

CHAPTER II. ANIMAL CONTROL AND REGULATION

- Article 1. General Provisions
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ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

(c) Animal Control Officer - means any person employed by, contracted with or appointed by the City for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal public safety officer, dog warden, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

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

(e) At-Large. - An animal shall be deemed to be at-large if off the premises of its owner and not under the immediate responsive control of a responsible person.

(f) Attack - means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, but not limited to, cornering or circling a person.

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

(h) Cat - means any member of the species felis catus, regardless of sex.

(i) Dangerous Dogs - means any dog which is known to its keeper or harborer, or reasonably should be known to its keeper or harborer, to have a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals. It is hereby declared to be the policy of this city that keepers and harborers of dogs that are of a size and breed that allow the animal to be capable of inflicting life threatening

injuries upon human beings are held to a very high standard of care regarding their knowledge of such propensity, tendency or disposition as to their animal and to confine and restrict movement of such animals. In determining whether or not a keeper or harbinger of such an animal should know reasonably about such propensities, tendencies or dispositions the municipal court shall apply a very high standard. The following breeds shall be presumed to be dangerous animals and all provisions shall apply to their care and confinement:

- (1) The Staffordshire Bull Terrier breed of dogs;
 - (2) The American Staffordshire Terrier breed of dogs;
 - (3) The American Pit Bull Terrier breed of dogs;
 - (4) The Rottweiler breed of dogs;
 - (5) The Wolf hybrid or Tundra Shepherd breed of dogs;
 - (6) Any dog that has the appearance and characteristics of being predominantly of the breeds of dogs known as Staffordshire Bull Terrier, American Staffordshire Terrier, American Pit Bull Terrier, Rottweiler, Wolf Hybrid or Tundra Shepherd;
 - (7) Any dog kept or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting; or any dog not owned by a governmental or law enforcement unit used primarily to guard public or private property.
- (j) Dog - means any member of the species canis familiaris, regardless of sex.
- (k) Euthanize - means the humane destruction of an animal, which includes, but is not limited to, the proper injection of a substance that quickly and painlessly terminates the life of an animal or by any of those methods provided in K.S.A. 47-1718.
- (l) Exotic Animal - means those animals not indigenous to North America and animals of any species, the majority of whose population is feral.
- (m) Fowl - means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.
- (n) Harbor - means any person who shall allow any animals to habitually remain, 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.
- (o) Humane Live Animal Trap - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.
- (p) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- (q) Kennel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than three dogs, three cats, or more than a combination of three dogs and cats.
- (r) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.
- (s) Neutered - means any male or female cat or dog that has been permanently rendered sterile.
- (t) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal

subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

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

(v) Person(s) - means any individual, firm, association, joint stock company, syndicate, partnership or corporation.

(w) Shelter - means all pens, houses, or fenced enclosures, where animals are confined, such as, but not limited to, hutches, cotes, lofts, kennels, warrens, feed lots, barns, stables, or other buildings or enclosures.

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

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

(z) Vicious Animals - means any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any animal which attacks a human being or domestic animal without provocation; any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting; any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack any public safety officer while such officer is engaged in the performance of official duty.

(Ord. 1893, Sec. 1; Code 1991)

2-102.

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

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

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

(d) It is unlawful for any person to:

(1) Refuse to identify himself or herself and provide verification of his/her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by animal control or public safety officer when the officer has probable cause to believe that this person when asked to do so by animal control or public safety officer when the officer has probable cause to believe that this person has violated a section of this article.

(2) Interfere with, molest, injure or prevent the animal control or law enforcement officer in the lawful discharge of their duties.
(Code 1991)

2-103. SAME; CAPTURE/DESTRUCTION. When deemed necessary by public safety officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

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

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

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture or tranquilize.
(Code 1991)

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any public safety officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.
(Code 1991)

2-105. MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

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

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

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

(d) Facilities for the humane destruction of animals.
(Code 1991)

2-106. BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

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

(Ord. 1467, Sec. 1; Code 1991)

2-107.

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

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

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

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

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

(Ord. 1469, Sec. 1; Code 1991)

2-108.

ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 1991)

2-109.

NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, "nuisance" is defined as any animal which:

(a) Molests or interferes with persons in the public right-of-way;

(b) Attacks or injures persons, or other domestic animals;

(c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;

(d) Scatters refuse that is bagged or otherwise contained;

(e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

(f) By loud, frequent or habitual barking, howling, yelping or other noise or action, unreasonably disturbs any person or neighborhood within the corporate limits of the city. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he/she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal(s) at the expense of the owner.

If a summons is issued charging a violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (Ord. 1467, Sec. 1; Code 1991)

2-110. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

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

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

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

(e) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized public safety officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(f) Animal Enclosure Regulations. No person shall as owner, lessee or occupant, maintain any pen or other enclosure where any animals are kept closer than 25 feet to the dwelling house of another, or shall permit the same to remain uncleaned to the annoyance of any citizen of the city.
(Ord. 1467, Sec. 1; Code 1991)

2-111. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

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

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

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage.

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

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

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

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

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

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

(Code 1991)

2-112. DEATH OF ANIMALS. (a) All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.

(b) In the event the animal control officer or a public safety officer disposes of the animal, the City shall be reimbursed for all cost incurred in the process. (K.S.A. 47-1201; Code 1991)

2-113. VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

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

- (1) The seriousness of the attack or bite;
- (2) Past history of attacks or bites;
- (3) Likelihood of attacks or bites in the future;
- (4) The condition and circumstances under which the animal is kept or confined;
- (5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

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

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

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

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section. (Ord. 1467, Sec. 1; Code 1991)

- 2-114. DANGEROUS DOGS; PROHIBITED. It shall be unlawful for any person or legal entity to keep, harbor or in any way possess a dangerous dog as defined by this article within the limits of the City of Augusta, Kansas. (Ord. 1893, Sec. 2; Code 2010)
- 2-115. EXISTING DOGS; EXCEPTION. Any dogs described and defined as dangerous by this article which reside within the City of Augusta, Kansas, at the time of the effective date of this ordinance and shall have registered with the City prior to the effective date, shall be allowed to remain in the City, subject to the provisions of this article. Any dangerous dog which fails to register by the effective date of this ordinance shall be removed from the City. If any dangerous dog which remains in the City under this exception is found to be at large more than once, it shall be removed from the City or destroyed. (Ord. 1893, Sec. 3; Code 2010)
- 2-116. SAME; CONFINEMENT. Any person who keeps or harbors a dangerous dog under the exception to this article shall keep such dog confined as required in this Section. Any such dogs shall be confined indoors by secure methods or in a securely enclosed and locked pen or dog run made of at least nine-gauge chain link with no more than 2" spacing. Such pen or dog run area must have sides at least six feet high and be secured over the top with the same material provided for the sides of the pen. Such pen or dog run area shall have a bottom incapable of being penetrated by the dog and secure to the sides of the pen which must be imbedded into the ground no less than one foot. Such pen and dog run shall be locked with a key or combination lock whenever such dog or dogs are within the pen or dog run. Allowing a dangerous dog to run free in an enclosed back yard is strictly prohibited. All other dangerous dogs must be confined indoors or within a secure fence at least 6ft. in height and constructed so that the dog cannot dig under the fence nor climb over the fence. Any gate to the fence must be locked with a key or combination lock at all times the dangerous dog is allowed to run free within the fence. All dangerous dogs which are allowed to run free within the fence must be muzzled and such muzzle shall allow the dog to drink but not bite. (Ord. 1893, Sec. 4; Code 2010)
- 2-117. SAME; LEASH AND MUZZLE. Any person keeping or harboring a dangerous dog shall at any time the dog is not confined, have such dog securely restrained by a leash with a minimum tensile strength of 300 pounds and not exceeding three feet in length. Any person walking a dangerous dog or restraining such a dog on a leash shall be an adult and be of sufficient strength to control said dog. No person shall attempt to walk or restrain more than one (1) dangerous dog at a time. All dogs defined by this ordinance as dangerous shall be muzzled when outside of confinement by a device sufficient to prevent the dog from biting people or other animals. (Ord. 1893, Sec. 5; Code 2010)
- 2-118. SAME; SPAY; NEUTER. Any dangerous dog confined and harbored within the confines of the City of Augusta and which dog is more than six months of age must be spayed or neutered within 30 days of the effective date of this ordinance or becoming six months of age. (Ord. 1893, Sec. 6; Code 2010)

- 2-119. SAME; TETHER PROHIBITED. Any person who harbors, owns or keeps a dangerous dog is prohibited from placing such dog on a tether, rope or chain which is attached to a tree or any other immovable object. (Ord. 1893, Sec. 7; Code 2010)
- 2-120. REGISTRATION. Within 30 days of the effective date of this ordinance, each owner, keeper, harborer or possessor of a dangerous dog shall register such dog with the City Clerk. For each dangerous dog harbored and kept at a residence there shall be an initial registration fee of \$50.00 per dog for the first year and an annual renewal fee of \$25.00 per dog. At the time of registration the owner, keeper or harborer of such dog must present two color photographs of such dog, clearly showing the color and approximate size of the animal giving a side and front view. The registration of such dog shall include the address, name, if any, of the animal, and its breed. In such time as the animal is removed from the City, relocated within the City, or such dog dies, this information must be given to the City Clerk within 10 days of the occurrence to correct the rolls of registration. (Ord. 1896, Sec. 1; Code 2010)
- 2-121. INSURANCE. All owners, keepers or harborers of dangerous dogs within the city must, within 30 days of the effective date of this article, provide proof to the City Clerk of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or persons and for damage to property owned by such persons which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration of such animals the owner, keeper or harborer must present proof to the City Clerk of the required insurance or at any other time thereafter when demanded by the City Clerk. Such liability insurance shall provide that there shall be no cancellation of the policy without first giving ten (10) days written notice of the cancellation to the City Clerk. (Ord. 1893, Sec. 9; Code 2010)
- 2-122. PENALTIES. Any person or legal entity found to be in violation of the provisions of this article, upon conviction, may be fined no less than \$100.00 nor more than \$500.00 for the first conviction and no less than \$100.00 nor more than \$1,000.00 for each subsequent conviction and/or confined for a period of up to six months. In addition to the above penalties the court may prescribe for the violation of this section, if the court finds, after notice to the keeper and harborer and an opportunity for hearing, that such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals, the Court may order such animal destroyed. Each day a violation of any provision of this ordinance occurs is considered a separate offense. (Ord. 1893, Sec. 10; Code 2010)
- 2-123. MISCELLANEOUS. (a) Any violation of this article shall make the dangerous dog involved in the violation subject to impoundment by the Department of Public Safety. Any dog that is impounded, after a hearing before the Municipal Judge, may be euthanized by order of the Court.
(b) Any dog impounded under this article, which is eligible to be returned to the owner, shall be returned to the owner only after payment of boarding fees and other incidental charges incurred during the impoundment of the animal. Failure to

pay fees and charges and obtain the release within 48 hours shall make the animal subject to destruction.

(c) If a dog is impounded under this ordinance as a dog prohibited within the City, the owner shall have 48 hours to remove the dog from the City permanently. Failure to remove the dog shall make the animal subject to destruction.
(Ord. 1896, Sec. 2; Code 2010)

2-124. RUNNING AT LARGE; FINE. (a) It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs).

(b) The owner of any dog or cat impounded for running at large without the tag as required by this chapter shall be fined in any sum not less than \$20.00 nor more than \$100.00 for the first offense and any sum not less than \$30.00 nor more than \$200.00 for the second offense, and any sum not less than \$40.00 nor more than \$300.00 for any subsequent offenses.

(c) Dogs must be secured by a leash, unless they are in a vehicle or within the property limits of the owner or harbinger. If unconfined on the property, the dog must be under control of a responsible person and must be obedient to that person's voice commands; or the property should have adequate fencing or an electronic fencing system and operating components. If an electronic fence is utilized, the animal must be equipped with the necessary equipment required to keep the animal confined.

(Ord. 1469, Sec. 1; Code 1991)

2-125. IMPOUNDMENT; FEE; NOTICE; RECORD. (a) The animal control officer or public safety officer shall impound any animal or fowl found at large in the city constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

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

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

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

(Code 1991)

2-126. REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-113 (vicious) and 2-127 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Code 1991)

2-127. IMPOUNDMENT OF RABIES SUSPECTS. (a) Any public safety officer or animal control officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the animal control officer shall determine whether or not such animal is suffering from a disease and, if not, the animal control officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The animal control officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the animal control officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

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

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

(Ord. 1467, Sec. 1; Code 1991)

2-128. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten to report that fact to the Department of Public Safety. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

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

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

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

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.
(Code 1991)

2-129. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any public safety officer. (Code 1991)

2-130. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent, to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any public safety officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Ord. 1467, Sec. 1; Code 1991)

2-131. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he/she shall issue an order requiring all dogs or cats kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 2010)

2-132. KENNELS; PERMIT REQUIREMENTS. Any person maintaining or operating a kennel within the city must obtain a permit as herein provided. Written application shall be made to the city clerk or his or her designated agent, which shall include name and address of applicant, description, sex and type of all animals kept or harbored on one premises for a period of longer than three months during the permit period. Permits will not be required for veterinary hospitals, animal clinics or public animal shelters. (Ord. 1467, Sec. 1)

2-133. PERMIT PERIOD AND ISSUANCE. (a) Permit period shall begin January 1 and end December 31 of the same year. Applications for permits may be made 30 days prior to and up to 60 days after the beginning of the permit period. Upon receipt of the permit application, the city clerk shall direct the animal control officer to inspect the premises, enclosures and/or equipment of the applicant for compliance with provisions of this chapter and other applicable laws. Following approval by the animal control officer and payment of the applicable fee hereinafter set out, a permit shall be issued.

(b) Annual Permit Fees:

(1) Class 1 Kennel (authorized to house less than eight dogs or cats or combination of either) - \$20.00;

(2) Class 2 Kennel (authorized to house eight or more dogs or cats or combination of either) - \$50.00.

(c) Any kennel existing prior to the adoption of these provisions shall be allowed to continue in operation until discontinued by the owner at the time of adoption of these provisions. Such privileges shall not be transferable to a subsequent owner. The fees for such pre-existing kennels shall remain the same as in effect prior to the adoption of these provisions.

(Ord. 1467, Sec. 1)

2-134. KENNELS REGULATED. Any person(s) operating a kennel within the city shall comply with all other sections of this chapter, including but not limited to, animals at large; licensing requirements; and cruelty to animals. Provided, kennels may only be located in those areas as the zoning ordinances of the city allow kennels to be maintained. (Ord. 1467, Sec. 1)

2-135. REVOCATION. The city clerk may revoke a permit or license if the person holding such permit or license refuses or fails to comply with this chapter or any law governing the protection and keeping of animals. Any person whose permit or license is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept or harbored by such person and no part of the permit or license fee shall be refunded. No person who has been convicted of cruelty to animals shall be issued a kennel permit. Any person having been denied a permit may not re-apply for a period of 30 days. Each re-application shall be accompanied by a \$5 fee. (Ord. 1467, Sec. 1)

2-136. ANIMAL WASTE. The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal on public right-of-way, recreation areas or private property. The owner of any animal shall not allow animal waste to gather and remain on the premises of the owner in such quantities which create unsanitary conditions or objectionable odors. (Ord. 1467, Sec. 1)

ARTICLE 2. DOGS AND CATS

2-201.

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

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over six months of age to fail to maintain effective rabies immunization of such dog or cat.

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

(d) The city clerk shall collect an annual registration fee of \$5.00 for each neutered or spayed dog or cat, and \$5.00 for each unneutered or unspayed dog or cat.

(e) The registration shall be valid for one year from the date of registration; provided that, vaccination may not be required if the owner of such dog or cat shall exhibit a statement from a veterinarian certifying that such vaccination would be injurious to such dog or cat due to its health.

(Ord. 1714, Sec. 1; Code 2010)

2-202.

DOG OR CAT TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs or cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog or cat a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$2.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 1467, Sec. 1; Code 1991)

- 2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Ord. 1467, Sec. 1; Code 1991)
- 2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any public safety officer. (Ord. 1467, Sec. 1; Code 1991)
- 2-205. EXCEPTIONS; VISITING DOGS OR CATS; SEEING EYE DOGS. (a) The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs or cats shall be kept under restraint by the owner thereof at all times.
- (b) License fees shall not be required for seeing eye dogs or governmental public safety dogs.
- (c) Assistance dogs that are listed as Dangerous Dogs, do not apply to the exceptions in this section. The dangerous dogs listed in section 2-101 are illegal within the city limits, and sections 2-114 to 2-123 will still be in effect. (Ord. 1467, Sec. 1; Code 1991)
- 2-206. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
- (a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city.
- (b) A record of all dogs or cats impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
- (c) If the dog or cat impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog or cat's owner, the owner of such dog or cat, as shown by the records of the city clerk shall be notified in writing as soon as possible or at least 24 hours before such dog or cat is disposed of by destruction or sale. If, at the end of five days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.
- (d) If the dog or cat impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding public safety officer then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code. If within three full business days the owner does not appear to claim the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.

(e) If at any time before the sale or destruction of any dog or cat impounded under the provisions of this article, the owner of an impounded dog or cat does appear and redeem the dog or cat, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and upon compliance with the registration provisions of this article. This subsection shall not apply to any dog or cat alleged as being vicious under section 2-113 or suspected of rabies under section 2-127 of this code.

(f) Any dog or cat impounded may not be released without a current rabies vaccination.

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

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

(Ord. 1467, Sec. 1; Code 1991)

2-207. DISPOSITION OF UNCLAIMED DOGS OR CATS. (a) Unclaimed dog or cat is destroyed. If any dog or cat is not redeemed by its owner or harborer within the time allowed for redemption as specified in section 2-206 thereof, the animal control officer, any authorized public safety officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

(b) Adoption of Unclaimed Dogs or Cats. Any person who desires to adopt an animal remaining unclaimed after the three day holding period shall pay the current claim and boarding fee as established in section 2-206, and in addition shall comply with section 2-201, concerning obtaining a current license for the adopted animal.

(Ord. 1467, Sec. 1; Code 1991)

2-208. CONFINEMENT OF DOGS OR CATS IN HEAT. Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat or dogs or cats may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Ord. 1467, Sec. 1; Code 1991)

2-209. IMPOUNDING ANIMALS WITHOUT LICENSES. It shall be the duty of the public safety officers of the city, or the animal control officer or designated agent, to take into custody and impound all dogs or cats found in the city, not provided

with or wearing a current license tag or other approved identification, as provided in section 2-201 of this article. (Ord. 1714, Sec. 2; Code 2010)

2-210. LIMITS ON DOGS AND CATS. Within the city limits of Augusta, Kansas, each household is allowed to maintain no more than three dogs, three cats, or no more than a combination of three dogs and cats. (Code 2010)

ARTICLE 3. OTHER ANIMALS

2-301.

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

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

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

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

- (1) Their location conforms to the provisions of the zoning ordinance of the city.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

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

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

(Ord. 1467, Sec. 1; Code 1991, 2-301)