

CHAPTER II: ANIMAL AND FOWL CONTROL AND REGULATION

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ARTICLE 1: GENERAL PROVISIONS

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2-101 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 over a 48-hour-period.

ANIMAL CONTROL OFFICER. The person designated by the city.

ANIMAL SHELTER. 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.

ANIMALS. 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.

AT LARGE. To be outside of a fence or other enclosure that restrains the animals to a particular premises 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**.

BITE. 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.

CAT. Any member of the species felis catus, regardless of sex.

CITY CLERK. The City Clerk or his or her duly designated and authorized representative.

DANGEROUS OR VICIOUS ANIMAL. Any animal which has previously attacked or bitten any person or domestic animal, or has demonstrated any inclination to do so.

DOG. Any member of the species canis familiaris, regardless of sex.

FOWL. Those domestic birds commonly kept for the production of meat, eggs or feathers. This shall not include roosters (male chickens) turkeys, geese, swans peafowl, guinea fowl, ostriches and emus.

FOWL, PERMITTED. Ducks and female chickens.

HARBOR. Any person who shall allow any animal 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.

HUMANE LIVE ANIMAL TRAP. Any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

HUMANELY EUTHANIZE. 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.

IMMEDIATE CONTROL. The regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

KENNEL. Any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding or otherwise harboring in an enclosure in one location only.

LIVESTOCK. Includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

NEUTERED. Any male or female cat or dog that has been permanently rendered sterile.

OWN. 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.

OWNER. Any person, partnership or corporation owning, keeping or harboring one or more animals.

VACCINATION. 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.

VETERINARIAN. A doctor of veterinary medicine licensed by the State of Kansas.
(Ord. 583, adopted 8-16-1995; Ord. 801, adopted 8-17-2011)

‘ 2-102 ENTRY POWERS OF ENFORCEMENT OFFICERS.

The Animal Control Officer or any properly designated city employee is authorized to enter upon private property for the purpose of enforcing this chapter.
(Ord. 583, adopted 8-16-1995)

‘ 2-103 RESISTING ENFORCEMENT.

(a) No person shall conceal any animal or break open or destroy an animal shelter, or attempt to take therefrom any animal therein impounded, or otherwise interfere with the proper enforcement of this chapter.

(b) Resisting enforcement is a Class A violation.
(Ord. 583, adopted 8-16-1995)

‘ 2-104 ANIMALS WHICH HAVE BITTEN PERSON OR SUSPECTED OF BEING RABID.

(a) When any animal subject to rabies has bitten or attacked any person or when any animal is suspected of having rabies, it shall be the duty of any person having a knowledge of such facts to report the same immediately to the Animal Control Officer. Such report may be made at the police station or City Clerk=s office.

(b) Such animal shall not be killed but shall be confined in such way and for such period of time as the Animal Control Officer shall direct. No person shall release from confinement any such animal or remove such animal from its place of confinement to another place with the consent of the Animal Control Officer. The confinement of the animal shall be at the expense of the owner, or custodian, of such animal, and the Animal Control Officer shall be empowered in his or her discretion to order impoundment or examination of such animal, or both, to determine whether it may have rabies. No person shall refuse to surrender any animal for quarantine when demand is made by the order of the Animal Control Officer. If the animal dies or is killed, a laboratory examination of the head shall be made.

(c) (1) Any person refusing or failing to comply with the provisions of this section or with the order or directives of the Animal Control Officer relating thereto shall be in violation of this article.

(2) Violation of this section is a Class B violation.
(Ord. 583, adopted 8-16-1995)

2-105 INJURED OR ILL ANIMALS.

(a) Whenever the Animal Control Officer encounters a stray animal suffering pain, injury or illness, he or she may take the animal to a veterinarian where the cost of any care or treatment shall be borne by the owner. If the ownership of the animal cannot be determined, the Animal Control Officer may act in accordance with his or her best judgment in a humane manner.

(b) Violation of this section is a Class B violation.
(Ord. 583, adopted 8-16-1995)

2-106 LIVESTOCK WITHIN CITY LIMITS.

(a) It shall be unlawful for any person to allow, keep, harbor, own, or possess in any fashion any fowl other than permitted fowl, horse, mule, jack or swine to include pot-bellied pigs, sheep, goat or cattle within the city limits unless the animal legally existed within the city prior to the adoption of this code. Any owner allowing or keeping such animals may continue to keep such animal(s) within the city limits until such time that the animal(s) has (have) been removed and the premises have been void of any such animal(s) for a period of six consecutive months. After such time, the use of such land use must conform with all rules and regulations adopted by the city.

(b) It shall be unlawful for the owner or the keeper or persons in charge of any horse, mule, jack, swine, sheep, goat, poultry or other fowl or any cattle to allow or permit the same to run at large within the city or to be herded upon the streets, alleys or public grounds of the city or be picketed upon any private grounds in the city in such a manner as to allow any such animal to be upon any such street, alley or public ground.

(c) When any of the animals named in division (a) above are found at large in the city, and not under the control of the owner or keepers thereof, it shall be the duty of the chief animal control officer or his or her assistants to take up such animals and keep them in a safe place temporarily until the owner or keepers thereof may be found. The Animal Control Officer shall make diligent inquiries for the owners or keepers of any such animals and return the same to any person lawfully entitled thereto; provided that the Animal Control Officer shall be entitled to receive from any such person the actual cost of feeding and keeping of any animal taken up hereunder, and he or she shall report the same to the governing body at its next meeting. When any animal is impounded whose owner is not known in the community or cannot be found, the Animal Control Officer shall report such taking up to the county sheriff as provided by law.

(d) Violation of this section is a Class C violation.
(Ord. 583, adopted 8-16-1995; Ord. 801, adopted 8-17-2011)

‘ **2-107 PERMITTED FOWL WITHIN CITY LIMITS.**

It shall be lawful for any person to keep, harbor, own, or possess permitted fowl, which are limited to ducks and female chickens, within the city limits with compliance to the following conditions.

(a) *Limitations.* The maximum number of permitted fowl allowed to be owned or kept in the city limits is one per 500 square feet of lot size, rounded down; but under no circumstances will the total number of permitted fowl on any lot exceed 20.

(b) *Keeping of domestic fowl regulations.* It shall be unlawful for any person to keep or maintain any domestic fowl upon any private premises in the city (when such keeping is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the owner or tenant of the premises on which such fowl are kept or maintained; or to keep or maintain such fowl at any time on any premises in a manner or condition constituting a public nuisance.

(c) *Running at large prohibited.* It shall be unlawful for any person to allow or permit domestic fowl to run or be at large at any time in the city. For the purpose of this section, the term **AT LARGE** shall be defined to include those times during which any domestic fowl shall not be confined or kept in pens sufficiently strong or constructed to keep such fowl on the premises of its owner or keeper.

(d) *Prohibited fowl.* It is unlawful for any person to keep or maintain roosters (male chickens), guinea cocks, peacocks or other birds that by nature exhibit loud calls, within the corporate limits of the city. It is unlawful for any person to keep any fowl not considered permitted fowl by this chapter.

(e) *No offensive matter.* It shall be unlawful for any person owning, occupying, or controlling any yard, room, building or any other place where fowl are kept in the city to allow such place to become filthy, offensive or unwholesome; or to allow any decayed, putrid or offensive matter to accumulate thereon.

(Ord. 583, adopted 8-16-1995; Ord. 801, adopted 8-17-2011)

‘ **2-108 VICIOUS ANIMALS.**

(a) It shall be unlawful for any person to keep, harbor or maintain within the city any vicious or dangerous animal. The Court shall have the authority to declare an animal vicious because of the inherently dangerous nature of the animal as to person; its history of attack, or wounding of other animals; the seriousness of these attacks or wounds; and its potential to inflict wounds in the future.

(b) Vicious animals within the city is a Class B violation.
(Ord. 583, adopted 8-16-1995)

‘ **2-109 NUISANCE ANIMALS.**

(a) No owner or harbinger of an animal shall fail to exercise proper care and control of such animal to prevent it from becoming a public nuisance. Activities such as excessive, continuous or untimely barking or other noises; attempts to attack or attacks and injures persons or other domestic animals; damages public or private property by its activities or with its excrement; scatters refuse that is bagged or otherwise contained; or activity which threatens or endangers the health, peace, or well-being of person or other animals, shall be deemed a nuisance.

(b) Nuisance animals within the city is a Class C violation.
(Ord. 583, adopted 8-16-1995)

' 2-110 DESTRUCTION OF ANIMALS.

Any animal, which upon the second finding by the Municipal Court to be a nuisance, may be ordered destroyed. Also, any animal which is found to be vicious by the Municipal Court shall be ordered destroyed within 48 hours.

(Ord. 583, adopted 8-16-1995)

' 2-111 KEEPING OF CERTAIN ANIMALS IN CENTRAL BUSINESS DISTRICT.

(a) It shall be unlawful to keep, harbor, own or possess in any fashion any swine, cattle, rabbits, horses, sheep, goats, poultry, other fowl or any other type of livestock in the Central Business District of the city except as otherwise permitted by the city zoning regulations and City Code ' 2-107.

(b) Failure to comply with the requirements and conditions as set forth in division (a) above shall be a violation of this section and any livestock will result in its immediate seizure and impoundment. Any person found to be in violation of this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(c) Violation of this section is a Class C violation.
(Ord. 583, adopted 8-16-1995; Ord. 801, adopted 8-17-2011)

' 2-112 CRUELTY TO ANIMALS.

(a) Cruelty to animals is:

(1) Intentionally killing, injuring, maiming, torturing or mutilating any animal;

(2) Abandoning or leaving any animal in any place without making provisions for its proper care; or

(3) Having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal.

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

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

(3) Killing, attempting to kill, trapping, catching or taking or any animal in accordance with any of the provisions of K.S.A. Ch. 32 or K.S.A. Ch. 47;

(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 an incorporated humane society, the operator of an animal shelter or pound, local or state health/Animal Control Officer or licensed veterinarian three 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 a threat to any person, farm animal or property;

(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;

(9) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in this section. Such officer, agent 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 an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing;

(10) The owner or custodian of an animal killed pursuant to division (b)(1) above shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted;

(11) Expenses incurred for the care, treatment or boarding of any animal, taken into custody

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pursuant to division (b)(1) above, pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, as defined in this section, shall be assessed to the owner or custodian at a cost of the case if the owner or custodian is adjudicated guilty of such crime;

(12) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in this section, the city, county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid; and

(13) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in this section, 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 or sale or other disposition.

(c) Cruelty to animals is a Class A violation.
(Ord. 583, adopted 8-16-1995)

2-113 CRUELTY TO DOMESTIC ANIMALS; DAMAGES.

If any person shall hurt, wound, kill, lame or destroy, or cause to be hurt, wounded, killed, lamed or destroyed, by running over or against, shooting, worrying with dogs, or otherwise, any of the animals mentioned in this act, when such animals are upon premises which are not enclosed with a sufficient fence as prescribed in this act, or when any such animals are upon the unenclosed premises of any such person, such person so offending shall satisfy and pay the owner of any such animal or animals full damages therefor, with costs.

(Ord. 583, adopted 8-16-1995)

ARTICLE 2: DOGS AND CATS

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‘ 2-201 USE OF FUNDS.

All sums of money received under this article shall be paid to the City Treasurer to the credit of the General Fund of the city.

(Ord. 583, adopted 8-16-1995)

‘ 2-202 FEMALES IN HEAT.

(a) Every female dog or cat in heat shall be confined in a closed building so that the animal cannot come into contact with another animal except for planned breeding. Any such dog or cat in heat and of unknown ownership found running at large shall be impounded by the Animal Control Officer immediately wherever found.

(b) Violation of this section is a Class C violation.

(Ord. 583, adopted 8-16-1995)

‘ 2-203 STRAY CATS.

(a) The Animal Control Officer shall, upon request, impound any cat which he or she determines

to be without ownership.

(b) Unless claimed by the owner within five days of the impoundment, the cat shall be disposed of in a humane manner.

(Ord. 583, adopted 8-16-1995)

‘ **2-204 HUMANE CARE.**

(a) All owners shall provide their animals with sufficient food and water, proper shelter, veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall poison or ill treat any animal, nor may any animal be abandoned.

(b) Violation of this section is a Class C violation.

(Ord. 583, adopted 8-16-1995)

‘ **2-205 RABIES EMERGENCIES.**

Whenever it shall become necessary to safeguard the public from the dangers of hydrophobia or rabies, the Mayor is hereby empowered to issue his or her proclamation declaring it necessary to muzzle or confine, or both, all dogs in the city.

(Ord. 583, adopted 8-16-1995)

‘ **2-206 DOGS RUNNING AT LARGE.**

(a) No owner, keeper or harbinger of any dog shall permit the same to run at large within the city. Dogs found by the Animal Control Officer to be at large may be taken and impounded in the animal shelter, and/or the Animal Control Officer may issue a notice to appear in Municipal Court to the dog owner or harbinger of the dog in violation of this section.

(b) Dogs running at large is a Class C violation. This violation is subject to fines; however, the city waives court costs.

(Ord. 583, adopted 8-16-1995; Ord. 811, adopted 8-1-2012)

‘ **2-207 DOGS ON SCHOOL GROUNDS OR RECREATION AREAS.**

(a) Owners shall not permit their dogs on any school ground, or on any public recreation area, unless the dog is controlled by a leash or similar device.

(b) Violation of this section is a Class C violation.

(Ord. 583, adopted 8-16-1995)

‘ **2-208 NOTICE OF IMPOUNDMENT OF DOG; DISPOSAL OF UNCLAIMED DOGS.**

The Animal Control Officer shall upon taking any dog into custody and impounding the same, make a record thereof with a description of the dog and the date and place taken into custody and the place of impounding, and thereupon shall immediately post a public notice in the City Clerk=s office specifying

such facts. After impoundment of a dog which can be identified by the license tag, the Animal Control Officer shall notify the owner and the owner may claim his or her dog within five days after notification. If the owner does not claim his or her dog, or if no claim is made on a dog of unknown ownership after five days, the Animal Control Officer shall dispose of the dog in a humane manner.

(Ord. 583, adopted 8-16-1995)

‘ 2-209 ANIMAL SHELTER FEES.

(a) Animals shall be released from the animal shelter upon payment of the license fee, if necessary, and the applicable fees.

(b) Fees are listed in Chapter I, Article 8, Fees.

(Ord. 847, FEES adopted 1-18-2017)

‘ 2-210 REQUIRED.

(a) No person shall own or have custody of any dog over six months of age unless such dog is licensed as provided in this chapter.

(b) A dog tag violation is a Class C violation; and is subject to fines; however, the city waives court costs.

(Ord. 583, adopted 8-16-1995; Ord. 811, adopted 8-1-2012)

‘ 2-211 RABIES VACCINATIONS PREREQUISITE.

Before a dog license will be issued, the owner shall produce satisfactory evidence that the dog has been vaccinated against rabies by a licensed veterinarian recently enough to provide rabies immunity for the entire license period.

(Ord. 583, adopted 8-16-1995)

‘ 2-212 LICENSE FEE.

The license fee shall be as listed in Chapter I, Article 8, Fees.

(Ord. 583, adopted 8-16-1995; Ord. 847, FEES adopted 1-18-2017)

‘ 2-213 EXPIRATION; RENEWAL; DUE DATE.

All dog licenses shall be valid and cover the calendar year. Such license shall be due and payable on or before February 1 of each year. The license for any dog brought into the city shall be due and payable within 30 days after the date such dog is brought into the city.

(Ord. 583, adopted 8-16-1995)

‘ 2-214 TAGS.

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Dog licenses shall be issued by the City Clerk in the form of a durable tag numbered and lettered ABurlington@ and the year, which shall be fastened to the dog=s collar or harness and worn at all times. License tags shall not be transferable. Should a dog tag be lost or destroyed, the owner shall forthwith apply to the City Clerk for a duplicate license tag and shall pay unto the City Clerk the sum of \$1 for each such duplicate. No refunds shall be made on any dog license fee because of the death of the dog or the removal of the dog from the city before the expiration of the license. It shall be the duty of the City Clerk to issue a receipt which shall show the name of the person paying the license fee, a description and sex of the dog, and the number of the tag issued.

(Ord. 583, adopted 8-16-1995; Ord. 811, adopted 8-1-2012)

ARTICLE 3: DANGEROUS ANIMALS

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' 2-301 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL.

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(1) Any mammal, including any wild animal crossed breed to a domestic cat or dog, any amphibian, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being or property, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles and snakes which are poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors;

(2) Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation is hereby defined as a ***DANGEROUS ANIMAL***. For the purposes of this article, where the official records of the chief animal control officer or City Clerk indicate a dog or cat has bitten any person or persons or animal on two or more separate occasions, it shall be prima facie evidence that the dog or cat is a dangerous animal; and

(3) (A) Any pit bull dog. ***PIT BULL DOG*** is defined to mean any and all of the following dogs:

(i) The Staffordshire bull terrier breed of dogs;

(ii) The American Staffordshire terrier breed of dogs;

(iii) The American pit bull terrier breed of dogs; and

(iv) Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier or American Staffordshire terrier.

(B) The registration of a dog at any time as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this section.

PERSON. Includes any natural person, association, partnership, organization or corporation.
(Ord. 583, adopted 8-16-1995)

' 2-302 PROHIBITION.

Except as provided in ' 2-303, no person shall own, keep, or harbor any dangerous animal in the city.

(Ord. 583, adopted 8-16-1995)

' 2-303 EXCEPTIONS; PERMIT AND REGISTRATION REQUIREMENTS.

(a) Any person or organization which falls into one of the following divisions shall be permitted to own, harbor or have charge, custody, control or possession of any animal described in ' 2-301 hereof, provided he or she has first secured a permit under ' 2-301; provided further that owners, keepers or

harborers of dangerous animals shall be required to register their animals in accordance with the provisions of this article.

(1) The keeping of such animals in zoos, bona fide education for medical institutions, museums or any other place where they are kept as live specimens from the public to view, or for the purpose of instruction or study;

(2) The keeping of such animal for exhibition to the public of such animals by a circus, carnival or other exhibit or show;

(3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;

(4) Commercial establishments possessing such animals for the purpose of sale or display; and

(5) The keeping of a registered dangerous animal as defined in ' 2-301 herein.

(b) The keeping of such animals, however, shall be subject to the following mandatory requirements.

(1) *Leash and muzzle.* No person shall permit a registered dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a dangerous animal 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. Such animals may not be leashed to inanimate objects such as trees, posts, buildings and the like. In addition, all dangerous animals 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.

(2) *Confinement.* All registered dangerous animals 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 secure top attached to the sides. All structures used to confine registered dangerous animals 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 dangerous animals 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.

(3) *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal 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 are the only obstacle preventing the animal from exiting the structure.

(4) *Signs.* All owners, keepers or harborers of registered dangerous animals within the city shall within ten days display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" or "Beware of Dangerous Animal". In addition, a similar sign is

required to be posted on the kennel or pen of such animal.

(5) *Insurance.* All owners, keepers or harborers of registered dangerous animals must within ten 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 person which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration the owner, keeper or harborer must present proof to the City Clerk of the required insurance. At the time of subsequent registration the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year. In the event the liability insurance is canceled, lapsed or for any other reason becomes non-enforceable, the owner, keeper or harborer shall be in violation of the provisions of this article and subject to the penalties provided herein.

(6) *Identification photographs.* All owners, keepers or harborers of registered dangerous animals must within ten days provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(7) *Reporting requirements.* All owners, keepers or harborers of registered dangerous animals must within ten days of the incident, report the following information in writing to the City Clerk as required hereinafter:

(A) The removal from the city or death of a registered dangerous animal;

(B) The birth of offspring of a registered dangerous animal; and

(C) The new address of a registered dangerous animal owner should the owner move within the corporate city limits.

(8) *Animals born of dangerous animals.* All offspring of dangerous animals registered with the city must be registered with the city within six weeks of the birth of such animal.

(9) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of a dangerous animal registered with the City Clerk to fail to comply with the requirements and conditions set forth in this article. Any animal 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 and the permit providing for the keeping of such animal resulting in the immediate removal of the animal from the city.

(Ord. 583, adopted 8-16-1995)

2-304 EXEMPTIONS.

The provisions of this article shall not apply to the transportation of such animals through this city, when such transporter has taken adequate safeguards to protect the public.

(Ord. 583, adopted 8-16-1995)

' 2-305 NOTICE OF KEEPING DANGEROUS ANIMALS.

Upon the written complaint of a person that a person owns or is keeping or harboring a dangerous animal in violation of this article in the city, the Animal Control Officer or his or her authorized deputy shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in the city, he or she shall forthwith send written notice to such person requiring such person to safely remove the animal from the city within five days of the date of the notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large in which case the Animal Control Officer shall cause the animal to be immediately seized and impounded according to the provisions of ' 2-306, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
(Ord. 583, adopted 8-16-1995)

' 2-306 SEIZURE AND IMPOUNDING OF DANGEROUS ANIMALS.

(a) The Animal Control Officer or his or her authorized deputy shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to ' 2-305. Upon a seizure and impounded, the animal shall be delivered to a place of confinement, which may be with any organization that is authorized by law to accept, own, keep or harbor such animals.

(b) 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 Animal Control Officer may render the animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then the animal may be killed.
(Ord. 583, adopted 8-16-1995)

' 2-307 PERMIT REQUIRED.

(a) No person under ' 2-303 owning, harboring, or having charge, custody, control or possession of any animal described in ' 2-301 hereof, shall allow such animal to remain within the city unless and until he or she has first secured a permit to do so and complies with all terms and conditions of such permit; and, in addition thereto, such animal shall at all times be so confined, controlled and restrained in such manner so the life, limb or property of any person lawfully entering such premises shall not be endangered.

(b) Failure to obtain a permit when required by division (a) above after written notification by the Animal Control Officer or his or her authorized deputy shall be adequate grounds for the office deputy to impound the animal until a permit is obtained. If no permit is obtained within ten days, the animal will be subject to destruction.
(Ord. 583, adopted 8-16-1995)

' 2-308 ISSUANCE OF PERMIT.

Except as hereinafter provided, no person under ' 2-303 shall have, keep, maintain, or have in his or her possession or under his or her control within the city any animal described in ' 2-301 hereof without first applying to and receiving a permit from the City Clerk; provided, no permit shall be granted except with such conditions attached as shall, in the opinion of the person or agency approving such permit, reasonably ensure the public health, safety and general welfare, and in any event no permit shall be granted for any animal at any particular location except upon an explicit finding by the Animal Control Officer or his or her authorized deputy that the issuance thereof will not be contrary to the public health, safety and general welfare.

(Ord. 583, adopted 8-16-1995)

' 2-309 APPLICATION FOR PERMIT.

(a) An application for any permit required pursuant to this article shall be made to the City Clerk in writing and upon a form furnished by the City Clerk.

(b) The application shall be verified by the person who desires to have, keep, maintain or have in his or her possession or under his or her control, in the city, the animal for which a permit is required, and shall set forth the following:

- (1) Name, address and telephone number of the applicant;
- (2) The applicant=s interest in such animal;
- (3) The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any;
- (4) The number and general description of all animals for which the permit is sought;
- (5) Any information known to the applicant concerning vicious or dangerous propensities of all such animals;
- (6) The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing and the like;
- (7) Safety precautions proposed to be taken;
- (8) Noises or odors anticipated in the keeping of such animals;
- (9) Prior history of incidents involving the public health or safety involving any of the animals;
- (10) Proof of insurance to cover those who may be injured or killed by the animal;

(11) A statement, signed by the applicant, indemnifying the city and its agents and employees for any and all injuries that may result from the animal; and

(12) Any additional information required by the Animal Control Officer at the time of filing such application or thereafter.

(Ord. 583, adopted 8-16-1995)

' 2-310 PERMIT FEE.

The fee for a permit application shall be \$20 for one dangerous animal plus an additional \$5 for two or more dangerous animals. The total fee shall not exceed \$25 for any one permit application and is non-refundable. The fee shall be payable to City Clerk at the time of the filing the permit application. Accretions by the natural birth shall not require additional permits during the valid period of a valid permit.

(Ord. 583, adopted 8-16-1995; Ord. 847, FEES adopted 1-18-2017)

' 2-311 TEMPORARY PERMITS; POWERS OF ANIMAL CONTROL OFFICER.

The Animal Control Officer may, following application for a permit and pending final disposition of the same grant a temporary permit for the maintenance within the city of any such animal upon such conditions as he or she shall, in his or her sole discretion, require when in his or her opinion, there is no reasonable doubt as to as to the consistency thereof with the public health, safety and general welfare, but no such animal shall be otherwise kept or maintained within this city except, while such a regular or temporary permit is in full force and effect; provided, however, that any law enforcement officer or the Animal Control Officer, or his or her authorized deputy, shall take possession of any animal described under ' 2-301 for which a permit has not been issued and keep the same until the proper permit has been secured by the owner or keeper when all fees and costs have been paid and all laws and permit conditions complied with.

(Ord. 583, adopted 8-16-1995)

' 2-312 TERMS AND RENEWAL OF PERMITS.

No permit required by this article shall be granted for a period in excess of one year. An application for renewal of an permit shall not be made not less than 45 days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

(Ord. 583, adopted 8-16-1995)

' 2-313 INSPECTIONS FOR RENEWAL.

Prior to annual renewal of any permit issued hereunder and at least once not more than six months after the issuance of any such permit or after its renewal, the Animal Control Officer or his or her designated representative shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this article. If the Animal Control Officer determines during any such inspection that any of the conditions

therein specified are being violated, he or she shall recommend revocation of such permit in the event that such violation is not corrected within such period of time as he or she shall direct.

(Ord. 583, adopted 8-16-1995)

' 2-314 REVOCATION OF PERMITS.

The City Clerk, upon recommendation of the Animal Control Officer may, for good cause, revoke any permit or modify any terms or provisions thereof and may in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing, for a period not to exceed 30 days. Failure to comply with any of the provisions of this article shall be sufficient grounds for revocation.

(Ord. 583, adopted 8-16-1995)

' 2-315 COMMERCIAL ESTABLISHMENTS.

(a) Commercial establishments possessing such animals for the purpose of sale or display may replace the same with others of the same kind, but the number of each shall not be in excess of the number thereof allowed by the terms of such permit. Such establishments may, in the discretion of the Animal Control Officer, be granted a permit for those such numbers of each kind of animal as do not exceed the maximum number such establishment estimates will be maintained by it in this city at any one time during the period of the permit. Such Animal Control Officer upon the acquisition of any animal having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.

(b) Upon the sale of any dangerous animal, the commercial establishment shall immediately send notification of the sale along with the name and address of the buyer, the method of transporting the animal, the path of travel of such transportation, and the destination to the Animal Control Officer.

(Ord. 583, adopted 8-16-1995)

' 2-316 APPEALS; FEES.

(a) Any person aggrieved by or dissatisfied with any of the following decisions, rulings, actions or findings may, within ten days thereafter, file a written notice or statement of appeal from the decisions, ruling, action or finding to the City Municipal Court for an administrative hearing thereon:

- (1) The determination that an animal is dangerous under ' ' 2-301 and 302;
- (2) The denial of a permit under ' 2-308;
- (3) The denial of a renewal of a previously issued permit under ' 2-314;
- (4) The revocation of a previously issued permit under ' 2-315; and
- (5) The temporary suspension of any permit or portion thereof under ' 2-315.

(b) An administrative fee of \$10 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.

(c) The filing of an appeal under this section shall not stay any action taken pursuant to this article. (Ord. 583, adopted 8-16-1995; Ord. 847, FEES adopted 1-18-2017)

‘ 2-317 APPEALS; ADMINISTRATIVE HEARING.

The hearing on the appeal provided for in ‘ 2-316 shall be conducted by a City Municipal Court Judge who will sit as an administrative judge for purposes of this article. The sole issue for determination shall be whether decisions, rulings, actions or findings of the Animal Control Officer and/or the City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case.

(Ord. 583, adopted 8-16-1995)

‘ 2-318 SUBPOENA POWER.

Pursuant to its role as administrative judge, the Court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued, hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the Court may order such person to comply with such subpoena and testify; and failure to obey the Court=s order may be punished by the Court as contempt.

(Ord. 583, adopted 8-16-1995)

‘ 2-319 APPEAL; DISTRICT COURT.

Any aggrieved party may appeal the decision and findings of the City Municipal Court Judge pursuant to K.S.A. 60-2101(d). However, the filing of an appeal under this section shall not stay any action taken pursuant to this article.

(Ord. 583, adopted 8-16-1995)

‘ 2-320 SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this article or any part thereof.

(Ord. 583, adopted 8-16-1995)

‘ 2-321 VIOLATIONS AND PENALTIES.

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Any person violating or permitting the violation of any provision of this article shall upon conviction in the Municipal Court be fined a sum not less than \$200 and not 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 shall order the registration and/or permit for the subject dangerous animal revoked and the animal 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 article 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.

(Ord. 583, adopted 8-16-1995)

' 2-322 COSTS TO BE PAID BY RESPONSIBLE PERSONS.

Any reasonable costs incurred by the chief animal control officer in seizing, impounding, confining or disposing of any dangerous or wild animal, pursuant to the provisions of ' ' 2-305 through 307 or ' 2-311, shall be charged against the owner, keeper or harbinger of such animal and shall be collected by the City Clerk.

(Ord. 583, adopted 8-16-1995)

ARTICLE 4: VIOLATIONS AND PENALTIES

Section

- 2-401 Classes of violations and confinement
- 2-402 Fines

' 2-401 CLASSES OF VIOLATIONS AND CONFINEMENT.

(a) For the purpose of sentencing, the following classes of violations and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the Court and shall not exceed one year;

(2) Class B, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the Court and shall not exceed six months; and

(3) Class C, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the Court and shall not exceed one month.

(b) Upon conviction of a violation, a person may be punished by a fine, as provided in ' 2-402, instead of or in addition to confinement, as provided in this section.
(Ord. 583, adopted 8-16-1995)

' 2-402 FINES.

(a) Pursuant to Charter Ordinance 2-A, the city is empowered and authorized to establish court costs and a fine schedule in the administration of justice for the city.

(b) The court costs assessable by the Court for the city shall be and hereby are amended to be as follows: costs assessable for the administration of justice in the Burlington Municipal Court, shall be equal to the court costs charged by the District Court of Coffey County, Kansas, as provided by statute, as amended from time to time which may include witness fees and mileage as set forth in K.S.A. 12-4411; assessment required by K.S.A. 20-1a11 and K.S.A. 12-4117 for judicial education; costs established pursuant to K.S.A. 74-5619 and K.S.A. 12-4117, as amended, providing funds for the law enforcement training center and juvenile detention facilities.

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(c) The fine schedule adopted by the city shall be equal to and in the same amount of like fines charged in the District Court of Coffey County, Kansas, and as provided by statute, and as amended from time to time, and as set forth in the fine schedule for traffic infractions pursuant to K.S.A. 8-2118, as amended.

(d) A person convicted of a violation may, in addition to, or instead of, the confinement authorized by law, be sentenced to pay a fine which shall be filed by the Court as follows:

- (1) Class A violation, a sum not less than \$250 and a sum not exceeding \$2,500;
- (2) Class B violation, a sum not less than \$100 and a sum not exceeding \$1,000; and
- (3) Class C violation, a sum not less than \$30 and a sum not exceeding \$500.

(e) A second conviction of any violation in this article may be the next higher class violation.

(f) Any subsequent convictions of any violations in this article will be a Class A violation.
(Ord. 583, adopted 8-16-1995)