guard private commercial property or public property.

2-509. INSPECTIONS FOR RENEWAL (Dangerous and Potentially Dangerous Animal Designation Review). Beginning one year after an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition, annually, that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. The person responsible of a potentially dangerous or dangerous animal designation shall notify the city at least 45 days prior to any request for review.

If a petition for a review hearing is filed, the Municipal Court shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and city prosecutor, by best means possible, that a hearing will be held within 14 days, at which time the person responsible must provide evidence that the animal is no longer potentially dangerous or dangerous due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The city prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous animal designation.

ARTICLE 6. DOGS PUTTING PERSONS IN FEAR

2-601. DOGS PUTTING PERSONS IN FEAR. No person shall own, keep, or harbor any dog which by jumping upon or threatening any person upon any public property, street or sidewalk shall cause such person to be put in fear of injury. This section shall apply to any dog running at large and to any dog while being walked on a leash and the unprovoked attack by a dog on a leash upon any person shall constitute an assault or battery by the person holding the leash and failing to prevent unprovoked attack by such dog.

ARTICLE 7. ANIMAL WELFARE

2-701. DEFINITIONS. Whenever in this Article the following terms are used, each shall have the meaning respectively as described in this section:

- A. "Adequate care" is normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal;
- B. "Adequate food" is wholesome foodstuffs suitable for the species provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in an animal considering its age and condition;
- C. "Adequate health care" is the provision to each healthy animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death;
- D. "Adequate shelter" is a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, conditions and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather condition;
- E. "Adequate water" is a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to maintain good health in the animal;
- F. "Commercial Animal Establishment" is any pet shop, grooming shop, boarding kennel, animal exhibit, auction, riding school, stable carriage horse service, cattery, kennel, sentry or guard dog service, animal trainer, business keeping animals in stock for retail or wholesale trade or sale, or any establishment providing one or more of the principal activities of the aforementioned establishment; and
- G. "Owner, keeper or harborer" is any person who feeds, cares for, shelters, or professes or exhibits ownership of an animal.

2-702. CRUELTY TO ANIMALS.

- A. "Cruelty to animals" is:
 - 1) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;
 - 2) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
 - 3) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
 - 4) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
 - 5) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.
- B. The provisions of this section shall not apply to:
 - 1) Normal or accepted veterinary practices;
 - 2) Bona fide experiments carried on by recognized research facilities;
 - 3) 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 or as otherwise permitted in Chapter II;
 - 4) Rodeo practices accepted by the Rodeo Cowboys' Association.
 - 5) 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 the agent of such owner residing outside of a City or the owner thereof within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the owner

thereof, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian seven business days following the receipt of any such animal at such society, shelter or pound;

- 6) With respect to farm animals, normal or accepted practices of animal husbandry;
- 7) The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property; or
- 8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods.

2-703. SEIZURE AND DISPOSITION OF ANIMALS.

- A. Any animal control officer, law enforcement officer or licensed veterinarian may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined herein and when failure to do so would result in further injury or pain and suffering to the animal. Such officer or veterinarian may inspect, care for, or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if it appears, as determined by an officer of such animal shelter humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any use purpose, for humane killing.
- B. Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, caring, treating, impounding, confining, or humane killing, any animal permitted in the city by this chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.
- C. If a person is adjudicated guilty of the crime of cruelty to animals, as defined herein and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

2-704. ABUSE AND NEGLECT OF ANIMALS.

- A. **Generally:** No owner, keeper or harbinger of an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age, and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner must offer some freedom from continuous chaining, stabling, and tethering. The area where animals are kept must be kept free from unsanitary conditions and vermin-harboring debris.
- B. **Tethering:** It is unlawful to attach chains, restraints, or implements directly to a dog or animal without proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog/animal.
 - 1) It is unlawful for any person to continuously tether a dog for more than 3 continuous hours and,
 - 2) The chain, leash, rope, collaring device, tether must not restrict free movement; thereby preventing, injury or strangulation or entanglement of the dog on fences, trees, posts, or other manmade or natural obstacles.
 - 3) All tethered animals must have adequate care, food, shelter, and water.
- C. No person shall offer to give a live animal as a prize or as a business inducement or any other form of gratuity.

2-705. ELECTRONIC FENCES AND ELECTRONIC COLLARS. Dogs may be confined to the residential property of the owner by an electronic fence or an electronic collar. Dogs confined by an electronic fence or electronic collar shall at all times be required to wear collar or required device which must be functional and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an

electronic fence or electronic collar shall clearly post their property to indicate to the public that such a fence or device is in use. Electronic collars may not be used to control a dog when it is off the owner's or person's responsible property. An electronic fence and collar may not be used to confine a potentially dangerous or dangerous dog.

2-706. INJURY TO A DOMESTIC ANIMAL. "Injury to a domestic animal" is willfully and maliciously:

- A. Administering any poison to any domestic animal;
- B. Exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal; or
- C. Killing, maiming, or wounding any domestic animal.

This section shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes, or other predatory animals, nor shall it apply to any licensed veterinarian who administers any such substance in the practice of veterinary medicine in accordance with the standards of the veterinarian profession.

2-707. RESCUE OF ANIMALS FROM VEHICLES. Whenever any animal is found confined in a motor vehicle in a public place under weather conditions that endanger its life as determined by a law enforcement officer or animal control officer, such is a violation of this section and the law enforcement officer or animal control officer is hereby authorized to enter such vehicle and rescue such animal and thereafter impound it. A prominent written notice shall be left on or in the vehicle advising that the animal has been removed under the authority of this section and impounded.

2-708. COMMERCIAL ANIMAL ESTABLISHMENTS. Standards: Any person operating a commercial animal establishment shall keep and maintain the animals, and all structures, pens, or yards, tanks, ponds, or other holding areas in which the animals are kept, in such a manner as to prevent a nuisance or health hazard to humans and to avoid injury and illness to these animals. All holding areas must be properly sanitized so as to keep the animals enclosed therein free of diseases. All such animals shall be provided with a constant supply of wholesome food and water or in lieu of this, the proprietor shall prominently and publicly post and shall follow a schedule for adequate feeding and watering. A schedule shall also be posted for cleaning and maintaining cages and other holding areas at the facility. Any animal that is infected or diseased with an infectious agent shall be immediately isolated in such a manner as to prevent spread of disease to any other healthy animals, and it shall be treated immediately to prevent further condition of deterioration or euthanized, and if the owner or keeper fails or refuses to provide for such, the supervisor of animal control may remove each such animal to the animal shelter for disposition. All commercial animal establishments must permit inspection of their records, premises and the animals harbored therein by animal control officers of the City, law enforcement officers, and City officials.

2-709. UNLAWFUL TRAPPING. "Unlawful trapping" is the utilization, except for display or exhibition purposes, of any trap, net, snare, or other trapping device which does not painlessly capture or immediately kill its victim; or the utilization of any trap of the type commonly known as steel jaw, leg hold traps.

2-710. UNLAWFUL TRADING IN ANIMALS.

- A. The sale or giving away of chickens or ducklings younger than eight weeks of age in quantities of less than 25 to a single purchaser; or
- B. The giving away of any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contest, game, or other competitions; or as an inducement to enter a place of amusement or business; or other such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

ARTICLE 8. CHAPTER ENFORCEMENT

2-801. CHAPTER ENFORCEMENT. The City animal control officer or any police officer is authorized to enter upon public and private property for the purpose of enforcing this chapter. No person shall conceal any animal or otherwise interfere with the proper enforcement of this chapter.

That this Ordinance shall be construed as follows:

- A. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.
- B. Savings Clause. The repeal of Ordinance sections, as provided herein below shall not affect any rights acquired fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said Ordinances or parts thereof. Said Ordinance repealed is hereby continued in force and effect after the passage, approval and publications of this Ordinance for the purposes of such rights, fines, penalties, forfeitures, liabilities and actions therefor.
- C. Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of this proposed Ordinance set out in this Ordinance, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this Code or other Ordinances.

ARTICLE 9. CONFLICTING ORDINANCES

2-901. REPEAL. Section 2-305 is hereby repealed and all other ordinances of the City that conflict with this Ordinance, are hereby repealed to the extent of such conflict.

ARTICLE 10. VIOLATIONS AND PENALTIES.

2-1001. VIOLATIONS AND PENALTIES

- A. Any person violating or permitting the violation of any provision of this Chapter II shall, upon conviction in Municipal Court be fined in the sum of not less than two hundred dollars (\$200.00) and not more than two thousand five hundred dollars (\$2,500). In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed one hundred seventy-nine (179) days.
- B. Each day that a violation of this chapter continues shall be deemed a separate offense.
- C. In addition to the foregoing penalties, any person who violates this Chapter II shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this Chapter II.