

## CHAPTER II. ANIMAL CONTROL AND REGULATION

### ARTICLE I. IN GENERAL

#### Sec. 2-101. Definitions.

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

(a) *Animal shelter* means any premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this chapter.

(b) *Exposed to rabies* means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

(c) *Owner* means any person owning, keeping, possessing or harboring any animal, or any person operating a kennel.

(d) *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.

(e) *Secure enclosure or secure six-sided enclosure* shall mean a pen, kennel or structure with secure sides, a secure top attached to the sides and a secure bottom or floor attached to the sides of the pen or embedded in the ground no less than two feet. The secure enclosure must be at least three feet from any public sidewalk or street. The secure enclosure must be locked with a key or combination lock when animals are within the enclosure. All secure enclosures must comply with all zoning and building regulations of the city. All secure enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(f) *Vicious* means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or other animal.

#### Sec. 2-102. Violations of chapter, mandatory minimum punishment.

The judge of the municipal court of the city shall, upon a conviction of any section in this chapter, other than section 2-108, sentence the owner, harbinger or possessor of such animal as follows:

(1) *Fine*. A fine of not less than one dollar (\$1.00) or more than four hundred ninety-nine dollars (\$499.00); or

(2) *Imprisonment*. Imprisonment in the city jail for not more than one hundred seventy-nine (179) days; or

(3) *Both fine and imprisonment*. Both fine and imprisonment not to exceed subsections (1) and (2) of this section.

**Sec. 2-103. Transportation and handling charges imposed in certain cases.**

If a person is convicted of a violation of a section in this chapter and the animal was transported by the city police department or animal control officer to an animal shelter, then the judge of the municipal court shall impose and collect from the defendant, the costs of handling and transportation of the animal.

**Sec. 2-104. Cruelty to animals.**

(a) It shall be unlawful for any person to:

- (1) Intentionally kill, injure, maim, torture or mutilate any animal;
- (2) Abandon or leave any animal in any place without making provisions for its proper care; or
- (3) Have physical custody of any animal and fail to provide such food, water, opportunity for exercise or other care as is needed for the health or well-being of such animal.

(4) Have custody of an animal, as owner or otherwise, and fail to provide such animal with necessary protection from the elements as set forth below:

(A) *Shelter from sunlight.* When sunlight is likely to cause overheating, serious bodily injury or death of the animal, sufficient shade shall be provided to allow the vertebrate animals kept outdoors to protect themselves from the direct rays of the sun.

(B) *Shelter from cold weather.* Housing facilities shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below 40 degrees Fahrenheit. Such structure shall be provided with a sufficient quantity of suitable bedding materials, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Such shelter shall be so constructed to keep the animal dry and retain sufficient body heat to prevent serious bodily injury or death of the animal.

(5) Attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(b) It shall be unlawful for any person to:

(1) Use a tether or any assembly or attachments thereto to tether a dog that shall weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered; or

(2) Tether a dog on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man made or natural obstacles; or

(3) Tether a dog without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below forty (40) degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or

(4) Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or

(5) Tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

(6) The following definitions apply to words used in this section:

(A) When used as a verb, "*tether*" or "*tethering*" shall mean fastening a dog to a stationary object, pulley run line or a stake.

(B) When used as a noun, "*tether*" or "*tethers*" shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog to a stationary object, pulley run line or a stake.

(c) Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any 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 subsections (a) or (b) of this section and subsections thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or if it appears, as determined by an officer of such animal shelter or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, the humane killing thereof.

(d) The owner of an animal killed pursuant to subsection (c) of this section shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted.

(e) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (c) of this section, pending prosecution of the owner of such animal for the crime of cruelty to animals, as defined in subsections (a) and/or (b), shall be assessed to the owner as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(f) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in subsections (a) and/or (b) of this section, 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.

**State law references:** Cruelty to animals, K.S.A. 21-4310, 21-4311.

### **Sec. 2-105. Mistreatment of young fowl, rabbits and other animals.**

(a) It shall be unlawful for any person to possess, display, sell or to give away any ducklings, chicks, fowls or rabbits as pets, playthings, novelties, gifts, for advertising or sales promotional purposes, or to suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated.

(b) This section shall not be construed to prohibit the display by hatcheries, stores, owners, dealers or persons regularly and continuously engaged in the business of selling such animals or fowl to be raised for food; but no such hatcheries, stores, owners, dealers or persons shall sell or give away baby chicks, ducks, fowls or rabbits as pets, playthings or novelties, nor shall they suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated.

### **Sec. 2-106. Pit Bull Dogs**

- (a) 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 pit bull dogs.
- (b) Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal on premises in the city, the chief of police shall cause the matter to be investigated. If after investigation, the facts indicate that the person named in the complaint is in fact the owner or is keeping or harboring any pit bull dog in the city, the chief of police shall send written notice to the person, requiring the person to safely remove the animal from the city within three days from the date of the notice. Notice as herein provided shall not be required where a pit bull dog has previously caused serious physical harm or death to any person, or has escaped and is at-large, in which case the chief of police shall immediately seize and impound, or kill the animal, if seizure and impoundment are not possible without risk of physical harm or death to any person. Notice of seizure shall be given to the owner or harborer of the animal as herein provided.
- (c) The chief of police shall cause to be seized and impounded any pit bull dog where the person owning, keeping or harboring the pit bull dog has failed to comply with the notice sent pursuant to section (b). Upon a seizure and impoundment, the animal shall be delivered to an animal shelter.
- (d) If during the course of seizing and impounding any pit bull dog, the dog poses a risk of serious physical harm or death to any person, the chief of police or his or her authorized representative 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.
- (e) Any reasonable costs incurred by the city in seizing, impounding and confining any pit bull dog shall be charged against the owner, keeper, or harborer of the animal. The charges shall be in addition to any fine or penalty imposed for violating this chapter.

### **Sec. 2-107. Exotic or captive wild animals.**

- (a) *Keeping, maintaining, etc.* Except as allowed by subsection (d), it shall be unlawful for any person to own, keep, maintain or have in his possession or under his control, within the city limits, any live mammal, bird or reptile.
- (b) *Selling, trading, etc.* Except as allowed by subsection (d), it shall be unlawful for any person to willfully sell, offer for sale, trade or offer for trade, within the city limits, any live mammal, bird or reptile.
- (c) *Buying, accepting in trade.* Except as allowed by subsection (d), it shall be unlawful for any person to willfully buy or accept in trade, within the city limits, any live mammal, bird or reptile.
- (d) *Exceptions.* Persons may buy, own, accept in trade, keep, maintain, possess sell, offer for sale, trade or offer for trade:
  - (1) Domestic dogs that are not pit bull dogs.
  - (2) Domestic cats.
  - (3) Domestic hoofstock.
  - (4) Rodents.
  - (5) European ferrets.

- (6) Rabbits.
  - (7) Birds, except for ostriches, emus, rheas and cassowaries.
  - (8) Nonvenomous snakes less than eight feet in length.
  - (9) Nonvenomous lizards, except all species of monitor lizards shall be prohibited.
  - (10) Turtles, except snapping turtles.
  - (11) Amphibians.
  - (12) Fish.
  - (13) Invertebrates.
- (e) *Exemptions.*
- (A) The prohibitions in subsections (a)--(c) shall not apply to bona fide zoos, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.
  - (B) The prohibitions in subsection (a) shall not apply to bona fide:
    - (1) Medical institutions.
    - (2) Post-secondary educational institutions.
    - (3) Veterinary clinics in possession of the animals prohibited under this section.
    - (4) Circuses, if properly licensed by the city.
    - (5) Carnivals, if properly licensed by the city.
    - (6) Persons designated and licensed as animal rehabilitators by the state fish and game commission.
    - (7) Persons listed in subsections (e)(B)(1)--(6) who are temporarily transporting such animals through the city, except that circuses and carnivals need not be licensed by the city if merely temporarily transporting an otherwise prohibited animal through the city.
- (f) *Sanitary requirements.* All persons and institutions listed in subsection (e) must ensure that all animals and animal quarters conform to the provisions of the nuisance ordinances of the city and are kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and shall ensure that all animals are maintained in quarters which are adequately constructed so as to prevent their escape.
- (g) *Licensing.* All persons and institutions listed in subsection (e) must be properly licensed, if so required, by any rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute.
- (h) *Violations.* A violation of any provision of this section shall constitute a new and separate offense each calendar day the violation continues to exist.
- (i) *Destruction or removal of prohibited animals.* Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harborer, keeper or possessor to destroy or remove from the city any animal prohibited under this section.

**Sec. 2-108. Injuring or killing of wild and undomesticated animals unlawful; exceptions.**

It shall be unlawful for any person to injure, kill, maim, molest, torture or destroy any wild or undomesticated animal in the city; provided, that upon complaint to the police department that any wild or undomesticated animal has caused or is causing damage or destruction of property upon any private premises in the city, such animal may be taken into custody and destroyed by an approved pest control firm or company upon the issuance of a permit by the police department; provided, however, that rats, mice and like rodents infesting any private premises may be controlled and destroyed at any time without a permit.

(Code 1981, § 8-2)

**Sec. 2-109. Vicious animals.**

(a) The animal control officer shall investigate each case of any animal reported as being vicious and, if probable cause exists to believe the animal is vicious, shall seize and impound such animal unless the owner agrees to impound the animal at the owner's expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. Impoundment expenses shall be assessed as court costs against a convicted owner.

(b) The owner shall report immediately to the public health officer any animal, which has actually bitten or scratched any person, regardless of the circumstances involved.

(c) Prohibited. It is unlawful for any owner, harborer, keeper or possessor who keeps any animal within the city limits to allow the following, and the same are declared to be public nuisances and prohibited:

(1) To permit such animal to attack or bite any person or animal that is not upon the premises of the owner, harborer, keeper or possessor.

(2) To permit such animal to attack or bite any person or animal that is upon the premises of the residence of such owner, harborer, keeper or possessor. It shall be an affirmative defense to this subsection (c)(2) that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.

(3) To permit such animal kept by such owner, harborer, keeper or possessor within or upon the premises of any business establishment to attack or bite any person or animal upon such premises. It is an affirmative defense to this subsection (c)(3) that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.

(d) Exceptions. The provisions of subsection (c) shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, harborer, keeper or possessor of any animal which attacks or bites a person engaged in physically attacking or striking such owner, harborer, keeper or possessor.

(e) Complaint and notice to appear.

(1) Any person who witnesses or has other personal knowledge that an act made unlawful by the provisions of this section has been committed in violation of such provisions may sign a complaint against the alleged violator.

(2) Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person when such officer personally observes a violation of the provisions of this section or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this section have occurred.

(f) Ex parte hearings and court orders. The municipal court of the city is empowered to hold ex parte hearings to determine whether there are reasonable grounds to believe that an animal may constitute a danger to any person if not impounded. After such hearing, if the court finds such reasonable grounds to exist, the court is empowered to enter orders, either on its own motion or on the motion of the city attorney, the city attorney's authorized representative, any police officer, reserve police officer or animal control officer, to seize and impound, or continue the impoundment of such animal until the completion of all trial and legal proceedings held in the municipal court of the city to determine whether there has been a violation of this section. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within 14 days of such order to review the propriety of such impoundment. Costs of such impoundment shall be assessed to the owner, harborer, keeper or possessor of such animal.

(g) Punishment. Upon a first conviction of a violation of this section, a person shall be fined not less than \$250.00 nor more than \$499.00. The person convicted must pay at least \$250.00 before the person is granted suspension or reduction of sentence. On a second or subsequent conviction of a violation of this section within seven years of the most recent conviction, a person shall be sentenced to not less than five days' imprisonment nor more than 30 days' imprisonment, and shall be fined not less than \$350.00 nor more than \$499.00. The person convicted must serve at least five days' imprisonment and pay at least \$350.00 before the person is granted suspension or reduction of sentence.

(h) Destruction of animal. Upon an initial conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harborer, keeper or possessor of such vicious animal to destroy such animal. Upon a second or subsequent conviction, the judge shall order the owner, harborer, keeper or possessor to destroy the animal.

(i) Confinement of animal. Upon conviction of a violation of this section, the judge of the municipal court shall order the owner, harborer, keeper or possessor of such vicious animal to confine such animal in a secure enclosure as defined in subsection 2-101(e). If the owner, harborer, keeper or possessor takes the vicious animal off the property, the judge shall order the animal to be under the direct physical control of some person by use of a chain, leash or similar device, and the animal shall be muzzled by a caged muzzle. Failure to comply with any such order shall be deemed a violation of this section and subject the violator to the penalties set forth in subsection (g).

(j) Failure of the owner, harbinger, keeper or possessor of such animal to comply with the orders of the municipal court within 20 days after conviction shall be punished as contempt of court. Upon the commencement of contempt proceedings against the owner, harbinger, keeper or possessor of such animal, the municipal court shall issue an ex parte order directing animal control officers to seize the animal, which shall be held and shall not be released until the conclusion of the contempt proceedings.

**State law references:** Permitting dangerous animal to be at large, K.S.A. 21-3418.

**Sec. 2-110. Keeping or harboring animals on property upon which no person resides.**

(a) *More than one animal prohibited.* It shall be unlawful for any person to confine, harbor, keep or maintain more than one animal on property uninhabited by humans within the city limits.

(b) *Exceptions.* The prohibition of this section shall not apply to bona fide:

- (1) Zoos, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.
- (2) Medical institutions.
- (3) Educational institutions.
- (4) Licensed veterinary clinics.
- (5) Animal shelters.
- (6) Persons or households engaged in the commercial business of buying, selling, training or boarding animals.
- (7) Animals maintained on nonresidential commercial properties for security purposes.

**Sec. 2-111. Dead animals in public places.**

(a) It shall be unlawful for any person to put any dead animal in any street, avenue, alley or other public place in the city and it shall be the duty of the owner, possessor and all persons having knowledge of any dead animal in the city to immediately report it to the city clerk, giving the kind of animal and the place where such animal may be found.

(b) It shall be the duty of the animal control officer, immediately upon the receipt of a report under this section, to remove or provide for the removal of the dead animal.

**State law references:** Disposal of dead animals, K.S.A. 47-1201 et seq.

**Sec. 2-112. Animal fighting.**

(a) *Defined.* For purposes of this section, the term "animal fighting" means any fight or wrestling match between cocks or other birds, between dogs, bulls, bears or any other animal, or between any such animal and a person, except at exhibits sponsored by licensed rodeos and circuses.

(b) *Activities prohibited.* A person who engages in any of the following proscribed conduct shall be guilty of a misdemeanor:

- (1) Causing any animal to engage in animal fighting for amusement or financial gain;
- (2) Training any animal under circumstances evincing an intent that such animal engage in animal fighting, for amusement or financial gain;

- (3) Permitting any act described in subsection (b)(1) or (b)(2) to occur on premises under his control;
- (4) Owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting;
- (5) Attending an exhibition of animal fighting as a spectator;
- (6) Placing or accepting a wager at any place where an exhibition of animal fighting is being conducted.

**State law references:** Dog fighting, K.S.A. 21-4315 et seq.

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **Sec. 2-201. Authority of police officers.**

The police officers of the city are authorized to enforce this chapter and to aid and assist the animal control officer in the enforcement of this chapter.

### **Sec. 2-202. Animal control officer.**

(a) There is hereby created an office to be known as animal control officer for the enforcement of ordinances relating to animals.

(b) All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

## **ARTICLE III. RABIES CONTROL**

### **Sec. 2-301. Report of certain animals.**

Every person shall promptly report to the public health officer:

- (1) Any animal which bites a person;
- (2) Any rabid animal; or
- (3) Any animal suspected of being rabid.

### **Sec. 2-302. Demand to produce animal; expense.**

An owner, upon demand by the public health officer, shall surrender any rabid animal, any animal which has bitten a human, or any animal suspected as having been exposed to rabies, for supervised quarantine or destruction, which expense shall be borne by the owner, and such animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance with the permit provisions set forth in this chapter.

### **Sec. 2-303. Killing or removing certain animals restricted.**

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this article, nor remove any such animal from the city limits, without first obtaining written permission from the public health officer.

### **Sec. 2-304. Surrender of animal carcass on demand.**

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the public health officer.

## ARTICLE IV. DOGS

### DIVISION 1. GENERALLY

#### 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, harborer, keeper or possessor of the dog.

*Spayed female* means any female dog which has been operated upon to prevent conception.

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

#### Sec. 2-402. Number of Dogs Limited.

It shall be unlawful for any person to own, keep, maintain, or harbor, anywhere within the city limits, more than three (3) dogs, aged six (6) months or older, without first applying for and being granted a waiver of the limit. The waiver application fee shall be \$50.00 for each animal in excess of three (3) for which the waiver is sought. The applicant must make an adequate showing before the governing body that the premises in issue are so situated, and circumstances exist, to ensure that no nuisance will be created to the neighborhood and ensuring the public health, safety, and welfare. Should such waiver be granted, the governing body may limit the time during which the

waiver is granted, may specify the maximum number of dogs that may be maintained at any one time, and impose such other and further conditions as may be appropriate to ensure the public health, safety, and welfare. The waiver may be revoked by the governing body upon a finding that a nuisance exists.

**Sec. 2-403. Complaint and notice to appear.**

The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a dog subject to, but not in compliance with, this article; provided that no owner charged with violating the provisions of section 2-406 shall be convicted of violating section 2-406 if the owner produces in court, or at the offices of the animal control officer, a valid permit for the dog, issued prior to the issuance of the complaint and notice to appear.

**Sec. 2-404. Running at large prohibited.**

It shall be unlawful for the owner, keeper or harbinger of any dog to permit such dog to run at large. The fact of a dog being found at large shall be prima facie evidence of a violation of this section.

**Sec. 2-405. Confinement of certain dogs required.**

(a) The owner shall confine within a building or secure enclosure:

- (1) Every fierce, dangerous or vicious dog;
- (2) Every dog having a natural propensity to be fierce, dangerous or vicious; and
- (3) Every unsprayed female dog in heat, in such a manner that such female cannot come into contact with another dog except for planned breeding.

(b) It shall be unlawful for the owner of any unsprayed female dogs to keep such dogs in such manner as to cause a nuisance by attracting male dogs to the premises of such owner.

**State law references:** Permitting dangerous animals to be at large, K.S.A. 21-3418.

**Sec. 2-406. Breeding.**

Any business, individual, organization or entity engaged in the practice or business of breeding and/or selling dogs, with or without monetary compensation, shall provide the city treasurer the following information within ten days after ownership of any dog is transferred:

- (1) The date of the sale or transfer of ownership.
- (2) The name and address of the new owner.
- (3) A description of the dog sufficient for identification by an animal control officer.
- (4) Approximate age of the dog.

**DIVISION 2. PERMIT**

**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.

**Sec. 2-408. When required.**

The owner of a dog shall be required to have a permit for the dog upon the date it is brought into the city or attains the age of six months, whichever is later.

**Sec. 2-409. Exception--Nonresidents.**

The permit and vaccination requirements of this division shall not apply to a nonresident dog owner who keeps the dog within the city for not longer than 30 days, provided, that at all times such dog is under restraint.

**Sec. 2-410. Same--Seeing-eye dogs, military and police dogs.**

A person owning, keeping or harboring a dog that has been retired from the United States armed forces, a registered seeing-eye dog used by visually or hearing-impaired persons, or police or sheriff's department dogs shall not be required to pay the permit fee but shall be subject to all other regulations of this division, including but not limited to the requirement of having the rabies vaccination.

**Sec. 2-411. Application.**

Applications for dog permits shall be made with the city clerk or authorized agent upon forms provided by the city clerk, setting forth such information as necessary to properly implement the terms and provisions of this division. Such forms shall be completed by the applicant and submitted to the city clerk or authorized agent for validation and, after validation and payment of the permit fee, such forms shall serve as the dog permit.

**Sec. 2-412. Vaccination certificate prerequisite to issuance.**

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.

**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.

**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.

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

(a) *Late charge.* If a person obtains a permit within 30 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 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.

#### **Sec. 2-416. Tag.**

(a) Upon full compliance with the terms of this division, the city clerk or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar or harness.

(b) The tag issued pursuant to this section shall be securely attached to the collar or harness of the dog for which such permit and tag is issued and shall be worn at all times the dog is off the premises of the owner.

(c) If a tag issued for a dog is lost, a new tag may be obtained from the city clerk upon payment of a replacement fee of \$1.00.

(d) No person shall attach a tag to any dog other than the one for which the tag was issued.

#### **Sec. 2-417. Unlawful use.**

(a) A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid.

(b) No person shall use any dog or kennel permit issued for another dog or kennel.

### **DIVISION 3. IMPOUNDMENT**

#### **Sec. 2-418. When at large.**

Any dog found to be at large within the city may be impounded in the animal shelter in a humane manner.

#### **Sec. 2-419. When without a tag.**

The animal control officer may take into custody and impound all dogs not wearing a current registration tag.

#### **Sec. 2-420. Killing of dog when unable to capture.**

It shall be lawful for the animal control officer or an assistant, in the performance of duty, to pursue and capture any dog or to kill any dog if they cannot capture such dog.

#### **Sec. 2-421. Notification of owner.**

If, by a tag or other reasonable means, the owner can be identified, the animal shelter or its designated agent shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the dog.

#### **Sec. 2-422. Detention period.**

Impounded dogs shall be kept for a period of not less than 72 hours unless sooner claimed by the owner.

#### **Sec. 2-423. Redemption.**

(a) The owner shall be entitled to resume possession of any impounded dog, 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 dog shall be \$10.00 for each dog, plus \$2.00 for each day such dog is kept after the expiration of the legal detention period.

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

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

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

(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.

**Sec. 2-424. Failure to redeem.**

If an impounded dog is not redeemed within the detention period set forth in section 2-421, then the dog shall be deemed abandoned and title thereto shall pass to the animal shelter by operation of law.

**Sec. 2-425. Interference.**

It shall be unlawful for any person to obstruct, hinder or prevent the impounding of any dog running at large contrary to the provisions of this article or to break open, destroy or injure the door, gate or enclosure of any impounding area to take or attempt to take therefrom a dog therein impounded.

**ARTICLE V. CATS**

**DIVISION 1. GENERALLY**

**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.

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

**Sec. 2-502. Complaint; notice to appear.**

The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a cat subject to, but not in compliance with, this article; provided, that no owner charged with violating the provisions of section 2-506 shall be convicted of a violation of section 2-506 if the owner produces in court, or at the offices of the animal control officer, a valid permit for the cat, issued prior to the issuance of the complaint and notice to appear.

(Code 1981, § 8-202)

**Sec. 2-503. Confinement of female cats in heat.**

(a) The owner shall confine within a building or secure enclosure every unspayed female cat in heat, in such a manner that such female cannot come into contact with another cat except for planned breeding.

(b) It shall be unlawful for the owner of any unaltered male or unspayed female cat to keep such cat in such a manner as to cause a nuisance by attracting other cats.

**Sec. 2-504. Sale or transfer by certain persons; disclosures.**

Any business, individual, organization or entity engaged in the practice or business of breeding and/or selling cats, with or without monetary compensation, shall provide the city treasurer the following information within ten days after ownership of any cat is transferred:

- (1) The date of the sale or transfer of ownership.
- (2) Name and address of the new owner.
- (3) Description of the cat sufficient for identification by an animal control officer.
- (4) Approximate age of the cat.

**DIVISION 2. PERMIT**

**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 therefor from the city treasurer, or agent authorized by the city treasurer, who may issue such permit when proper application is made in writing.

**Sec. 2-506. When required.**

The owner of a cat shall be required to have a permit for the cat upon the date it is brought into the city or attains the age of six months, whichever is later.

**Sec. 2-507. Exception for nonresidents.**

The permit and vaccination requirements of this division shall not apply to a nonresident cat owner who keeps the cat within the city for not longer than 30 days, provided that at all times such cat is under restraint.

**Sec. 2-508. Application.**

Applications for cat permits shall be made with the city clerk or authorized agent upon forms provided by the city clerk, setting forth such information as necessary to properly implement the terms and provisions of this division. Such forms shall be completed by the applicant and submitted to the city clerk or authorized agent for validation, and after validation and payment of the permit fee, such forms shall serve as the cat permit.

**Sec. 2-59. Vaccination certificate prerequisite to issuance.**

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.

**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.

(c) No fee under this division shall be required of any pet shop with a valid cat permit.

**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.

**Sec. 2-512. Tags.**

(a) Upon full compliance with the terms of this division, the city clerk or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar.

(b) The tag issued under this section, or an engraved tag provided by the owner carrying the same information as set out in subsection (a), shall be securely attached to the collar of the cat for which such permit and tag is issued and shall be worn at all times the cat is off the premises of the owner.

(c) If a tag issued for a cat is lost, a new tag may be obtained from the city clerk upon payment of a replacement fee of \$1.00.

(d) No person shall attach a tag to any cat other than the one for which the tag was issued.

**Sec. 2-513. Validity; renewal.**

A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid.

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

(a) *Late charge.* If a person obtains a permit within 30 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 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 fee. 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.

### **DIVISION 3. IMPOUNDMENT**

#### **Sec. 2-515. Cats without current tag.**

The animal control officer may take into custody and impound all cats not bearing a current registration tag.

#### **Sec. 2-516. Notification of owner.**

If, by a tag or other reasonable means, the owner can be identified, the animal shelter or its designated agent shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the cat.

#### **Sec. 2-517. Detention period.**

Impounded cats shall be kept for a period of not less than 72 hours unless sooner claimed by the owner.

#### **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.

(b) 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.

(c) 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) 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) 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.

**Sec. 2-519. Failure to redeem.**

If an impounded cat shall not be redeemed within the detention period set forth in section 2-518, then the cat shall be deemed abandoned and title thereto shall pass to the animal shelter by operation of law.

**ARTICLE VI. LIVESTOCK**

**Sec. 2-601. Keeping near residences or businesses.**

It shall be unlawful for any person to keep cattle, sheep, goats or other food-producing animals in the city in a building or lot within 200 feet of any existing residence or other existing main use structure other than that of the owner of such animals.

**Sec. 2-602. To be kept in sanitary buildings.**

It shall be unlawful for any person to keep cattle, sheep, goats, equine or any such animals in the city unless such animals are kept in a barn, stable or building which is constructed or equipped with sewer connections, watertight floors approved by the director of environmental code services, flyproof windows and doors and such other sanitary requirements as may be ordered by the director of environmental code services.

**Sec. 2-603. Swine prohibited.**

It shall be unlawful for any person to rear or keep any swine in the city.

**Sec. 2-604. Exceptions to restrictions on keeping livestock.**

The provisions of sections 2-601 to 2-603 shall not apply to any person engaged in the packinghouse business, or in selling or shipping cattle, sheep, goats, equine or swine insofar as it may be necessary for such parties to bring such livestock into the city and keep such livestock in the city in the legitimate transaction and carrying on of business; provided, that sections 2-601 and 2-602 shall not apply to the keeping of equine on any parcel of land within the city provided there is an intensity of no more than two horses on a minimum of three acres; and, provided further, that each additional equine shall require an additional 1 1/2 acres of land to the minimum required.

**Sec. 2-605. Nonconforming keeping of livestock.**

The lawful use of a building or a lot for keeping livestock and which was existing at the time of the annexation of the building or lot to the city may be continued although such use does not conform with the provisions in this article. If a nonconforming use of any building or lot for keeping livestock is discontinued for a period of one year, the use of such building or lot shall thereafter conform to the provisions of this article.

(Code 1981, § 8-104.1)

**Sec. 2-606. Running at large or driving herds prohibited.**

It shall be unlawful for any person to suffer or permit any livestock owned or controlled by such person to run at large, or to drive any herd of cattle, horses, mules or hogs, or any flock of sheep, upon any street in the city.

**Sec. 2-607. Grazing in public prohibited.**

It shall be unlawful for any person to graze or permit to be grazed any horses, mules, cattle or other livestock upon any street, avenue, alley, public park or the parking of any street or avenue, or to picket out or fasten any such animal upon any such street, avenue, public park or parking of any street or avenue, or upon premises adjoining thereto, in such manner as to permit such stock to go upon or across any street, avenue, sidewalk, public park or parking of any street or avenue in the city.

**ARTICLE VII. FOWL**

**Sec. 2-701. Keeping of domestic fowl regulated.**

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.

**Sec. 2-702. 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 their owner or keeper.

**Sec. 2-703. Destruction of birds and bird's nests prohibited; exceptions.**

It shall be unlawful for any person to shoot, kill, maim or injure in any manner any bird or fowl of the air in the city, or to destroy the nest of any such bird or fowl, except that:

- (1) English sparrows and starlings or the nests thereof may be destroyed at any time by any person or approved pest control firm or company when such destruction may be done without the use of firearms or other weapons or devices;
- (2) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or roosting on any private premises in the city may, upon complaint to the environmental code services division, be destroyed by an approved pest control firm or company under the conditions of the permit issued by the environmental code services division.