

CHAPTER 2. ANIMAL CONTROL AND REGULATION

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ARTICLE 1. ANIMALS AND FOWL GENERALLY

2-101. DEFINITIONS. For the purpose of this article, the following words shall have the following meanings:

- a. Animal shall include any mammal, amphibian or reptile, but shall not be limited to, cattle, horses, mules, goats, hogs, sheep, rabbits, birds, fowl, dogs and cats, and shall not exclude insects, snakes, rats, mice or other vermin.
- b. Fowl shall include, but shall not be limited to, chickens, ducks, geese, turkeys, guineas and pigeons.
- c. Service / Work Animal -- is (1) any guide animal, signal animal or other animal that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability or (2) a dog or other animal that is utilized by law enforcement personnel.
- d. Person shall mean any natural person, firm, partnership, association, organization or corporation, or other entity. (Code 1994)

2-102. CRUELTY TO ANIMALS. It shall be unlawful for any person to:

- a. Willfully or maliciously kill, maim, disfigure or torture; beat with any object; mutilate, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;
- b. Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;
- c. Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. The municipal court judge may order a person convicted of violation under this subsection to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;
- d. Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, any animals or fowl;

- e. Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;
- f. Neglect or refuse to supply any animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal. (Code 1994)

2-103. ANIMALS AND FOWL: RUNNING AT LARGE; ABANDONING. It shall be unlawful for the owner or any person having the care, custody or control of any animals or fowl to permit the same to run at large upon any public or private grounds in the City other than property in the possession or under the control of the owner or person having the care, custody or control of such animals or domestic fowl or to abandon any such animals or fowl.

2-104. DANGEROUS, VICIOUS OR EXOTIC ANIMALS. It shall be unlawful for any person to keep or harbor within the City any dangerous, vicious or exotic animal which is capable of doing injury or damage to persons or property. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. A dangerous, vicious or exotic animal is defined as:

- a. Any mammal, amphibian, 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, 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 poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.
- b. Any animal having a known propensity, tendency or disposition to attack or bite any person or animal without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals is hereby defined as a "dangerous animal." For the purpose of this article, whenever 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 the dog or cat is a dangerous animal.
- c. Any animal which attacks a human being or domestic animal without provocation.
- d. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.
- e. Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

2-105. ANIMAL NUISANCES. This article shall not be construed to authorize the keeping or maintenance of any animal or fowl on any premises within the City and under any condition which constitutes a public nuisance. The City Council or its duly designated representative shall be authorized to abate any animal nuisance as provided by law and ordinances of the City.

2-106. ANIMALS AND FOWL: OFFENSIVE QUARTERS. It shall be unlawful for any person owning, occupying, maintaining or controlling any yard, pen, room, building or any place where animals, fowl or game are dressed or kept alive or dead in the City to allow such place to become filthy, offensive, unwholesome or annoying or to allow any decayed, putrid or offensive matter to accumulate thereon.

2-107. KEEPING OF LIVESTOCK OR FOWL PROHIBITED. It shall be unlawful for any person, either as owner or as the agent, representative, employee or bailee of any owner, or for any firm or corporation, to keep, harbor or maintain any cattle, hogs, horses, mules, sheep, goats or other animals, chickens, ducks, geese, turkeys, or any other domestic fowl on any premises within the corporate limits of the City.

ARTICLE 2. DOGS AND CATS

2-201. DOGS AND CATS; LICENSING AND REGISTRATION. It shall be unlawful for any person to keep any dog or cat over the age of six months in the City without having the same registered. The owner, keeper, or harbinger of any such animal shall pay to the City Clerk each year, before the animal is registered, a registration fee established and set by the governing body for each animal; however, no fee shall be required for pet owners 60 years of age and over. The City Clerk shall register the name of such owner or keeper in a book to be kept by him or her for that purpose and shall deliver to the owner or keeper of such animal a certificate in writing, stating that such person has registered such animal and the number by which he or she is registered, and shall also deliver to said owner or keeper of such animal a metallic tag with the letters Westwood Hills and the registration number marked or stamped thereon, which metallic tag shall be by the owner or keeper attached to the collar to be used on said animal so registered. The City Clerk shall keep in a book suitable for the registration of animals the time of such registration and the amount paid therefor. The fiscal year for the registering and licensing of animals under the provisions of this article shall begin on January 1st of each year, and if such license is not obtained before the 1st day of March in any year, such pet registration shall be considered delinquent.

2-202. LICENSE FEE - EXEMPTIONS. Any person owning, keeping, or harboring a service/work animal shall be exempt from the license fee payment upon submittal of adequate proof that the animal is fully trained as a service/work animal and is current for the year on its rabies vaccination.

2-203. CERTIFICATE OF IMMUNIZATION, ESSENTIAL TO REGISTER. Before the City Clerk shall issue a license or register the name of the owner or keeper of an animal, the owner or keeper of such animal shall furnish to the City Clerk a certificate from a licensed veterinarian showing that said animal has been immunized against rabies at the time of application.

2-204. UNLICENSED OR UNREGISTERED DOG OR CAT; TAKEN BY HUMANE OFFICER. Whenever any dog or cat shall be found within the city limits of Westwood Hills, without having a license or registration tag attached to a collar or some other device, such animal shall be taken up by the humane officer, or by any other agency designated by the City to do so, and such animal shall be held 5 days at a shelter house provided by said agency, and if, within the 5 days, the owner of any animal so held shall present to the person in charge of such shelter house a license receipt, such animal shall be delivered to the owner thereof. If not so claimed within 5 days, the animal shall become the property of the designated agency to be

disposed of in some humane manner or placed in a good home under the agency's regulations. The owner or keeper claiming any animal as provided in this section shall pay the fee and board costs as set forth in section 2-211.

2-205. EXAMINATION AND QUARANTINE. It shall be unlawful for the owner of any animal or any person harboring an animal, when notified that such animal has bitten any person or has so injured any person as to cause an abrasion of the skin, to sell or give away such animal or to permit or allow such animal to be taken beyond the limits of the City, for a period of not less than 15 days after the date on which such animal has so bitten or injured any person, except under the care of a licensed veterinarian. It shall be the duty of such owner or keeper, upon receiving notice of any such injury, immediately to place such animal in a licensed veterinary hospital, where such animal shall be confined for a period of not less than 10 days, and such owner or person keeping or harboring such animal shall notify the City Clerk of the name and location of the veterinary hospital and the date that the animal was confined. The owner or keeper of the animal shall pay any unpaid license fees, penalties and board costs of the animal.

2-206. DESTRUCTION OF ANIMALS. Any dangerous or vicious animal may be slain or picked up by the humane officer or any authorized city representative. If the animal has been slain, it shall be the duty of the humane officer or any authorized city representative to deliver, or cause to be delivered, its carcass and brain to a laboratory where examination of the same may be made.

2-207. RUNNING AT LARGE. It shall be unlawful for the owner of any dog or cat to permit such animal to run at large within the corporate limits of the City at any time. Any such animal shall be deemed to be running at large therein when found upon property other than that of the owner, keeper or harbinger thereof; provided, however, that any animal kept securely tied or kept securely within an enclosure on private premises or led by a leash, chain, strap or rope, and thus under the control of its owner or keeper, shall not be deemed to be running at large. It shall be lawful for any humane officer or other person designated by the governing body to pursue and capture such animals so running at large.

2-208. CAPTURED DOG OR CAT. Any animal captured or apprehended under the terms and conditions of section 2-206 shall be held for a period of 5 days and disposed of in the manner as shall from time to time be determined by the governing body of the City.

2-209. CHIEF OF POLICE PROCLAMATION. The chief of police is hereby authorized, whenever in his or her opinion the danger to public safety from rabid animals is imminent, to issue a proclamation ordering the person owning, keeping or harboring any dogs or cats to muzzle the same or confine the same, by good and sufficient means, to the house, outbuilding, or yard, wherein such person may reside for such a time as may be specified in such proclamation, and the person keeping or harboring any animal shall confine the same by good and sufficient means, within the house, yard, or outbuilding of such owner or keeper, and have such animal or animals properly and securely muzzled during the time specified in such proclamation. All animals found running at large within the City during the time so specified in the proclamation, without being securely muzzled, are hereby declared to be a nuisance, and it shall be the duty of any police officer of said City to kill such animal.

2-210. REDEEMING DOGS AND CATS. It is hereby made the duty of the proper person designated by the governing body to capture all dogs and cats found running at large in violation of this article and place them in a shelter house designated by the governing body for

that purpose. If the owner, keeper or harbinger of any such animal does not redeem the same within 5 days after such impounding, by the payment to the City Clerk of a license fee, if required, and penalties, if any, plus the cost of the board bill charged by the owner or owners of the shelter house and presentation of a receipt from the City Clerk showing payment of any required license fee and penalties, then such animal may be disposed of in some humane manner by the designated operator of the shelter house.

2-211. LIMIT ON NUMBER OF DOGS AND CATS. It shall be unlawful to have more than two dogs over the age of six months or more than one litter of pups in any household without having attained a special permit from the governing body. Additionally, it shall be unlawful to have more than two cats over the age of six months or more than one litter of kittens in any household without having attained a special permit from the governing body.

ARTICLE 3. NORTHEAST ANIMAL CONTROL COMMISSION

2-301. FINDINGS. The governing body deems it advisable and necessary that this City adequately control the problems of dead and uncontrolled domestic and wild animals on the streets or roaming at large within the City. It further finds it necessary to join together with other cities to continue a cooperative animal control program with certain other Johnson County cities to affect for the benefit of the citizens of the cities a better animal control service at the lowest possible cost to the cities. (Code 1994)

2-302. PURPOSE AND OBJECTIVES.

- a. It is hereby declared that the cost and operation of animal control can best be effected in the several member cities by cooperative management and financing of personnel and equipment needed to enforce and provide services necessary to pick-up, care for and dispose of, where necessary, domestic, unwanted or at-large animals or dead or dangerous animals within the member cities.
- b. Such cooperative animal control shall study and provide new or better methods of animal control and develop and maintain communications with the governing bodies and residents of the member cities to eliminate problems of animal control. (Code 1994)

2-303. AGREEMENT INCORPORATED. The City joins with at least two other adopting cities to continue the Northeast Animal Control Commission. The Interlocal Cooperation Agreement previously adopted by the City is hereby incorporated by reference, as though reproduced herein in its entirety. (Code 1994)

ARTICLE 4. BEES

2-401. KEEPING OF BEES. It shall be unlawful for any person to place, establish or maintain any colony of 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 article. (Code 1994)

2-402. LICENSE REQUIRED. It shall be unlawful for any person to place or keep an apiary upon any property within the city limits without a license issued by the City Clerk. The fee shall be set by resolution of the governing body of the City, and the fees shall defray, in part,

the cost of inspection and enforcement of this article. The license shall be valid for a period of three years from the date of issuance. (Code 1994)

2-403. DEFINITIONS. As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

- a. Apiary - A place where bee colonies are kept.
- b. Bee - Any stage of the common domestic honey bee, Apis Mellifera species.
- c. Colony - A hive and its equipment and appurtenances including bees, comb, honey, pollen, and brood.
- d. Hive - A structure intended for the housing of a bee colony.
- e. Tract - A contiguous parcel of land under common ownership. (Code 1994)

2-404. CERTAIN CONDUCT DECLARED UNLAWFUL.

- a. The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.
- b. Notwithstanding compliance with the various requirements of this article it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others. (Code 1994)

2-405. HIVES. All bee colonies shall be kept in Langstroth type hives with removable frames, which shall be kept in sound and usable condition, as required by the Kansas State Department of Agriculture. (Code 1994)

2-406. FENCING OF FLYWAYS. In each instance in which any colony is situated within 25 feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation, or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in vicinity of the apiary. It is a defense to prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least 25 feet from the property line of the apiary tract. (Code 1994)

2-407. DISTANCE OF APIARY. Any person who at the time this article becomes effective maintains any apiary which is 75 feet from a house or other building used for residential purposes other than a house or building owned or possessed by such person and which is registered with the City Clerk shall be permitted to keep one apiary at such location. (Code 1994)

2-408. WATER. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, faucets, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact. (Code 1994)

2-409. GENERAL MAINTENANCE. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee proof enclosure. (Code 1994)

2-410. QUEENS. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics. (Code 1994)

2-411. COLONY DENSITIES.

- a. It shall be unlawful to keep more than the following number of colonies on any tract within the City, based upon the size or configuration of the tract on which the apiary is situated:
 1. One-quarter acre or less tract size -- two colonies;
 2. More than one-quarter acre but less than one-half acre tract size -- four colonies.
- b. For each two colonies authorized under colony densities (subsection(a)) there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 9 5/8 inch depth 10 frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within 30 days after the date is acquired. (Code 1994)

2-412. MARKING HIVES; PRESUMPTION OF BEEKEEPING.

- a. In apiaries the name and telephone number shall be branded, painted, or otherwise clearly marked upon the structure of at least two hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper. It is a defense to prosecution under this subsection that a colony is kept upon the same tract upon which the owner resides.
- b. Unless marked in accordance with subsection (a) it shall be presumed for purposes of this article that the beekeeper is the person or persons who owns or own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address, and telephone number of the other person who is acting as the beekeeper. (Code 1994)

2-413. INSPECTION. The city inspector or his or her designated agent shall have the right to inspect any hive between the hours of 8:00 a.m. and 5:00 p.m. Where practicable, prior notice shall be given to the beekeeper if he or she resides at the tract on which the apiary is located or if his or her name is marked on the hives. The provisions of this section shall not be construed to require the inspection for the destruction of (1) any bee colony not residing in a hive structure intended for beekeeping or (2) any swarm of bees or (3) any colony residing in a beekeeping hive, which by virtue of its condition, has obviously been abandoned by the beekeeper.

2-414. SEVERABILITY AND ENFORCEABILITY. If any provision, section, subsection, sentence, clause or phrase of this article, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional void or invalid, the validity of the remaining portions of this article or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this article are declared to be severable for this purpose. (Code 1994)

2-415. PUBLIC NUISANCE. Colonies kept contrary to this article are hereby declared a public nuisance and may be abated according to law. (Code 1994)

ARTICLE 5. ANIMAL NUISANCES

2-501. NUISANCE PROHIBITED. It shall be unlawful for the owner or harbinger of any animal to cause or permit such animal to perform, create or engage in an animal nuisance. Any animal found acting in any way forbidden by this article, in the determination of the animal control officer, shall hereby be declared a nuisance, and its owner or harbinger shall be subject to citation. (Code 1994)

2-502. ANIMALS; NOISE, DISTURBANCE OF PEACE; PROHIBITED. No person shall keep or harbor any animal, which by loud, frequent and habitual barking, howling, yelping, screeching, fighting, or making other noise, shall annoy or disturb the public peace. It shall be presumed that the barking of a dog for a period of one minute or longer between the hours of 10:00 p.m. and 7:00 a.m. and for a period of two minutes or longer at other times during the day causes a disturbance of the peace. It shall be further presumed that the owner or harbinger of any dog, cat or other domestic animal who leaves such animal outside and unattended failed to take such action as may be necessary to keep such animal from causing a disturbance of the peace, if in fact such animal does cause a disturbance of the peace. It shall be further presumed that the owner or harbinger of any dog, cat or other domestic animal failed to take such action as may be necessary to keep such animal from disturbing the peace, if such owner or harbinger has twice been previously advised, either verbally or in writing, that such animal is disturbing the peace.

2-503. EXCREMENT.

- a. It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement.

- b. It shall be unlawful for any person to fail to immediately remove any excrement deposited by his or her animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a person with a disability while walking his or her service animal. (Code 1994)

2-504. FEMALE IN HEAT. All female animals in heat shall be confined in an enclosure or building in such a manner that the animal cannot come into contact with a male animal except for planned breeding. (Code 1994)

2-505. DISEASED ANIMALS. It shall be unlawful for the owner of any domestic animal to knowingly cause or allow the same to run at large or be exposed in any public place anywhere in the City, or to ship or remove such animal from the owner's premises, when same is afflicted with a contagious or infectious disease except under the supervision of the animal control officer. It shall be the duty of the animal control officer to order the disposition of such diseased animal and treatment of the affected premises to prevent the communication and spread of contagion or infection except in cases where the state veterinarian is empowered to act and does act. (Code 1994)

2-506. DAMAGE TO PROPERTY. It shall be unlawful for any person owning or possessing a dog, cat, or other animal to permit such dog, cat or animal to go upon any sidewalk, or private lands or premises without the permission of the owner of such premiss and break, tear up, crush, urinate, defecate, or otherwise destroy, damage, or disturb any lawn, flower bed, plant, shrub, tree, garden, trash collection, house, structure, or any personal property in any manner whatsoever. (Code 1994)

ARTICLE 6. PENALTY

2-601. PENALTY. Any person violating any of the provisions of this chapter shall upon conviction thereof be fined in a sum not exceeding \$500 or be imprisoned not to exceed 180 days, or be both so fined and imprisoned. (Code 1994)