

**Chapter 6.08**  
**CONTROL AND IMPOUNDMENT OF DOMESTIC ANIMALS**

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**6.08.010 Ownership.**

Any person owning, keeping or harboring a dog or cat for seven consecutive days shall be conclusively presumed to be the owner of such animal for purposes of this title. In addition, any person who signs a receipt for return of an animal from Animal Haven or any other animal shelter shall be presumed to be the owner, keeper or harbinger of the animal.

(History: Ord. DAC-1679 §8, 91; DAC-697 §7, 72)

**6.08.020 Dog and cat control.**

- A. Dog Control. All dogs must be confined to the residential property of the owner, keeper or harbinger of said dog; provided, dogs may be taken off the residential property of the owner, keeper or harbinger when:
  - 1. on a leash, no longer than 10 feet in length and the leash and animal are under the control of a responsible person. Whether a person is responsible shall be determined by giving due consideration to the size and temperament of the animal; provided, all dogs determined to be vicious and registered as vicious animals under the provisions of this chapter shall be muzzled when off the residential property of the owner, keeper or harbinger and shall be under the control of an adult;
  - 2. the dog is confined in a cage or within the enclosed interior of a motor vehicle; provided, it is a violation of this Section for a dog to be transported in the open bed of a truck unless restrained in a cage or on a leash that will prevent the animal from jumping or falling off the vehicle;

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3. under the control of the owner, keeper or harborer and during the conduct of an AKC, UKC or other kennel club or organized dog club trial, show or exhibition;
4. under the control of the owner, keeper or harborer and during the conduct of legal hunting activities within the City or during the conduct of training a dog for legal hunting activities, provided that if such training includes the discharge of a firearm, the conditions of Overland Park Municipal Code Section 11.12.155 must be complied with; provided further, no training for hunting purposes will be conducted on any property without the permission of the landowner upon whose property the training is occurring; provided further that such training and/or hunting activities are prohibited from all public parks and recreational facilities.

For the purposes of this Section "confined to the residential property of the owner, keeper or harborer" shall mean, but not be limited to mean, confined either inside the residential structure of the owner, keeper or harborer, or if outside the residential structure of the owner, keeper or harborer, the dog shall be physically restrained on a chain or leash or within a suitable fence or other proper method of physical restraint from which it cannot escape or endanger public safety outside the suitable method of confinement; provided:

- a. If the dog is in the physical presence of its owner, keeper, or harborer and on its owner's, keeper's or harborer's property and under the demonstrated direct and immediate voice control of its owner, keeper or harborer, it shall be considered confined to the residential property of its owner, keeper or harborer. It shall not be considered confined to the residential property of the owner, keeper or harborer, if the dog is off the property of the owner, keeper or harborer, whether it is under the demonstrated direct and immediate voice control of its owner, keeper or harborer or not.
- b. Dogs shall not be considered confined to the premises of the residential property of their owner, keeper or harborer if the only restraining device is an electric fence. An electric fence is defined as a fence that shocks an animal or person upon the person or animal touching it.
- c. Dogs may be confined to the premises of the residential property of their owner, keeper or harborer by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or a collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner's, keeper's or harborer's property. The collar may be controlled manually by a person or automatically in a predetermined manner. Dogs confined to residential property of the owner, keeper, or harborer, by an electronic fence or an electronic collar, shall not be permitted to be nearer than 10 feet away from any public sidewalk or property line that is contiguous to neighboring property. In addition, dogs are prohibited from being confined by an electronic fence or an electronic collar in the front yards of an owner's, keeper's or harborer's property. No dog having been found a dangerous animal by the animal control division shall be confined by an

electronic fence or an electronic collar. All owners, keepers or harborers of dogs who use an electronic fence shall clearly post their property to indicate to the public that a dog is confined to the property by an electronic fence or electronic collar. Electronic collars may not be used to control a dog when it is off its owner's, keeper's or harborer's property.

5. When within a fenced closure on city-owned property under the control of the Director of Parks and Recreation, provided the owner complies with any regulations posted by the Director.
- B. Cat Control. All cats must be under the control of their owner, keeper or harborer at all times. For the purpose of this Section, a cat shall be considered not under control and in violation of this Section in the following situations:
1. If a neighbor complains orally or in writing to the owner, keeper or harborer of a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this Section;
  2. If a cat causes injury to persons or animals.
  3. If a cat causes damage to property off its owner's, keeper's or harborer's property to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- C. The provisions of this Section shall not apply to any property zoned RUR, PRUR, RLD or PRLD that is annexed into the City pursuant to Ordinance No. A-2719 unless and until the property is rezoned.

(History: Ord. DAC-2771 §2, 2009; DAC-2825 §1, 2009; DAC-2728 §1, 2008, modified during codification under authority of K.S.A. 12-3015; DAC-1679 §9, 91; DAC-1385 §5, 86; DAC-1311 §4, 85; DAC-1091 §2, 80; DAC-697)

#### **6.08.025 Other Domestic Animals.**

- A. All domestic animals, excluding dogs and cats, but including cows and horses, although not limited thereto, shall be enclosed with a fence sufficiently close, composed of posts and rails; posts and palings; posts and planks or palisades; posts and wire; rails alone, laid up in the manner commonly called a worm fence; or turf, with ditches on each side, of stone; or a hedge in existence on July 1, 1986, composed either of thorn or Osage orange.
- B. Fences required under this section are as set out in K.S.A. 29-102 et.seq (1986 Session Laws) or any amendments thereto, which are incorporated by reference as if set out in full herein.
- C. It shall be unlawful for any domestic animal except as provided in 6.08.020 to run at large.
- D. If any domestic animal, other than dogs or cats, break free of their lawful enclosure, and trespass on land owned by another person, the owner or occupant of the land may take

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into possession such animal trespassing, and keep the same until damages can be collected pursuant to K.S.A. 29-408 (1986 Session Laws).

(History: Ord. DAC-1385 §6, 86)

### **6.08.026 Animals Prohibited in Downtown Business District's Farmers Market.**

It shall be unlawful for any person to permit, suffer or allow a dog, cat or other domestic animal to enter or remain upon any portion of the property designated as the Downtown Business District's Farmers Market, during those periods the market is open for business to include any time designated for "setting up" market displays, provided "service dogs" as defined by K.S.A. 39-1108 may be upon market property when assisting an individual.

(History: Ord. DAC-2123 §1, 98)

### **6.08.030 Seizure.**

When a law enforcement officer or Animal Control Officer detects an animal in violation of 6.08.020 and 6.08.025, the officer shall determine, when possible, the owner of such animal. If the owner can be determined, such animal may still be seized and impounded in the discretion of the officer.

(History: Ord. DAC-2771 §3, 2009; DAC-1385 §7, 86; DAC-1311 §5, 85; DAC-697 §10(part), 72)

### **6.08.040 Violation of 6.08.020 - Penalty Generally.**

Repealed.

(History: Ord. DAC-1679 §10, 91; DAC-1512 §1, 88; DAC-1385 §8, 86; DAC-1311 §6, 85; DAC-1104 §1, 81; DAC-1091)

### **6.08.050 Violation of 6.08.020 - Penalty Procedure.**

Repealed.

(History: Ord. DAC-1311 §27, 85; DAC-1104 §2, 81; DAC-1091)

### **6.08.060 Redemption of Impounded Animal - Vaccination.**

Redemption of an animal impounded under the provisions of this section shall be permitted upon payment of any pound fees and any veterinarian fees then due and owing. In the event the animal has not been vaccinated for rabies when the owner seeks to redeem the animal, the owner shall be required to sign a written acknowledgment of receipt of the animal which includes a written promise to the City to have the animal vaccinated and duly licensed with the City within seven days after receipt of the animal. If a registered veterinarian determines it would be temporarily dangerous to the health of the animal to vaccinate it during this seven-day period, the owner will be given an extension of up to 30 days after the animal's release from impoundment in which to obtain the vaccination. In either event, the license tag required by 6.04.030 shall be withheld pending final vaccination.

(History: DAC-1311 §7, 85; DAC-697 §10)

### **6.08.070 Procedure on Failure to Redeem.**

The City shall have a lien against any animal seized pursuant to 6.08.030 for its keep. If after seven days from the date of seizure the animal has not been redeemed, the City shall have the right to dispose of the animal through sale to any private individual and apply the sale proceeds

to the expense incurred in keeping the animal. If after seven days from date of seizure, the animal has not been redeemed or sold, then it may be given away or humanely destroyed unless there is good reason, in the opinion of the impounding veterinarian, to suspect the presence of rabies in such animal; it may then be retained at the discretion of the impounding veterinarian. (History: DAC-1311 §8, 85; DAC-697 §11)

**6.08.080 Damage to Property.**

It shall be unlawful for the owner, keeper or harbinger of any animal to permit, suffer or allow such animal to go upon any sidewalk, parkland, or private or public property and break, bruise, tear up, dig up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or for the animal to defecate or urinate on any such property, provided it shall not be a violation for an animal to defecate on public property if the owner, keeper or harbinger cleans the property immediately; provided it shall not be a violation for an animal to urinate on public property as long as the animal does not urinate on flower beds, shrubs, bushes, trees or other plants, not to include grass.

(History: Ord. NOI-2287 §10, 2001; DAC-1679 §11, 91; DAC-1311 §9, 85; DAC-697 §14)

**6.08.085 Injury to Person or Animal.**

It shall be unlawful for the owner, keeper or harbinger of any animal to permit such animal to:

- A. Cause injury to people.
- B. Bite or cause injury to any person or other animal.

(History: Ord. DAC-2771 §4, 2009)

**6.08.090 Rabies Impoundment Procedures.**

Except as provided in 6.08.130, a dog, cat, or ferret which bites, scratches, or otherwise causes an abrasion that breaks the skin of a person shall immediately be quarantined at the owner's expense by City personnel with a City authorized impounding agent or a licensed veterinarian, for a period of ten days. 1) If the owner is known and is present or is available to make arrangements, and the injury occurs during regular office hours, the animal will be impounded with a veterinarian of the owner's choice whose place of business is in Johnson County, Kansas, for a period of ten days. 2) If the injury occurs after normal business hours, and the owner is unable or unavailable to make arrangements for impounding of the animal, the animal will be impounded at a City authorized impounding agent until the next business day at which time the owner must make arrangements for the animal to be transferred to the facility of a licensed veterinarian whose place of business is in Johnson County, Kansas, for the remainder of the confinement period. The total period of confinement of the animal is to be for a period of not less than ten days from the date of the actual bite, scratch or abrasion. Any animal quarantined at the City's impound agent shall be transferred to a licensed veterinarian whose place of business is located within Johnson County, Kansas, no later than the next business day upon payment of all fees.

(History: Ord. DAC-2199 §1, 2000; DAC-1311 §10, 85; DAC-880 §2, 76; DAC-711 §3, 72)

**6.08.100 Notice of Impoundment of Biting Animal to Chief Animal Control Officer.**

In all cases of impoundment under this Section, the veterinarian or City-authorized impounding agent with whom the dog, cat, or ferret is impounded, shall give immediate written notice to the Chief Animal Control Officer that such animal has been confined and will be confined not less than 10 days nor more than 12 days.

(History: Ord. DAC-2771 §5, 2009; DAC-2199 §2, 2000; DAC-1311 §11, 85; DAC-711 §3(part), 72; DAC-697 §15(B), 72)

**6.08.110 Notification of Owner of Impounded Animal.**

If the address of the owner of the animal can be determined, the Chief of Police shall make reasonable effort to notify the owner that the animal is impounded under the provisions of 6.08.090 through 6.08.130 and the owner must redeem the animal and pay all pound fees, any veterinarian fees and any license and penalty fees then due and owing the City. Upon redemption, the owner must transfer the animal to a licensed veterinarian as required by 6.08.090.

(History: Ord. DAC-2199 §3, 2000; DAC-711 §3(part), 72; DAC-697 §15(C), 72)

**6.08.120 Lien Against Animal Impounded - Sale or Disposal.**

The City shall have a lien against the animal for its keep and if, after the period of impoundment provided in 6.08.090 through 6.08.130, the animal has not been redeemed by the owners, the City shall have the right to order disposal of the animal through sale to any private individual and apply the sale proceeds to the expense incurred in keeping the animal. If the animal is not redeemed or sold after the period of impoundment, it may be given away or humanely destroyed. (History: Ord. DAC-711 §3(part), 72; DAC-697 §15(D), 72)

**6.08.130 Alternatives for Confined Animal.**

1. In the event the investigating officer determines:
  - A. That the animal owner has no prior animal violations; and
  - B. That the animal is not vicious nor likely to attack or bite someone else; and
  - C. That the animal had an effective rabies inoculation and was duly licensed under this title at the time of the injury, then, the animal need not be impounded in accordance with Section 6.08.090 but the following alternative procedure shall be followed:
    - (1) If the injured person, his/her parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in Section 6.08.090 notwithstanding any other provision of this title.
    - (2) If the injured party, his/her parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain on the property of its owner or keeper; provided no animal shall be allowed to remain on the property of its owner or keeper under this Section unless such person signs a written

agreement to keep the animal confined to the property for the period specified in Section 6.08.090 and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. If the owner or keeper is unwilling to sign such an agreement, the animal shall be immediately impounded in accordance with Section 6.08.090.

2. If the animal was not duly licensed with the City but otherwise met the requirements of this paragraph for home confining the animal, the animal must be confined outside the home as required by this Section, provided, should the owner license the animal during the ten day confinement period, the animal may be confined at home in accordance with the standards set forth in this Section for any remaining portion of the confinement period.
3. Animal Control officers shall have the authority to remove an animal from home confinement and place it with an animal shelter or veterinarian at any time during home confinement if the animal becomes ill during the quarantine period or the Animal Control officer develops reasonable suspicion that any conditions of home confinement or requirements of this Code, are not being followed.

(History: Ord. DAC-2756 §1, 2009; DAC-2199 §4, 2000; DAC-1679 §12, 91; DAC-880 §3, 76; DAC-711 §3, 72)

#### **6.08.135 Violations; Penalties Generally.**

Unless specific penalties are otherwise provided herein, the following penalties shall apply. Upon a first conviction for violation of this chapter, the Court shall assess a fine of no less than \$50. Upon a second conviction, the Court shall assess a fine of no less than \$150. Upon a third or subsequent conviction, the Court shall assess a fine of no less than \$500. Provided that no prior conviction shall be considered in determining the penalty to be assessed if 24 months have elapsed between the date of the violation and the date of the conviction next immediately preceding the sentencing date.

No person shall be eligible for a parole, suspension or reduction of any part of said fine. In addition to any such fine imposed, the Court may impose a jail term of up to 30 days, except that portion of any fine or combinations of fines assessed from the same set of operative facts that exceed \$200 may be suspended for not less than 12 months on the condition the violator have no further violations of the animal control laws during that period.

(History: Ord. DAC-1735 §3, 92; DAC-1679 §12, 91)

#### **6.08.140 Severability.**

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

(History: Ord. DAC-1311 §12, 85)

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