

ORDINANCE NO. 2011-08

AN ORDINANCE AMENDING CHAPTER II, ARTICLES IV-V, SECTIONS 2-401, 2-407, 2-413, 2-414, 2-415, 2-501, 2-505, 2-510, 2-511, 2-514 AND 2-518; AND REPEALING CHAPTER II, ARTICLES IV-V, SECTIONS 2-408, 2-412, 2-506 AND 2-509 OF THE CITY OF MCLOUTH, KANSAS TO REGULATE AND CONTROL ANIMALS WITHIN CITY LIMITS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCLOUTH, KANSAS:

Section 1. City of McLouth Code Section 2-401 is hereby amended to read as follows.

Sec. 2-401. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

At large. An animal shall be deemed to be at large when it is not on the property of its owner and not under the physical control of the owner by leash or other similar device; voice control only will not be considered adequate control.

Attack means any violent or aggressive physical action or contact.

Dog means any domestic or wild dog.

Kennel means any person engaged in the business of breeding, buying, selling or boarding dogs.

Neutered male means any male dog which by operation has been made infertile or one that has been certified by a licensed veterinarian as being naturally infertile.

Owner means any person owning, keeping, harboring or possessing any dog or any person operating a kennel.

Pitt Bull Dog means and includes:

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

Restraint means confined by building, fence, leash or other appropriate means, or if accompanied by a competent person and under the person's immediate control.

Secure enclosure means any structure secure on four sides, top and bottom, equipped with a gate or door that has a lock that secures such gate or door from being opened by anyone other than the owner, harbinger, keeper or possessor of the dog.

Spayed female means any female dog which has been operated upon to prevent conception or one that has been certified by a licensed veterinarian as being naturally infertile.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of dogs.

Section 2. Original City of McLouth Code Section 2-401 is hereby repealed.

Section 3. City of McLouth Code Section 2-407 is hereby amended to read as follows.

Sec. 2-407. Required.

No person shall own, keep or harbor within the corporate limits of this city any dog over six months of age without first obtaining a permit from the city clerk. Such permit shall be obtained within 5 business days after the date City utility services begin. No permit shall be issued under this division except upon the presentation of a valid rabies vaccination certificate plainly showing the dog's last vaccination is currently effective and payment of the applicable fee under this division.

Section 4. Original City of McLouth Code Section 2-407 is hereby repealed.

Section 5. City of McLouth Code Section 2-408 is hereby repealed.

Section 6. City of McLouth Code Section 2-412 is hereby repealed.

Section 7. City of McLouth Code Section 2-413 is hereby amended to read as follows.

Sec. 2-413. Fees.

- (a) The fees for permits required by this article for each permit year are as follows:
 - (1) For each unspayed or nonneutered dog . . . \$ 8.00
 - (2) For each spayed or neutered dog . . . \$5.00
 - (3) For any kennel or pet shop covering all dogs kept during the year . . . \$40.00
- (b) No fee shall be required of any animal shelter or veterinary hospital.
- (c) Fees may be prorated.

Section 8. Original City of McLouth Code Section 2-413 is hereby repealed.

Section 9. City of McLouth Code Section 2-414 is hereby amended to read as follows.

Sec. 2-414. Term.

The permit term shall be for a period of 12 consecutive months commencing ~~on the date of application for the permit.~~ July 1st and ending on June 30th.

Section 10. Original City of McLouth Code Section 2-414 is hereby repealed.

Section 11. City of McLouth Code Section 2-415 is hereby amended to read as follows:

Sec. 2-415. Obtaining permits after deadline; enforcement procedure.

(a) *Late charge.* If a person obtains a permit within ~~30~~ 5 business days after either the expiration of an existing permit term or the date on which a permit is required, no late penalty will be charged; if, however, the applicant fails to make application and obtain a permit within such 5-day period, ~~within such 30-day period,~~ a late charge of \$2.00 shall be assessed for each month the applicant is delinquent in making application, not to exceed a total of \$24.00. The late charge shall be added to and collected with the regular permit. Any portion of a month shall be considered as a full month for the purposes of late charge computation.

(b) *Application and renewal forms.* The city clerk shall be authorized to mail application forms for permits and reminder notices to any animal owner of which the treasurer has record.

(c) *Delinquency notice.* A complaint alleging violation of the renewal provisions of a permit under this division and a notice to appear shall be issued against the owner of a dog subject to but not in compliance with such renewal provisions, provided that the city clerk has issued at least ten days in advance thereof a delinquency notice by United States mail, first class, postage prepaid, to the owner at the last known address of the owner. A delinquency notice shall include at least the following:

- (1) A title that it is a delinquency notice;
- (2) A statement of late payment charges the owner must pay; and
- (3) A warning that failure to purchase the applicable permit will result in the issuance of a complaint and notice to appear and subject the owner to potential court costs.

(d) *Complaint and notice to appear.* The complaint and notice to appear as provided in this section shall charge the owner with violations of the particular applicable ordinance and order the owner to appear in municipal court at a particular date and time.

(e) *Fines.* Any person charged with a violation of section 2-406 shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00.

Section 12. Original City of McLouth Code Section 2-415 is hereby repealed.

Section 13. City of McLouth Code Section 2-501 is hereby amended to read as follows:

Sec. 2-501. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cat means any domestic or wild cat.

Neutered male means any male cat which by operation has been made infertile or one that has been certified by a licensed veterinarian as being naturally infertile.

Owner means any person owning, keeping, harboring or possessing any cat or any person operating a kennel.

Secure enclosure means any structure secure on four sides, top and bottom, and equipped with a gate or door that has a lock that secures the gate or door from being opened by anyone other than the owner, harborer, keeper or possessor of the cat as set forth in section 2-503(a).

Spayed female means any female cat which has been operated upon to prevent conception or one that has been certified by a licensed veterinarian as being naturally infertile.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of cats.

Section 14. Original City of McLouth Code Section 2-501 is hereby repealed.

Section 15. City of McLouth Code Section 2-505 is hereby amended to read as follows:

Sec. 2-505. Required.

No person shall own, keep or harbor within the corporate limits of this city any cat over six months of age without first obtaining a permit therefore ~~from the city clerk, from the city treasurer, or agent authorized by the city treasurer, who may issue such permit when proper application is made in writing.~~ Such permit shall be obtained within 5 business days after the date City utility services begin. No permit shall be issued under this division except upon the presentation of a valid rabies vaccination certificate plainly showing the cat's last vaccination is currently effective and payment of the applicable fee under this division.

Section 16. Original City of McLouth Code Section 2-505 is hereby repealed.

Section 17. City of McLouth Code Section 2-506 is hereby repealed.

Section 18. City of McLouth Code Section 2-509 is hereby repealed.¹

Section 19. City of McLouth Code Section 2-510 is hereby amended to read as follows:

Sec. 2-510 Fees.

- (a) The fees for the permit required by this division, for each permit year, are as follows:
 - (1) For each nonneutered cat . . . \$ 8.00
 - (2) For each neutered cat . . . 5.00
 - (3) For any pet shop, covering all cats kept during the year . . . 40.00
- (b) No fee under this division shall be required of any animal shelter or veterinary hospital.
- ~~(e) No fee under this division shall be required of any pet shop with a valid cat permit.~~
- (c) Fees may be prorated.

Section 20. Original City of McLouth Code Section 2-510 is hereby repealed.

Section 21. City of McLouth Code Section 2-511 is hereby amended to read as follows:

Sec. 2-511. Term.

The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit July 1st and ending on June 30th.

Section 22. Original City of McLouth Code Section 2-511 is hereby repealed.

Section 23. City of McLouth Code Section 2-514 is hereby amended to read as follows:

Sec. 2-514. Obtaining permit after deadline; enforcement procedure.

- (a) *Late charge.* If a person obtains a permit within 30 5 business days after either the expiration of an existing permit term or the date on which a permit is required, no late penalty will be charged; if, however, the applicant fails to make application and obtain a permit within

¹ In the original code version, Section 2-509 is incorrectly designated as 2-59 due to typographical error.

~~such 5-day period, within such 30-day period,~~ a late charge of \$2.00 shall be assessed for each month the applicant is delinquent in making application, not to exceed a total of \$24.00. The late charge shall be added to and collected with the regular permit. Any portion of a month shall be considered as a full month for the purposes of late charge computation.

(b) *Application and renewal forms.* The city clerk shall be authorized to mail application forms for permits and reminder notices to any cat owner of which the treasurer has record.

(c) *Delinquency notice.* A complaint alleging violation of the renewal provisions of the permit issued under this division and a notice to appear shall be issued against the owner of a cat subject to, but not in compliance with, the renewal provisions of this section, provided that the city clerk has issued at least ten days in advance thereof a delinquency notice by United States mail, first class, postage prepaid, to the owner at the last known address of the owner. A delinquency notice shall include at least the following:

- (1) A title that it is a delinquency notice.
- (2) A statement of late payment charges the owner must pay.
- (3) A warning that failure to purchase the applicable permit will result in the issuance of a complaint and notice to appear and subject the owner to potential court costs.

(d) *Complaint and notice to appear.* The complaint and notice to appear issued under this section shall charge the owner with violations of the particular applicable ordinance and order the owner to appear in municipal court at a particular date and time.

(e) *Fines.* Any person charged with violation of this division shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to the plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00.

Section 24. Original City of McLouth Code Section 2-514 is hereby repealed.

Section 25. City of McLouth Code Section 2-518 is hereby amended to read as follows:

Sec. 2-518. Redemption.

(a) The owner shall be entitled to resume possession of any impounded cat, except as provided in this section, upon compliance with the permit provisions of this article and payment of the impoundment fees set forth in this section to the animal shelter.

(b) The impoundment fee for a cat shall be \$10.00 for each cat, plus \$2.00 for each day such cat is kept after the expiration of the legal detention period.

(b)(c) No owner shall be allowed to redeem any cat impounded for being a public nuisance, unless such redemption is authorized by any court having jurisdiction.

(e)(d) No owner shall be allowed to redeem any cat found to be rabid or any cat which has been bitten by a rabid animal, unless such redemption is authorized by any court having jurisdiction.

(d)(e) No owner shall be allowed to redeem any cat when, in the judgment of the animal shelter, the cat should be destroyed for humane reasons.

(e)(f) If a person is adjudicated guilty of the crime of cruelty to animals and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to

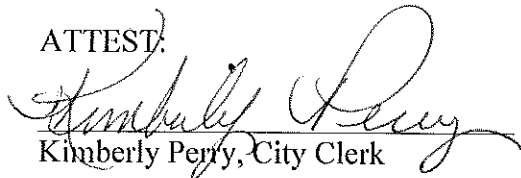
such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to an animal shelter or licensed veterinarian for sale or other disposition.

Section 26. Original City of McLouth Code Section 2-518 is hereby repealed.

Section 27. This ordinance shall take effect and be in force after its passage, approval, and publication in the official city newspaper.

Passed and approved by the City Council this ___ day of September, 2011.


Keith Meador, Mayor

ATTEST:

Kimberly Perry, City Clerk

APPROVED AS TO FORM AND LEGALITY



City Attorney for the City of McLouth