

## Chapter 6.09 ANIMAL WELFARE

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### **6.09.005 Definitions.**

Whenever in this chapter the following terms are used, each shall have the meaning respectively ascribed in this section:

- A. "Adequate care" is normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal;
- B. "Adequate food" is wholesome foodstuffs suitable for the species provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in an animal considering its age and condition;
- C. "Adequate health care" is the provision to each healthy animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death;
- D. "Adequate shelter" is a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, conditions and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather condition;
- E. "Adequate water" is a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to maintain good health in the animal.
- F. "Commercial Animal Establishment" is any pet shop, grooming shop, boarding kennel, animal exhibit, auction, riding school, stable carriage horse service, cattery, kennel, sentry or guard dog service, animal trainer, business keeping animals in stock for retail or wholesale trade or sale, or any establishment providing one or more of the principal activities of the aforementioned establishment.
- G. "Owner, keeper or harbinger" is any person who feeds, cares for, shelters or professes or exhibits ownership of an animal.

(History: Ord. DAC-1729 §2, 92)

**6.09.010 Cruelty to Animals.**

1. "Cruelty to animals" is:
  - A. Intentionally and Maliciously killing, injuring, maiming, torturing, burning or mutilating any Animal. A violation of this provision is a felony which must be charged in the District Court pursuant to K.S.A. 21-4310(a)(1);
  - B. intentionally abandoning or leaving any Animal in any place without making provisions for its proper care;
  - C. having physical custody of any Animal and intentionally failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of Animal;
  - D. intentionally using a wire, pole, stick, rope or any other object to cause an Equine to lose its balance or fall, for the purpose of sport or entertainment;
  - E. intentionally causing any physical injury other than the felony violations set forth in paragraph 1A above; or
  - F. molesting, willingly beating with a stick, chain, club or other object, burn or scald with any substance(s), administering any poisonous substance with the intent that the same shall be taken or swallowed, cruelly ill-treating, overworking or overloading, or disfiguring any Animals in the City; whether or not such Animal is owned by that person.
2. The provisions of this Section shall not apply to:
  - A. Normal or accepted veterinary practices;
  - B. bona fide experiments carried on by recognized research facilities;
  - C. killing, attempting to kill, trapping, catching or taking of any Animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
  - D. rodeo practices accepted by the Rodeo Cowboys' Association;
  - E. the humane killing of an Animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of Animals for population control, by the Owner thereof or the agent of such Owner residing outside of a City or the Owner thereof within a City if no Animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the Owner thereof, or by any officer or agent of any incorporated humane society, the operator of an Animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such Animal at such society, shelter or pound;
  - F. with respect to farm Animals, normal or accepted practices of Animal husbandry, including the normal and accepted practices for the slaughter of such Animals for food or by-products and the careful or thrifty management of one's herd or Animals, including Animal care practices common in the industry or region;
  - G. the killing of any Animal by any person at any time which may be found outside of the owned or rented property of the Owner or custodian of such Animal and which is found injuring or posing an immediate threat to any person, farm or domestic Animal or property;

- H. an Animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the Animal, when such Animal is vicious or could not be captured after reasonable attempts using other methods;
  - I. laying an Equine down for medical or identification purposes;
  - J. normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
  - K. accepted practices of Animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet Animals under the Animal Welfare Act, public law 89-544, as amended and in effect on July 1, 2006.
3. As used in this Section:
    - A. "Animal" shall have the meaning ascribed to it in K.S.A. 21-4313, and amendments thereto.
    - B. "Equine" means a horse, pony, mule, jenny, donkey, or hinny.
    - C. "Maliciously" means a state of mind characterized by actual evilmindedness or specific intent to do a harmful act without a reasonable justification or excuse.
  4. The first conviction of cruelty to Animals as described in this Section should be punished pursuant to O.P.M.C. Section 6.16.020.
  5. The second or subsequent conviction of cruelty to Animals as described in this Section is a non-person felony, that must be charged in the District Court pursuant to K.S.A. 21-4310(a)(2)-(5).

(History: Ord. DAC-2864 §1, 2010; DAC-2619 §1, 2006; DAC-1729 §3, 92; DAC-1311 §13, 85; POC-949; POC-625)

#### **6.09.015 Illegal Ownership or Keeping of an Animal.**

Illegal ownership or keeping of an animal is owning or keeping on one's premises an animal by a person convicted of unlawful conduct of dog fighting under K.S.A. 21-4315 and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-4310, and amendments thereto, within five years of the date of such conviction. Every person convicted of violating this section shall be imprisoned for not more than six months or fined not to exceed \$1,000, or both such fine and imprisonment.

(History: Ord. DAC-2619 §1, 2006)

#### **6.09.020 Seizure and Disposition of Animals.**

- A. Any public health officer, animal control officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in 6.09.010 herein and when failure to do so would result in further injury or pain and suffering to the animal. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for humane killing.

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- B. If a person is adjudicated guilty of the crime of cruelty to animals, as defined in 6.09.010 herein and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(History: Ord. DAC-1729 §4, 92; DAC-1679 §14, 91; DAC-1311 §14, 85; POC-949 §2, 77)

### **6.09.025 Abuse and Neglect of Animals.**

- A. No owner, keeper or harbinger of an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner must offer some freedom from continuous chaining, stabling and tethering. All restraints placed on an animal must be such that it prevents the animal from being tangled or injured by the restraint. The area where animals are kept must also be kept free from unsanitary conditions and vermin-harboring debris.
- B. No person shall offer to give or give a live animal as a prize or as a business inducement or any other form of gratuity.

(History: Ord. DAC-1729 §5, 92)

### **6.09.030 Injury to a Domestic Animal.**

"Injury to a domestic animal" is willfully and maliciously:

- A. Administering any poison to any domestic animal;
- B. Exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal; or
- C. Killing, maiming, or wounding any domestic animal.

This section shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes, or other predatory animals, nor shall it apply to any licensed veterinarian who administers any such substance in the practice of veterinary medicine in accordance with the standards of the veterinarian profession.

(History: Ord. DAC-1729 §6, 92; DAC-1311 §15, 85; POC-625 §34, 72)

### **6.09.035 Rescue of Animals from Vehicles.**

Whenever any animal is found confined in a motor vehicle in a public place under weather conditions that endanger its life as determined by the supervisor of animal control, such is a violation of this section and the supervisor of animal control is hereby authorized, with assistance from the police which are hereby authorized to enter such vehicle and rescue such animal and thereafter impound it. A prominent written notice shall be left on or in the vehicle advising that the animal has been removed under the authority of this section and impounded.

(History: Ord. DAC-1729 §7, 92)

**6.09.037 Commercial Animal Establishments.**

Standards: Any person operating a commercial animal establishment shall keep and maintain the animals, and all structures, pens, or yards, tanks, ponds, or other holding areas in which the animals are kept, in such a manner as to prevent a nuisance or health hazard to humans and to avoid injury and illness to these animals. All holding areas must be properly sanitized so as to keep the animals enclosed therein free of diseases. All such animals shall be provided with a constant supply of wholesome food and water or in lieu of this, the proprietor shall prominently and publicly post and shall follow a schedule for adequate feeding and watering. A schedule shall also be posted for cleaning and maintaining cages and other holding areas at the facility. Any animal that is infected or diseased with an infectious agent shall be immediately isolated in such a manner as to prevent spread of disease to any other healthy animals, and it shall be treated immediately to prevent further condition deterioration or euthanized, and if the owner or keeper fails or refuses to provide for such, the supervisor of animal control may remove each such animal to the animal shelter for disposition. All commercial animal establishments must permit inspection of their records, premises and the animals harbored therein by animal control officers of the City, law enforcement officers, and City officials. Failure to comply with the requirements of this section shall be a violation. A conviction for violation of this section shall result in a fine of not less than \$500 and not more than \$1,000. Each day shall be considered a separate offense.

(History: Ord. DAC-1729 §8, 92)

**6.09.040 Unlawful Trapping.**

"Unlawful trapping" is the utilization, except for display or exhibition purposes, of any trap, net, snare, or other trapping device which does not painlessly capture or immediately kill its victim; or the utilization of any trap of the type commonly known as steel jaw, leghold traps.

(History: Ord. DAC-1729 §9, 92; DAC-1311 §16, 85; POC-881 §1, 76)

**6.09.045 Trapping Coyotes in protection of private property and livestock.**

- A. Notwithstanding the provisions in Section 6.09.040, upon request by a resident, property owner, homeowner, or homes association, the Chief of Police may find that a coyote (*Canis latrans*) has become a danger to the private property or livestock of such individual(s) and may authorize and direct the trapping of a specific targeted animal responsible for private property destruction.
- B. In the event the Chief of Police makes the finding required by subsection A, the Chief may authorize any method of trapping which is found to be humane and necessary when considered in the totality of the circumstances.
- C. In the event the Chief deems trapping necessary, the resident, property owner, homeowner or homes association making the request will be responsible for the first \$250 of the costs of said trapping.

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- D. All trapping must occur on either City-owned property or property owned or controlled by the resident, property owner, homeowner or homes association, or on other property with the consent of the owner of the property.

(History: Ord. DAC-2797 §1, 2009)

**6.09.050 Unlawful Trading in Animals.**

- A. The sale or giving away of chickens or ducklings younger than eight weeks of age in quantities of less than 25 to a single purchaser; or
- B. The giving away of any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contest, game, or other competition; or as an inducement to enter a place of amusement or business; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(History: Ord. DAC-1311 §17, 85; POC-881 §2, 76)

**6.09.060 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 affect the validity or effectiveness of the remaining portions of this chapter or any part thereof.

(History: Ord. DAC-1311 §18, 85)

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