

## **TITLE 6**

### **ANIMALS**

#### Chapters:

- 6.04 Licensing and Registration of Dogs and Cats
- 6.08 Control & Impoundment of Domestic Animals
- 6.09 Animal Welfare
- 6.10 Dangerous Animals
- 6.12 Injured or Diseased Animals
- 6.14 Beekeeping
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#### See also:

- 7.04 Carcass nuisance
- 7.26.120 Animal Sanitation
- 10.04.070 Animals in a Swimming Pool
- 10.08.090 Hunting in a Park or taking Wildlife from a Park
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**Chapter 6.04**  
**LICENSING AND REGISTRATION OF DOGS AND CATS**

Sections:

- 6.04.010 License Fee.
- 6.04.020 Penalty for Overdue License Fee.
- 6.04.030 Registration - Tags.
- 6.04.035 Violation of 6.04.030 - Penalty.
- 6.04.040 Collar or Harness Required.
- 6.04.045 Presentation of Animal.
- 6.04.050 Number of Dogs and Cats Permitted; permits.
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- 6.04.055 Appeal.
- 6.04.056 Appeals, Administrative Hearing.
- 6.04.057 Subpoena Power.
- 6.04.058 Inoculation Against Rabies Required.
- 6.04.060 Rabies Certificate Required at Time of Licensing.
- 6.04.070 Enumeration of Animals.
- 6.04.080 Fees to General Fund.
- 6.04.090 Severability.

**6.04.010 License Fee.**

There shall be imposed an annual license fee upon the owners of each dog and cat of the age of six months or over, attaining such age during the license year. The license fee shall be in the amount of \$20.00 per animal provided that the fee for any animal whose owner produces proof that the same is spayed or neutered is fixed at \$10.00 per animal.

The license year shall be from January 1st through December 31st of each year. The fee shall be due and payable before June 30th of each year.

Animals shall be licensed within 30 days after being brought into the City or attaining six months of age.

Failure to pay the license fee within times prescribed herein constitutes a violation of this Section. The license fee for those animals subject to licensing for six months or less of the license year shall be prorated at half the yearly amount.

(History: Ord. DAC-2771 §1, 2009; DAC-2211 §1, 2000; DAC-1675 §1, 91; DAC-1679 §1, 91; DAC-1311 §1, 85; DAC-1311 §1, 85; DAC-711 §1, 72; DAC-697 §1, 72)

**6.04.020 Penalty for Overdue License Fee.**

If the license fee required by 6.04.010 is not paid within the times provided in that section, a \$20 penalty will apply in addition to the normal license fee beginning July 1.

(History: Ord. DAC-2211 §2, 2000; DAC-1675 §2, 91; DAC-697 §2, 72)

**6.04.030 Registration - Tags.**

The owner, keepers or harborers of any dog or cat shall cause the same to be registered at the office of the City Clerk. The registration book shall contain the name and address and telephone number of the animal's owner, keeper or harborer, the animal's breed, name, sex, whether spayed, color and description and such other information as may be deemed necessary. Subject to the provisions of 6.04.060, the City Clerk or authorized assistant, shall upon payment of the license fee, issue a suitable tag, bearing a number and stating the year for which the tag is issued. (History: Ord. DAC-1679 §2, 91; DAC-697 §3, 72)

**6.04.035 Violation of 6.04.030 - Penalty.**

Every person who is convicted of a violation of 6.04.030 shall be punished by imprisonment for not more than 30 days or by a fine in the amount of \$50 for the first violation within the period covered in the current licensing year and the preceding licensing year; \$100 for the second violation within said period; \$150 for a third violation within said period; \$200 for a fourth violation within said period; and \$500 for a fifth and subsequent violation within said period; or by both such fine and imprisonment. Provided, however, no person shall be eligible for a parole or suspension of any part of said fine, except that portion of any fine or combination of fines that are 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 §1, 92; DAC-1679 §3, 91; DAC-1091 §1, 80)

**6.04.040 Collar or Harness Required.**

The owner, keeper or harborer of any dog or cat shall cause the same to wear a collar or harness while such animal is outside the dwelling of the owner, keeper or harborer. The tag required in 6.04.030 shall be securely affixed to the collar or harness of each dog or cat registered. The tag shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the city. Replacement tags shall be issued for \$1.00 each.

(History: Ord. DAC-2211 §3, 2000; DAC-1679 §4, 91; DAC-697 §4, 72)

**6.04.045 Presentation of Animal.**

The owner, keeper or harborer of any dog or cat shall physically produce the animal for observation, identification or inspection when requested to do so by a City animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this title.

(History: Ord. DAC-1729 §1, 92)

**6.04.050 Number of Dogs and Cats Permitted; permits.**

Except as otherwise provided in Section 6.04.051, the owning, keeping or harboring of up to two dogs and up to two cats upon any premises or property, or in any dwelling or living quarters of any type within the City is permitted, provided:

1. Any person who desires to own, keep, or harbor more than two dogs or more than two cats may apply to the City Clerk for a "special animal permit" that shall upon issuance permit the applicant to own, keep or harbor the animals specifically allowed in that permit.
  - A. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
    - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
    - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
    - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
    - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
    - 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
    - 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
    - 7) That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

- 8) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
  - 9) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- B. The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant, or an investigation, by the animal control division of the police department, or both, reveals that in the opinion of the animal control division the applicant has failed to meet the requirements of this section. Any application for up to four (4) dogs or four (4) cats, or three (3) dogs and one (1) cat or three (3) cats and one (1) dog, shall be required to show proof of meeting the required standards by clear and convincing evidence. Any application for more than four (4) dogs or four (4) cats, or any combination thereof in excess of four (4), shall be required to show proof of meeting the required standards beyond a reasonable doubt. The animal control division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The animal control division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.

The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The fee for such special animal permit shall be \$100 the first year and \$50 for each renewal year. All fees shall be nonrefundable and nontransferable. The "special animal permit" shall be issued for the individual animals listed in the application and shall not be transferable to other animals. Should an animal subject to the permit be replaced, a new application, permit, and \$100 permit fee shall be required. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal.

2. Any applicant who had more than two cats or more than two dogs prior to annexation of their property by the City, other than the annexation accomplished effective May 8, 2002, by Ordinance No. A-2367 or the annexation accomplished by Ordinance No. A-2719, shall be permitted to keep but not replace said animals until their number equals no more than two dogs and no more than two cats. Any such applicant shall be required to apply for a special animal permit but shall not be required to pay the initial \$100 application fee, however they shall thereafter be required to pay a yearly renewal fee of \$50, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.
3. The City Clerk may issue an "animal breeder permit" to any person who keeps dogs or cats for breeding or selling on a commercial basis within the City. The applicant must be in conformity with the City zoning ordinances and state laws, not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. The fee for such an animal breeder permit shall be as follows: 1 - 2 litters per year - no license required; 3 or more litters per year, animal pounds and pet stores - \$100 per year, due on or before February 1st, provided all animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this chapter. In addition, no more than one "animal breeder permit" shall be issued per household or premises.
4. The permits described in this section may be revoked by the City Clerk upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of City zoning regulations has occurred, or that the permittee had provided false information in their application.
5. "Nuisance" shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.
6. "Humane standards of care" shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.
7. "Special circumstances" shall be defined as any unusual, extraordinary and exceptional situation or condition whereby the strict application of the numerical limits set forth in this section would be contrary to the intent, purposes and objectives of such limitations and would be contrary to the public interest and welfare.
8. The provisions of this section 6.04.050 shall not be applicable to service animals. For the purposes of this section, service animals shall be animals providing the services specified in K.S.A. 39-1103 et seq.

(History: Ord. DAC-2693 §1, 2008; DAC-2399 §1, 2002; DAC-2146 §1, 99; DAC-1833 §1, 94; DAC-1735 §2, 92; DAC-1679 §5, 91; DAC-1511 §1, 88; DAC-1402 §1, 86; DAC-1385 §1, 86; DAC-1311 §2, 85; DAC-880 §1, 76; DAC-711 §2, 72)

**6.04.051 Number of dogs and cats permitted on properties annexed by Ordinance No. A-2367 or Ordinance No. A-2719; permits.**

The owning, keeping or harboring of dogs and cats upon any premises or property, or in any dwelling or living quarters of any type within that portion of the City annexed by either Ordinance No. A-2367 or Ordinance No. A-2719 shall be permitted as follows for so long as the property bears a county zoning designation. On any tract smaller than 20 acres, an aggregate total of four adult cats or dogs, more than one year old, may be kept, boarded, bred or trained, whether or not for commercial gain or as pets. On any tract 20 acres or larger, an aggregate total of seven adult cats or dogs, more than one year old, may be kept, boarded, bred or trained, whether or not for commercial gain or as pets. Provided:

1. Any person who desires to own, keep, or harbor more than the number of dogs or cats permitted above may apply to the City Clerk for a "special animal permit" that shall upon issuance permit the applicant to own, keep or harbor the animals specifically allowed in that permit.
  - A. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all applicable City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
    - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
    - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
    - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
    - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
    - 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
    - 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
    - 7) That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

- 8) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
  - 9) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- B. The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant, or an investigation, by the animal control division of the police department, or both, reveals that in the opinion of the animal control division the applicant has failed to meet the requirements of this section. Any application shall be required to show proof of meeting the required standards beyond a reasonable doubt. The animal control division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The animal control division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.
- C. The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The fee for such special animal permit shall be \$100 the first year and \$50 for each renewal year. All fees shall be nonrefundable and nontransferable. The "special animal permit" shall be issued for the individual animals listed in the application and shall not be transferable to other animals. Should an animal subject to the permit be replaced, a new application, permit, and \$100 permit fee shall be required. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal. Nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.
2. The City Clerk may issue an "animal breeder permit" to any person who keeps dogs or cats for breeding or selling on a commercial basis within the City. The applicant must be in conformity with the City or County zoning ordinances and state laws, as applicable,

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not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. The fee for such an animal breeder permit shall be as follows: 1 - 2 litters per year - no license required; 3 or more litters per year, animal pounds and pet stores - \$100 per year, due on or before February 1st, provided all animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this chapter. In addition, no more than one "animal breeder permit" shall be issued per household or premises.

3. Any "special animal permit" or "animal breeder permit" may be revoked by the City Clerk upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of any applicable zoning regulations has occurred, or that the permittee has provided false information in his/her application.
4. The terms "nuisance," "humane standards of care" and "special circumstances" shall have the meanings set forth in Section 6.04.050.
5. Any person who, prior to annexation into the City, had obtained a conditional use permit from Johnson County for a kennel, shall be allowed to keep dogs and cats in greater numbers than set forth above in accordance with the terms of such conditional use permit. Provided, however, that any such person may apply for a "special animal permit" as set forth above.
6. The provisions of this section 6.04.051 shall not be applicable to service animals. For the purposes of this section, service animals shall be animals providing the services specified in K.S.A. 39-1103 et seq.

(History: Ord. DAC-2693 §2, 2008; DAC-2399 §2, 2002)

### **6.04.055 Appeal.**

- A. Any person who is denied a special permit or an animal breeder permit or who has his or her existing permit revoked may, within ten days thereafter, file a written notice or statement of appeal from said decision, ruling, action, or finding to the Overland Park Municipal Court for an administrative hearing thereon.
- B. An administrative fee of \$10.00 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.
- C. The filing of an appeal under this subsection shall not stay any action taken pursuant to this chapter.

(History: Ord. DAC-1679 §6, 91; DAC-1385 §2, 86)

### **6.04.056 Appeals, Administrative Hearing.**

The hearing on the appeal provided for in 6.10.160 shall be conducted by an Overland Park Municipal Court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions, or findings of the Chief Animal Control Officer and/or the City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case.

(History: Ord. DAC-1385 §3, 86)

**6.04.057 Subpoena Power.**

Pursuant to its role as administrative judge, the court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the court may order such person to comply with such subpoena and testify; and failure to obey the court's order may be punished by the court as contempt.

(History: Ord. DAC-1385 §4, 86)

**6.04.058 Inoculation against Rabies Required.**

All owners, keepers and harborers of dogs and cats within the City are required to have a registered veterinarian inoculate their animal(s) for rabies and insure that the inoculation is valid at all times the animal(s) is/are within the City.

(History: Ord. DAC-2138 §1, 98)

**6.04.060 Rabies Certificate Required at Time of Licensing.**

No license required by this chapter will be issued until the owner, keeper or harborer of the animal furnishes a certificate signed by a registered veterinarian, showing that the animal is currently inoculated against rabies. Recognition shall be given to a certificate which indicates a 1-year, 2-year or 3-year inoculation period for cats and dogs if duly signed by a registered veterinarian.

(History: Ord. DAC-2138 §2, 98; DAC-1679 §7, 91; DAC-879 §1, 76; DAC-697 §5, 72)

**6.04.070 Enumeration of Animals.**

The City Council may require an annual enumeration of all dogs and cats owned within the City. The enumeration shall account for the number and ownership of all dogs and cats owned in the city and may be compared and corrected with the records of the county.

(History: Ord. DAC-697 §6, 72)

**6.04.080 Fees to General Fund.**

All fees, charges, and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this title shall be paid over to the city treasurer and credited to the general operating fund.

(History: Ord. DAC-697 §16, 72)

**6.04.090 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 §3, 85)

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

Sections:

- 6.08.010      Ownership.
- 6.08.020      Dog and Cat Control.
- 6.08.025      Other Domestic Animals.
- 6.08.026      Animals Prohibited in Downtown Business District's Farmers Market.
- 6.08.030      Seizure.
- 6.08.040      Violation of 6.08.020 - Penalty Generally. (Repealed)
- 6.08.050      Violation of 6.08.020 - Penalty Procedure. (Repealed)
- 6.08.060      Redemption of Impounded Animal - Vaccination.
- 6.08.070      Procedure on Failure to Redeem.
- 6.08.080      Damage to Property.
- 6.08.090      Rabies Impoundment Procedures.
- 6.08.100      Notice of Impoundment of Biting Animal to Chief Animal Control Officer.
- 6.08.110      Notification of Owner of Impounded Animal.
- 6.08.120      Lien Against Animal Impounded - Sale or Disposal.
- 6.08.130      Alternatives for Confined Animal.
- 6.08.135      Violations; Penalties Generally.
- 6.08.140      Severability.

**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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## Chapter 6.09 ANIMAL WELFARE

Sections:

6.09.005	Definitions.
6.09.010	Cruelty to Animals.
6.09.015	Illegal Ownership or Keeping of an Animal.
6.09.020	Seizure and Disposition of Animals.
6.09.025	Abuse and Neglect of Animals.
6.09.030	Injury to a Domestic Animal.
6.09.035	Rescue of Animals from Vehicles.
6.09.037	Commercial Animal Establishments.
6.09.040	Unlawful Trapping.
6.09.045	Trapping Coyotes in protection of private property and livestock.
6.09.050	Unlawful Trading in Animals.
6.09.060	Severability.

### **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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## **Chapter 6.10 DANGEROUS ANIMALS**

Sections:

- 6.10.010 Definitions.
- 6.10.020 Prohibition.
- 6.10.030 Exceptions; Permit and Registration Requirements.
- 6.10.040 Exemptions.
- 6.10.050 Notice of Keeping Dangerous Animals.
- 6.10.060 Seizure and Impounding of Dangerous Animals.
- 6.10.070 Permit Required.
- 6.10.080 Issuance of Permit.
- 6.10.090 Application for Permit.
- 6.10.100 Permit Fee.
- 6.10.110 Temporary Permits; Powers of Animal Control Officer.
- 6.10.120 Term and Renewal of Permits.
- 6.10.130 Inspections, Investigations, and Issuance of Renewal Permits.
- 6.10.140 Revocation and Suspension of Permits.
- 6.10.150 Commercial Establishments.
- 6.10.160 Appeals; Fees.
- 6.10.165 Appeals, Administrative Hearing.
- 6.10.166 Subpoena Power.
- 6.10.168 Appeal; District Court.
- 6.10.170 Severability.
- 6.10.180 Violations and Penalties.
- 6.10.190 Costs to be Paid by Responsible Persons.

### **6.10.010 Definitions.**

- A. For the purposes of this chapter "dangerous animal" means and includes
  - 1. any mammal, amphibian, fish, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length.
  - 2. Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation is hereby defined as a "dangerous animal." For the purposes of this chapter, where the official records of the Chief Animal Control Officer or City Clerk indicate a dog or cat has bitten any person or persons, it shall be prima facie evidence that said dog or cat is a dangerous animal.

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3. Any pit bull dog. "Pit bull dog" is defined to mean any and all of the following dogs:
  - a. The Staffordshire Bull Terrier breed of dogs;
  - b. The American Staffordshire Terrier breed of dogs;
  - c. The American Pit Bull Terrier breed of dogs;
  - d. Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.

The registration of a dog at any time in any jurisdiction as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this section.

4. Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as wolf-hybrids or wolf-mix breeds or the breed known as Tundra Shepherd. The registration of an animal at any time in any jurisdiction as a wolf-hybrid, wolf mix or Tundra Shepherd shall constitute prima facie evidence the animal is prohibited by this section. For the purposes of this section all references to animals described herein shall be to wolf-hybrids.

- B. "Person" includes any natural person, association, partnership, organization or corporation.

(History: Ord. DAC-1871 §1, 94; DAC-1735 §4, 92; DAC-1625 §1, 89; DAC-1494 §1, 87; DAC-1442 §1, 87; DAC-1426 §1, 87; DAC-1309 §1, 85; DAC-1284; DAC-880)

### **6.10.020 Prohibition.**

Except as provided in 6.10.030 and 6.10.040, no person shall own, keep, or harbor any dangerous animal in the City of Overland Park.

(History: Ord. DAC-1309 §2, 85)

### **6.10.030 Exceptions; Permit and Registration Requirements.**

Any person or organization which falls into one of the following subsections shall be permitted to own, harbor or have charge, custody, control, or possession of any animal described in 6.10.010 hereof, provided he/she has first secured a permit under 6.10.070; provided further that owners, keepers or harborers of "pit bull dogs" or wolf-hybrids authorized to be kept pursuant to the provisions set forth below in subsection E, shall also be required to register their animals in accordance with the provisions of this ordinance and Title 6 of the Overland Park Municipal Code:

- A. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study.

- B. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show.
- C. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment.
- D. Commercial establishments possessing such animals for the purpose of sale or display.
- E. The keeping of a registered pit bull as defined in 6.10.010 herein or wolf-hybrids as described in 6.10.010(4), provided the animal was registered with the City prior to the effective date of this Ordinance. The keeping of such animals, however, shall be subject to the following mandatory requirements:
  - 1. Leash and Muzzle. No person shall permit a registered pit bull dog or wolf hybrid to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog or wolf-hybrid to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs or wolf-hybrids on a leash outside the animals kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - 2. Confinement. All registered pit bull dogs or wolf-hybrids shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs or wolf-hybrids must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs or wolf-hybrids must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
  - 3. Confinement Indoors. No pit bull dog or wolf-hybrid may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
  - 4. Signs. All owners, keepers or harborers of registered pit bull dogs or wolf-hybrids within the City shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.
  - 5. Insurance. All owners, keepers or harborers of registered pit bull dogs or wolf-hybrids must within ten (10) days of the effective date of this ordinance provide

proof to the City Clerk of public liability insurance in a single incident amount of \$300,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration the owner, keeper or harborer must present proof to the City Clerk of the required insurance. At the time of subsequent registration the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year.

In the event said liability insurance is canceled, lapsed, or for any other reason becomes non-enforceable, said owner, keeper, or harborer shall be in violation of the provisions of this ordinance and subject to the penalties provided herein.

6. Identification Photographs. All owners, keepers or harborers of registered pit bull dogs or wolf-hybrids must within ten (10) days of the effective date of this ordinance provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.
  7. Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs or wolf-hybrids must within ten (10) days of the incident, report the following information in writing to the City Clerk as required hereinafter:
    - a. The removal from the City or death of a registered pit bull dog or wolf-hybrid;
    - b. The birth of offspring of a registered pit bull dog or wolf-hybrid;
    - c. The new address of the registered pit bull dog or wolf-hybrid owner should the owner move within the corporate City limits.
  8. Animals Born of Registered Dogs. All offspring born of pit bull dogs or wolf-hybrid, registered with the City must be removed from the City within six (6) weeks of the birth of such animal.
  9. Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog or wolf-hybrid registered with the City Clerk to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal and the permit providing for the keeping of such animal resulting in the immediate removal of the animal from the City.
- F. The keeping of any snakes of the species boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length; provided, these animals shall be kept under the following mandatory conditions.
1. In consideration of the right of the public not to be unexpectedly exposed to

snakes, these animals will not be openly displayed in a public setting outside of established forums for such practices to include herpetological shows, educational displays, pet stores and other special displays whereby members of the public are forewarned that a snake(s) may be displayed in the open.

2. Snakes shall be transported in a manner that precludes escape. At a minimum snakes shall be placed in a sturdy cloth bag free of holes or tears and the bag placed in a box or similar container. The box or container must be locked or sealed during transportation.
3. Snakes shall be housed in secure cages with hinged tops or doors or a sliding glass front which includes a locking mechanism. The cage shall be kept in a room modified to prevent snake escapes and which has a door which shall be kept shut or locked when not occupied by the owner.
4. Snakes requiring permits shall not be sold to minors.
5. Pet stores or other vendors or sellers of snakes requiring permits are required to provide a copy of this ordinance to all prospective purchasers of such snakes.
6. Snakes will not be fed or in any fashion provided any live or living creature while observable by any member of the public or in any manner which may otherwise violate the humane laws of the City.
7. It shall be unlawful and a violation of this subsection for any person to not comply with the standards set forth herein.

(History: Ord. DAC-2621 §1, 2006; DAC-1871 §2, 94; DAC-1625 §2, 89; DAC-1442 §2, 87; DAC-1309 §3, 85; DAC-880 §14)

#### **6.10.040 Exemptions.**

The provisions of this chapter shall not apply to the transportation of such animals through this City, when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof. (History: Ord. DAC-1309 §4, 85)

#### **6.10.050 Notice of Keeping Dangerous Animals.**

Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal in violation of this chapter in the City, the Chief Animal Control Officer or his/her authorized deputy shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in the City, he shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within five days of the date of said notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large in which case the Chief Animal Control Officer shall cause said animal to be immediately seized and impounded, according to the provisions of 6.10.060, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(History: Ord. DAC-1481 §1, 87; DAC-1309 §5, 85)

**6.10.060 Seizure and Impounding of Dangerous Animals.**

The Chief Animal Control Officer or his/her authorized deputy shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to 6.10.050. Upon a seizure and impoundment, said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.

If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief Animal Control Officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be killed.

(History: Ord. DAC-1309 §6, 85)

**6.10.070 Permit Required.**

- A. No person under 6.10.030 owning, harboring, or having charge, custody, control or possession of any animal described in 6.10.010 hereof, shall allow such animal to remain within the City unless and until he/she has first secured a permit so to do and complies with all terms and conditions of such permit; and, in addition thereto, such animal shall at all times be so confined, controlled and restrained in such manner so the life, limb or property of any person lawfully entering such premises shall not be endangered.
- B. Failure to obtain a permit when required by subsection A after written notification by the Chief Animal Control Officer or his/her authorized deputy shall be adequate grounds for said officer or deputy to impound said animal until a permit is obtained. If no permit is obtained within ten days, said animal will be subject to summary destruction.

(History: Ord. DAC-1309 §7, 85; DAC-1284 §2)

**6.10.080 Issuance of Permit.**

Except as hereinafter provided, no person under 6.10.030 shall have, keep, maintain, or have in his/her possession or under his/her control within the City any animal described in 6.10.010 hereof without first applying to and receiving a permit from the City Clerk; provided, no permit shall be granted except with such conditions attached as shall, in the opinion of the person or agency approving such permit, reasonably insure the public health, safety and general welfare, and in any event no permit shall be granted for any animal at any particular location except upon an explicit finding by the Chief Animal Control Officer or his/her authorized deputy that the issuance thereof will not be contrary to the public health, safety and general welfare.

(History: Ord. DAC-1309 §8, 85; DAC-880 §6)

**6.10.090 Application for Permit.**

An application for any permit required pursuant to this chapter shall be made to the City Clerk in writing and upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his/her control, in the city, the animal for which a permit is required, and shall set forth the following:

- A. Name, address and telephone number of the applicant.
- B. The applicant's interest in such animal.
- C. The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.
- D. The number and general description of all animals for which the permit is sought.
- E. Any information known to the applicant concerning vicious or dangerous propensities of all such animals.
- F. The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing, etc.
- G. Safety precautions proposed to be taken.
- H. Noises or odors anticipated in the keeping of such animals.
- I. Prior history of incidents involving the public health or safety involving any of said animals.
- J. Proof of insurance to cover those who may be injured or killed by said animal.
- K. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from said animal.
- L. Any additional information required by the Chief Animal Control Officer at the time of filing such application or thereafter.

(History: Ord. DAC-1309 §9, 85; DAC-880 §7)

**6.10.100 Permit Fee.**

The fee for a permit application shall be \$20 for one dangerous animal plus an additional \$5 for two or more dangerous animals. The total fee shall not exceed \$25 for any one permit application and is nonrefundable. Said fee shall be payable to the City Clerk at the time of filing the permit application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

(History: Ord. DAC-1309 §10, 85; DAC-880 §8)

**6.10.110 Temporary Permits; Powers of Animal Control Officer.**

The Chief Animal Control Officer may, following application for a permit and pending final disposition of the same, grant a temporary permit for the maintenance within the city of any such animal upon such conditions as he/she shall, in his/her sole discretion, require when, in his/her opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare, but no such animal shall be otherwise kept or maintained within this city or permitted to occupy any premises within this city except while such a regular or temporary permit is in full force and effect; Provided, however, that any law enforcement officer or the Chief Animal Control Officer, or his authorized deputy, shall take possession of any animal described under 6.10.010 for which a permit has not been issued and keep the same until the proper permit has been secured by the owner or keeper thereof and shall release the same to the

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owner or keeper when all fees and costs have been paid and all laws and permit conditions complied with.

(History: Ord. DAC-1309 §11, 85; DAC-880 §10)

### **6.10.120 Term and Renewal of Permits.**

No permit required by this chapter shall be granted for a period in excess of one year. An application for renewal of any permit shall be made not less than 45 days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

(History: Ord. DAC-1309 §12, 85; DAC-880 §11)

### **6.10.130 Inspections, Investigations, and Issuance of Renewal Permits.**

Prior to the annual renewal of any permit issued hereunder and at least once not more than six months after the issuance of any such permit or after its renewal, the Chief Animal Control Officer or his designated representative shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this chapter. In addition, the animal control officer shall investigate the past history of the permit holder to determine whether during the past permit period the permit holder was in compliance with all of the conditions specified in this chapter. The investigation may include a review of department records and interviews with the permit holder and neighbors. If the Chief Animal Control Officer determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted during the past permit period, he/she shall recommend denial of a renewal of any such permit, and/or he/she shall recommend revocation of such permit in the event that such violation is not corrected within such period of time as she/he shall direct. Upon completion of the investigation and review process provided herein, the Chief Animal Control Officer shall recommend to the City Clerk that the dangerous animal permit be renewed or that the renewal application be denied. If the recommendation is to deny the permit, the basis for the denial shall be included in the recommendation report.

(History: Ord. DAC-2207 §1, 2000; DAC-1735 §5, 92; DAC-1309 §13, 85; DAC-880 §12)

### **6.10.140 Revocation and Suspension of Permits.**

The City Clerk, upon recommendation of the Chief Animal Control Officer may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing, for a period not to exceed 30 days. Failure to comply with any of the provisions of this chapter shall be considered good cause for revocation or suspension of a permit.

(History: Ord. DAC-2207 §2, 2000; DAC-1309 §14, 85; DAC-880 §13)

### **6.10.150 Commercial Establishments.**

- A. Commercial establishments possessing such animals for the purpose of sale or display may replace the same with others of the same kind, but the number of each shall not be in excess of the number thereof allowed by the terms of such permit. Such establishments may, in the discretion of the Chief Animal Control Officer, be granted a permit for those

such numbers of each kind of animal as do not exceed the maximum number such establishment estimates will be maintained by it in this City at any one time during the period of the permit. Such permit shall require the immediate notification of the Chief Animal Control Officer upon the acquisition of any animal having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.

- B. Upon the sale of any dangerous animal, said commercial establishment shall immediately send notification of said sale along with the name and address of the buyer, the method of transporting the animal, the path of travel of such transportation, and the destination to the Chief Animal Control Officer.

(History: Ord. DAC-1309 §15, 85; DAC-880 §15)

#### **6.10.160 Appeals; Fees.**

- A. Any person aggrieved by or dissatisfied with any of the following decisions, rulings, actions or findings may, within ten days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Overland Park Municipal Court for an administrative hearing thereon.
1. The determination that an animal is dangerous;
  2. The denial of a permit;
  3. The denial of a renewal of a previously issued permit;
  4. The revocation of a previously issued permit; and
  5. The temporary suspension of any permit or portion thereof.
- B. An administrative fee of \$10.00 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.
- C. The filing of an appeal under this subsection shall not stay any action taken pursuant to this chapter.

(History: Ord. DAC-2207 §3, 2000; DAC-1309A §1, 86; DAC-1309 §16, 85; DAC-880 §16)

#### **6.10.165 Appeals, Administrative Hearing.**

The hearing on the appeal provided for in 6.10.160 shall be conducted by an Overland Park Municipal Court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions, or findings of the Chief Animal Control Officer and/or the City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case.

(History: Ord. DAC-1309A §2, 86)

#### **6.10.166 Subpoena Power.**

Pursuant to its role as administrative judge, the court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require

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the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the court may order such person to comply with such subpoena and testify; and failure to obey the court's order may be punished by the court as contempt.

(History: Ord. DAC-1309A §3, 86)

### **6.10.168 Appeal; District Court.**

Any aggrieved party may appeal the decision and findings of the Overland Park Municipal Court judge pursuant to K.S.A. 60-2101(d) (1984 Supp.). However, the filing of an appeal under this subsection shall not stay any action taken pursuant to this chapter.

(History: Ord. DAC-1309A §4, 86)

### **6.10.170 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-1309 §17,85; DAC-880 §17)

### **6.10.180 Violations and Penalties.**

Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in the Municipal Court be fined a sum not less than \$200 and not more than \$1,000. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the Court shall order the registration of and permit for the subject pit bull or wolf-hybrid revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

(History: Ord. DAC-1625 §3, 89; DAC-1442 §3, 87; DAC-1309 §18, 85; DAC-880 §18)

### **6.10.190 Costs to be Paid by Responsible Persons.**

Any reasonable costs incurred by the Chief Animal Control Officer in seizing, impounding, confining or disposing of any dangerous or wild animal, pursuant to the provisions of 6.10.050, 6.10.060, 6.10.070 or 6.10.110 shall be charged against the owner, keeper, or harbinger of such animal and shall be collected by the City Clerk.

(History: Ord. DAC-1309 §20, 85)

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**Chapter 6.12**  
**INJURED OR DISEASED ANIMALS**

Sections:

- 6.12.010 Destruction of certain animals.
- 6.12.020 Disease control-Quarantine.
- 6.12.030 Enforcement of quarantine.
- 6.12.040 Dead animals; Duty to report.
- 6.12.050 Removal of large dead animal.
- 6.12.060 Removal of small dead animal.
- 6.12.070 Severability.

**6.12.010 Destruction of certain animals.**

Law enforcement officers or Animal Control Officers of the City or anyone having the authority of an Animal Control Officer, as designated by the City Manager or Chief of Police, may kill any dog, cat, domestic animal or warm-blooded animal without notice to the owner thereof whether it bears the tag herein provided for or not, if such dog, cat, domestic animal or warm-blooded animal is deemed by said officer to be a vicious animal, or injured severely with no apparent chance of survival, or in such pain as to warrant humane destruction. The remains of any such animal so destroyed shall be preserved by such officers to permit a test to be conducted for rabies.

(History: Ord. DAC-2771 §6, 2009; DAC-697 §12, 72)

**6.12.020 Disease control - Quarantine.**

When rabies or other communicable diseases are known to exist in the community, or when it is known to exist in neighboring communities, the mayor may declare a quarantine of all dogs, cats, other domestic animals, and any other warm-blooded animals. It shall be the duty of the owner of the dog, cat, other domestic animal, and any other warm-blooded animal to keep such dog, cat, other domestic animal, and any other warm-blooded animal confined to the premises of such owner or keeper and under control.

(History: Ord. DAC-697 §13(A), 72)

**6.12.030 Enforcement of quarantine.**

It shall be the duty of all Animal Control Officers, or anyone having the authority of an Animal Control Officer, law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The City Manager and the Chief of Police shall have the right to deputize school guards and other persons as needed. Such deputized persons need not seize such animals but shall aid in determining the owner to the end that warrants of arrest can be issued against the violating owners.

(History: Ord. DAC-2771 §7, 2009; DAC-697 §13(B), 72)

**6.12.040 Dead animals; duty to report.**

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, keeper, and all persons having knowledge of any dead animal on public property in the City to immediately report the same to the City police department, giving the kind of animal and the place where the same may be found. It shall be the duty of the animal control officer, immediately upon receipt of such report, to remove or provide for the removal of such dead animal.

(History: Ord. DAC-1311 § 19, 85)

**6.12.050 Removal of large dead animal.**

It is the responsibility of the owner or proprietor of the premises to remove all deceased large animals within 12 hours after the death of such animal. If not so removed, the animal control supervisor shall cause the animal to be removed at actual cost to the owner or proprietor.

(History: Ord. DAC-1311 §20, 85)

**6.12.060 Removal of small dead animal.**

It shall be the responsibility of the owner of a deceased small animal to provide for its removal by private means.

(History: Ord. DAC-2771 §8, 2009; DAC-1311 §21, 85)

**6.12.070 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 §22, 85)

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## **Chapter 6.14 BEEKEEPING**

Sections:

- 6.14.010 Legislative Findings.
- 6.14.020 Keeping of Bees.
- 6.14.030 Keeping of a Hive, Stand, Box or Apiary.
- 6.14.040 Multiple Number of Beehives.
- 6.14.050 Subsequent Development of Adjacent Properties.
- 6.14.060 Owner's Hives on Other Properties.
- 6.14.070 Water Facilities.
- 6.14.080 Exemptions.
- 6.14.085 Severability.
- 6.14.090 Violations and Penalty.

### **6.14.010 Legislative Findings.**

The Governing Body of the City of Overland Park, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of bees within the corporate limits of the City to protect the public health, safety, and welfare of the residents of Overland Park.

(History: Ord. BK-1198 ' 1, 83)

### **6.14.020 Keeping of Bees.**

It shall be unlawful for any person to place, establish, or maintain any hive, stand, box, or apiary or keep any bees in or upon any premises within the corporate limits of the City unless the bees are kept in accordance with the provisions of this chapter.

(History: Ord. BK-1198 ' 2, 83)

### **6.14.030 Keeping of a Hive, Stand, Box, or Apiary.**

No hive, stand, or apiary shall be placed or kept:

- A. Closer than 25 feet to the property line of adjoining residential property if a house or other building used for residential purposes is located on such property;
- B. Or closer than 75 feet to any house or other building used for residential purposes other than the residence of the keeper of such bees without first obtaining written permission of such land, which permission may be revoked at any time;
- C. Or closer than 100 feet to the exterior line of the traveled portion of a public street;
- D. Or upon land not owned or possessed by the keeper of such bees without first obtaining written permission to do so from the owner or person lawfully in possession of such land, which permission may be revoked at any time.

(History: Ord. BK-1198 ' 3, 83)

### **6.14.040 Multiple Number of Beehives.**

No more than three beehives shall be placed or kept in a location which is between 75 feet and 600 feet from a house or other building used for residential purposes other than the residence of the keeper of such bees.

(History: Ord. BK-1198 ' 4, 83)

**6.14.050 Subsequent Development of Adjacent Properties.**

Provided that should adjacent property be later developed, or residential structures located closer than the distances herein prescribed, the keeper shall move such hives, stands, boxes, or apiaries to comply with these regulations.

(History: Ord. BK-1198 ' 5, 83)

**6.14.060 Owner's Hives on Other Properties.**

Every person owning a hive, stand, box, or apiary located on premises other than where he resides shall identify such hive, stand, box or apiary by a sign or other prominent marking stating in letters at least one inch high on a contrasting background the name, address, and phone number of the owner of such equipment.

(History: Ord. BK-1198 ' 6, 83)

**6.14.070 Water Facilities.**

Fresh, clean, watering facilities for the bees shall be provided within 25 feet of each hive, stand, box or apiary.

(History: Ord. BK-1198 ' 7, 83)

**6.14.080 Exemptions.**

Nothing in these regulations shall be deemed or construed to prohibit the keeping of bees within a school or university building for the purpose of study or observation, or within a physician's office or laboratory for the purpose of medical research, treatment, or other scientific purposes.

(History: Ord. BK-1198 ' 8, 83)

**6.14.085 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 ' 23, 85)

**6.14.090 Violations and Penalty.**

The violation of any provision of 6.14.030 through 6.14.080 is a public offense and any person convicted thereof shall be punished as provided in 1.12.010 of the Overland Park Municipal Code. Each day that any violation of these sections shall continue shall constitute a separate offense.

(History: Ord. BK-1198 ' 9, 83)

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**Chapter 6.15**  
**HORSES, MULES, DONKEYS, AND OTHER EQUINES**

Sections:

- 6.15.010 Legislative Findings.
- 6.15.020 Keeping of Horses, Mules, Donkeys or Other Equines.
- 6.15.030 Density and Distance.
- 6.15.040 Feeding of Animals and Handling of Animal Wastes.
- 6.15.045 Severability.
- 6.15.050 Violations & Penalty.

**6.15 010 Legislative Findings.**

The Governing Body of the City of Overland Park, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of horses within the corporate limits of the City to protect the public health and welfare of the residents of Overland Park.

(History: Ord. H-1207 §1, 83)

**6.15.020 Keeping of Horses, Mules, Donkeys or Other Equines.**

It shall be unlawful for any person to stable, board, or keep within the City of Overland Park any horse, mule, donkey, or other equine upon any premises unless the horse, mule, donkey, or other equine is kept in accordance with the provisions of this chapter.

(History: Ord. H-1207 §2, 83)

**6.15.030 Density and Distance.**

No more than one horse, mule, donkey, or other equine shall be kept for each 20,000 square feet of contiguous, gross land area. No stable or shelter for horses, mules, donkeys or other equines shall be permitted closer than 100 feet from any occupied residential structure other than on the same tract.

(History: Ord. H-1207 §3, 83)

**6.15.040 Feeding of Animals and Handling of Animal Wastes.**

- A. No feeding or watering troughs or tanks shall be located within 100 feet of a property line.
- B. All occupied stalls shall be cleaned at least once each day.
- C. Temporary storage of animal waste.
  - 1. All waste not immediately disposed of as herein provided shall be stored in a vault or pit constructed of concrete or other approved material which shall be kept covered by a rigid, tight-fitting cover. A permit shall be obtained from the Code Administrator for the construction of the waste vault, and he shall review the plans and inspect the construction of the vault to assure compliance with these regulations. Such vault shall be at least 300 feet from any occupied residential structure other than on the same tract.
  - 2. Animal waste shall be removed from the vault and disposed of as herein provided whenever necessary to avoid overflow or spillage.

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### D. Waste disposal.

All waste shall be disposed of by one of the following methods:

1. Animal waste shall be removed from the tract and disposed of in a manner complying with all applicable federal, state, and local regulations.
2. Animal waste may be uniformly spread and distributed over agricultural fields when such field is at least 200 feet from any occupied residential structure other than on the same tract.

### E. 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 such property is rezoned.

(History: Ord. H-2722 §1, 2008; H-1207 §4, 83)

### **6.15.045 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 §24, 85)

### **6.15.050 Violations & Penalty.**

The violation of any provision of 6.15.020 through 6.15.040 is a public offense, and any person convicted thereof shall be punished as provided in 1.12.010. Each day that any violation of these sections shall continue shall constitute a separate offense.

(History: Ord. H-1207 §5, 83)

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**Chapter 6.16**  
**ENFORCEMENT - PENALTIES**

Sections:

- 6.16.010 Enforcement of Title.
- 6.16.015 Law Enforcement Canines.
- 6.16.020 General Penalties for Violations of Title.

**6.16.010 Enforcement of title.**

It is made the duty of the animal control officer, or anyone having the authority of animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this title, and the City Manager or the Police Chief may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer, whose duties it shall be to assist in the enforcement of this title and to work under the immediate supervision and direction of the police department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe the animal committed any act within the City which is prohibited by the provisions of this title or which subjects the animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any owner of a dog, cat, or other warm-blooded animal for the violation of any of the provisions of this title.

(History: Ord. DAC-1311 §25, 85; DAC-697 §17, 72)

**6.16.015 Law Enforcement Canines.**

The provisions of this title shall not apply to law enforcement canines owned, kept and maintained by the City of Overland Park, Kansas, for law enforcement purposes nor shall the provisions of this title apply to law enforcement canines brought into the City of Overland Park, Kansas, at the request of the City of Overland Park Police Department for assistance in law enforcement purposes, provided that all law enforcement canines shall be inoculated against rabies as required by Section 6.04.060.

(History: Ord. DAC-1606 §1, 89)

**6.16.020 General penalties for violations of title.**

Any person who fails to do anything required by this title or who does anything prohibited by this title is guilty of a violation thereof. Any person convicted of the violation of any provision<sup>800</sup>of this title where a specific penalty is not otherwise prescribed shall be punished as provided in 1.12.010. Each day that any violation of these sections shall continue shall constitute a separate offense.

(History: Ord. DAC-1131 §26, 85; DAC-697 §18, 72)

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