

## Chapter 7 ANIMALS<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 7-1. Definitions.

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

*Adequate care* means 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. Grooming of animals is also required so that they are free from dangerous matting and nail overgrowth, which can affect their health and may be painful.

*Adequate food* means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

*Adequate health care* means the provision to each healthy animal of all immunizations and preventative 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.

*Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.

*Adequate water* means a continual access to a supply of clean, fresh, potable water.

*Animal* means any live vertebrate creature except a human.

*Animal control director* means the program coordinator of the unified government animal shelter and/or his designee.

*Animal control officer* means an officer or employee of the office of director of animal control, and officer or employee of the unified government public health department, whose duties involve the enforcement of the provisions of this chapter, or an officer of the police department.

*Animal euthanasia* means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.

*Animal shelter* means the facility or facilities operated by the unified government or its authorized agent for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

*Cat* means any member of the species, felis domesticus.

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<sup>1</sup>Cross reference(s)—Health and sanitation, ch.17.

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*Commercial animal establishment* means any pet shop, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer, animal dealer, or any establishment performing one or more of the principal activities of the aforementioned establishments.

*Dog* means any members of the species, *canis familiaris*.

*Ear-tipped feral cat* means a cat that is unsocialized to humans and has a temperament of extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of its ear to indicate that it has been sterilized and vaccinated against rabies.

*Fowl* shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.

*Health director or director of health* means the director of the unified government public health department. The term includes the director's authorized representative.

*Owner* means any person having a right of property in an animal or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

*Person* means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

(Code 1988, § 7-1; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015; Ord. No. O-63-16, § 1, 10-27-2016)

Cross reference(s)—Definitions generally, § 1-2.

## **Sec. 7-2. Penalty.**

- (a) Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction of any such violation, shall, unless another specific penalty or specific penalty range be provided by another subsection of this section, be punished by a fine of not less than \$50.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment.
- (b) Any person violating any of the provisions of sections 7-14, 7-212, 7-218, 7-261, 7-266, or 7-267 shall, upon conviction and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with reference to initial or subsequent violation of the particular section:
  - (1) First offense, \$50.00.
  - (2) Second offense, \$100.00.
  - (3) Third offense, \$150.00.
  - (4) Fourth or any subsequent offense, \$600.00.
- (c) Any person violating any of the provisions of section 7-79 shall, upon conviction and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with references to initial or subsequent violation of the particular section:
  - (1) First offense, \$300.00.
  - (2) Second offense, \$800.00.

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- (3) Third offense, \$1,000.00.
  - (4) After the first or any subsequent offense, the court may, in its discretion, revoke the license for the animal(s), or remove the animal as provided by section 7-78.
- (d) Any person violating any of the provisions of section 7-106 shall, upon conviction, be punished by a fine of not less than \$350.00 nor more than \$500.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment.
  - (e) Any person violating any of the provisions of section 7-7, 7-157-213, 7-214, or 7-215, of this chapter shall, upon conviction, and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with reference to initial or subsequent violation of the particular section:
    - (1) First offense, \$100.00.
    - (2) Second offense, \$200.00.
    - (3) Third offense, \$500.00.
    - (4) Fourth offense, or a conviction of subsection 7-215(f)(5), the court may, in its discretion, impose a fine, revoke license for the animal(s), and/or order the director of animal control to remove the animal from the residence to the unified government shelter for disposition as provided by this chapter.
  - (f) Any person violating section 7-216 shall, upon conviction, be punished by a fine of not less than \$500.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment. The court may, in its discretion, revoke the license for the animal(s), or refuse to return the animal(s) back to the owner, keeper, or harbinger. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, and veterinary care necessitated by the enforcement of this article.
  - (g) Any person violating section 7-217 shall, upon conviction, be punished by a fine of not less than \$500.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment. Violation of section 7-217 shall constitute a misdemeanor. Upon conviction of keeping a vicious animal, the municipal court judge may order restitution be paid to the victim up to the maximum amount allowed by law. The owner of a vicious animal shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.
  - (h) Each day's violation of or failure, refusal or neglect to comply with any provision of this chapter shall constitute a separate and distinct offense.
  - (i) Court costs shall be imposed as authorized by ordinance.

(Code 1988, § 7-2; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-45-05, § 1, 6-2-2005; Ord. No. O-8-15, § 1, 1-29-2015; Ord. No. O-159-22, § 1, 11-3-2022)

Cross reference(s)—Court costs, § 23-13.

### **Sec. 7-3. Notices to appear.**

- (a) Whenever any animal is found running at large in violation of subsection 7-215(c), the animal control officer finding such animal may take its license number, if such animal is wearing a collar with an identification tag as is required in section 7-265, and may take any other information the animal is wearing which may identify its owner. This section does not apply to unowned ear-tipped feral cats.

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- (b) The officer who finds an animal running at large may sign a complaint against the person identified as the animal's owner, keeper or harbinger pursuant to subsection (a) of this section. If a complaint is signed, then a notice to appear shall be served upon such identified owner in accordance with section 23-17. If the owner fails to appear as required in the notice to appear, a warrant shall be issued for that person's arrest. In any prosecution charging a violation of subsection 7-215(c), proof that the animal described in the complaint was in violation of such section, together with proof that the defendant named in the complaint was at the time of such violation the owner of such animal, shall constitute prima facie evidence that the owner of the dog violated subsection 7-215(c). The foregoing stated presumption shall apply only when the procedure as prescribed in this section has been followed.

(Code 1988, § 7-3; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15 , § 1, 1-29-2015)

#### **Sec. 7-4. Enforcement generally.**

Except where otherwise provided, it shall be the duty of the supervisor of animal control, with the assistance of staff and police, to administer and enforce the provisions of this chapter. It shall be the duty of the police to assist the director of animal control and the staff of the director of animal control with their enforcement efforts, and the police shall have full authority to enforce the provisions of this chapter.

(Code 1988, § 7-4; Ord. No. O-22-03, § 1, 6-5-2003)

#### **Sec. 7-5. Reserved.**

Editor's note(s)—Ord. No. O-8-15 , § 3, adopted Jan. 29, 2015, repealed the former § 7-5 in its entirety, which pertained to written notice requirements and derived from the Code of 1988, § 7-5, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

#### **Sec. 7-6. Rules, regulations and fees.**

The county administrator may, with approval of the unified government board of commissioners, adopt rules and regulations necessary for the administration of this chapter, including regulations establishing impoundment, adoption fees, boarding and handling fees, and all other such fees as are required by this chapter.

(Code 1988, § 7-6; Ord. No. O-22-03, § 1, 6-5-2003)

#### **Sec. 7-7. Obstructing enforcement.**

No person shall willfully obstruct any animal control officer engaged in the performance of official duties from performing such official duties.

(Code 1988, § 7-7; Ord. No. O-22-03, § 1, 6-5-2003)

#### **Sec. 7-8. General entry powers of enforcement officers.**

- (a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director of animal control or director of health's authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or violation which creates an unsafe, dangerous or hazardous condition, the director of animal control or director of health or the authorized representative of the same may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the director of animal control or director of health by this chapter;

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provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the director of animal control or director of health or the authorized representative of the same shall have recourse to every remedy provided by law to secure entry.

- (b) When the director of animal control or director of health or the authorized representative of the same shall have first obtained a proper search warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the director of animal control, the director of health, or the authorized representative of either for the purpose of inspection and examination pursuant to this chapter.

(Code 1988, § 7-8; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-9. Implied consent to entry upon private property for enforcement.**

In the interests of animal control ordinance enforcement, animal rescue, and open violation enforcement, any person keeping or harboring any animal in this city by so doing does thereby authorize the director of animal control, the director of health, the representatives of either, or a police officer to enter without warrant, when there are exigent circumstances, upon private property, except inside any residential structure, of such person who owns or controls where such animal is found, in plain sight, for the purpose of enforcement of this chapter and to seize such animal from the private property to abate an ordinance violation.

(Code 1988, § 7-9; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-10. Consent to seizure to abate suffering.**

By the authority of the city to so provide, and by the authorization stated in section 7-9, any animal that is deemed by the director of animal control to be neglected or abused in violation of this chapter and suffering may be seized from the property of its owner or keeper to abate the suffering of that animal, and such animal may be confined at the shelter for disposition under the terms of this chapter.

(Code 1988, § 7-10; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-11. Consent to removal of rabies suspect animal.**

Any animal that has possibly, through a bite wound, exposed a person to rabies and that is found on the property of its owner or keeper may be removed from that property by the director of animal control if such owner or keeper is not available, willing, and able to surrender the animal for the observation or testing required by this chapter. By keeping such animal in the city, the owner or keeper consents to and authorizes removal under such circumstances to the animal shelter.

(Code 1988, § 7-11; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-12. Dead animals.**

- (a) *Responsibility if director of animal control.* The director of animal control shall be responsible for the removal of all dead animals found within the city except as otherwise provided in this section. In this section, "dead animal" shall mean an animal not killed for food or no longer fit for food.

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- (b) *Removal—Large dead animals.* All large dead animals shall be removed and legally disposed of by the owner or proprietor of the premises within 12 hours after the death of such animal. If not so removed, such animal shall be removed by the city at actual cost to the property owner or proprietor. Charges for dead animal removal are due and payable upon billing by the unified government. The unified government may refuse to collect dead animals for failure to pay previous billings. Failure to pay for dead animal removal as provided shall constitute a violation punishable by fine as delineated in section 7-2.
  - (c) *Same—Small dead animals.* Animal hospitals, commercial animal establishments, laboratories and other similar places where animals are kept for commercial or scientific purposes shall maintain, for a period of one year, records on the death and disposal of all birds and mammals in their care. Such records shall include the type of animal, cause of death (if known), method of disposal and such other information as specified by the supervisor. Dead animals shall be removed from such establishments and submitted for postmortem examination by a licensed veterinarian, state or federal laboratory, or such other person as approved by the director, or disposed of by incineration, burial or other approved means.
  - (d) *Access to property.* On occupied property, the owner or the tenant of such property shall provide easy access to the subject animal for purpose of its removal.
  - (e) *Leaving on streets, etc.* No person owning or having possession of the carcass of any animal not to be used for food shall permit the same to remain in or upon any street, sidewalk, park, or public ground.
  - (f) *Burial.* Burial of animals shall only be permitted at pet cemeteries licensed by the city, or such other places for which a special permit is granted by the health director.
  - (g) *Transportation.* It shall be unlawful for any person to transport or remove any dead animal or the carcass of any dead animal along any street, avenue, alley, lane or other highway within the city, unless the same is transported or removed, loaded upon a wagon, truck or other vehicle of conveyance. Any person transporting or removing any dead animal or the carcass of any dead animal, except game animals, such as deer, commonly carried over the hoods of cars, upon any wagon, truck or other vehicle shall completely cover such dead animal with a canvas or some other complete and secure cover so as to entirely conceal the same from view and to prevent the escape of odor.

(Code 1988, § 7-12; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-13. Wild or exotic animals prohibited.**

- (a) No person shall keep or permit to be kept on such person's premises any wild or exotic animals for exhibition purposes, whether gratuitously or for a fee, or as a pet. This section shall not be construed to apply to zoological parks, performing animal exhibitions, circuses or veterinary clinics that are properly licensed by the state or the federal government. In no case, however, shall such wild or exotic animals be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such animals. A wild or exotic animal is a nondomesticated animal or any animal which can normally be found in the wild state, excluding unowned ear-tipped feral cats, rabbits, ferrets, gerbils, hamsters, mice, guinea pigs, small amphibians, laboratory rats which have been bred in captivity and which have never known the wild, birds and fish normally kept as pets, raptors for the purpose of falconry in accordance with the state department of wildlife and parks regulations, K.A.R. 115-1-1 and K.A.R. 115-14-10. In addition, those monkeys that were kept as pets within the city as of December 31, 1992, or any monkeys that are currently being used as service animals, as defined by the Americans with Disabilities Act of 1990, may be kept by their current owners; provided that the monkeys are kept in proper living facilities and pass a health examination. The term "monkey," as used in this section, is defined as Old World and New World monkeys, as distinguished from those animals commonly referred to as apes or baboons. The owner of a monkey must obtain a health certificate for such monkey that states that the animal is disease-free and in

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good health. These animal owners, including those with service animals, must have their facilities certified by the animal control department. Monkeys must be kept in these facilities at all times.

- (b) Any person who keeps a wild, exotic, or vicious animal in contravention of this section may dispose of the animal by removal of the animal from the city by giving or selling the animal to a zoological park or by releasing the animal to the supervisor of animal control. The director of animal control may release the animal to the wild or to a zoological park.

(Code 1988, § 7-13; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

### **Sec. 7-14. Commercial animal establishment—Compliance with local codes.**

All commercial animal establishments located within the city shall comply with all zoning regulations, building codes, licensing and occupation tax requirements of the unified government.

(Code 1988, § 7-14; Ord. No. O-22-03, § 1, 6-5-2003)

Cross reference(s)—Licenses, permits, and miscellaneous business regulations, ch. 19.

State law reference(s)—Pet animal act, K.S.A. 47-1701 et seq.

### **Sec. 7-15. Same—Standards.**

Any person operating a commercial animal establishment shall keep and maintain the animals and all structures, pens or yards in which the animals are kept in such a manner as to prevent a nuisance or health hazard to humans and to avoid injury to such animals. All cages and holding areas must be properly sanitized so as to keep the animals enclosed therein free of disease. All such caged animals shall be provided with an adequate daily supply of wholesome food and water. All disease-infested animals shall be isolated from healthy animals and treated to prevent the spread of disease or euthanized, and if the owner or keeper fails or refuses to provide such, the supervisor of animal control may remove such animals to the unified government shelter for disposition as provided by this chapter.

(Code 1988, § 7-15; Ord. No. O-22-03, § 1, 6-5-2003)

### **Secs. 7-16—7-20. Reserved.**

Editor's note(s)—Ord. No. O-8-15, § 3, adopted Jan. 29, 2015, repealed the former §§ 7-16—7-20 in their entirety.

The former §§ 7-16—7-20 pertained to excessive animal noise, property damage, running at large, prohibited, exceptions, violations, animals putting person in fear, respectively, and derived from the Code of 1988, §§ 7-16—7-20, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

### **Sec. 7-21. Storage of hides.**

No salted or green hides shall be stored in any warehouse or other building or other place within the city so that odors arising from the hides shall annoy or disturb the occupants of the premises in the vicinity thereof. The maintaining of such hides in such condition is a public nuisance.

(Code 1988, § 7-21; Ord. No. O-22-03, § 1, 6-5-2003)

Cross reference(s)—Health nuisances, § 17-31 et seq.

### **Secs. 7-22—7-45. Reserved.**

## ARTICLE II. IMPOUNDMENT<sup>2</sup>

### Sec. 7-46. Generally.

- (a) Any animal determined by animal control to be in violation of chapter 7 may be impounded.
- (b) If an owner or keeper is present and able to take control of such animal in lieu of impoundment, a notice to appear may be issued to that person, and the person may retain possession of the animal if it is the belief of the officer issuing such summons that such possession is not in conflict with any other provision of this chapter.

(Code 1988, § 7-36; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

### Sec. 7-47. Animal pound records and reports.

The director of animal control shall keep accurate account of all animals received at the pound and released to the owner or purchaser, showing the date and from whom received, the description of the animal, the name and address of the person releasing or purchasing. The director shall keep a like accurate account and description of all animals destroyed and an accurate and complete account of all monies received during the months under the provisions of this chapter, together with a statement of the number of animals in the pound on the first of the month, the number received, the number destroyed, the number released or adopted, and the number on hand at the end of the month.

(Code 1988, § 7-37; Ord. No. O-22-03, § 1, 6-5-2003)

### Sec. 7-48. Registration of persons delivering animals to shelter.

- (a) The director of animal control shall not receive an animal into the shelter from any person unless:
  - (1) Such person shall submit proof of identification; and
  - (2) Such person shall give full name and place of residence, which shall be registered in a proper book kept by the director of animal control.
- (b) It shall be unlawful for any person delivering to or receiving any animal from the shelter to give any false information concerning the same.

(Code 1988, § 7-38; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-45-05, § 2, 6-2-2005; Ord. No. O-8-15, § 1, 1-29-2015)

### Sec. 7-49. Notification of capture.

After the impoundment of any animal where a notice to appear has not been issued to the owner or keeper, the director of animal control shall promptly notify the owner of such animal of its impoundment if the owner can be determined and located by reasonable investigation; however, no liability shall attach to the city or to the director of animal control or his staff for failure to give such notice. The owner of an impounded animal who does

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<sup>2</sup>State law reference(s)—State regulation of animal shelters, K.S.A. 47-1704 et seq.



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not redeem the animal may still be proceeded against for violation of any applicable provisions of all applicable ordinances.

(Code 1988, § 7-39; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-50. Impoundment fee; release from pound.**

- (a) An animal impounded with no identification and which is not living evidence in a pending case or subject of an open investigation of a violation of article III, shall not be disposed of by animal control until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the animal through time periods ordinarily accepted as usual business hours. During such time of custody, animal control shall attempt to notify the owner or custodian of any animal maintained or impounded if such owner or custodian is known or reasonably ascertainable.
- (b) Such an animal may be released to the legal owner, moved to a veterinary hospital for treatment or observation, or euthanized if it appears to the director of animal control or its veterinarian that the animal is suffering, diseased or disabled beyond recovery. The owner, keeper, or harbinger shall remain responsible for all penalties for violation of any of the provisions of this chapter. The animal shall not be released without the payment of an impoundment fee in the amount established by the city administrator, or any other fee established by the city administrator or animal control. After the expiration of the holding period established in subsection (a), the governing body of a political subdivision regulating the operation of a pound shall have ownership of such animal and shall determine the method of disposition of any animal.

(Code 1988, § 7-40; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

State law reference(s)—Release of animals, K.S.A. 47-1710.

### **Sec. 7-51. Adoption of animals.**

An animal held at the animal shelter for three working days and not redeemed by its owner, or five working days if the animal is found with tags which identify its owner, and which is neither vicious nor in a dangerous condition of health may be released for adoption or transfer to a Kansas licensed animal shelter or rescue organization, subject to the following conditions:

- (1) The adoptive owner shall agree in writing to furnish proper care to the animal in accordance with this chapter.
- (2) In the case of an animal capable of sexual reproduction, such person shall deposit a prepaid neutering or spaying fee as established by the county administrator redeemable for neutering or spaying of the animal at any local veterinary clinic with a current cooperative agreement with the unified government for such services. As an alternative to the prepaid neutering or spaying fee, the adoptive owner may make a deposit equal to the prepaid neutering or spaying fee, refundable upon furnishing evidence that such animal has been rendered sexually unproductive by any veterinarian of the adoptive owner's choice.

(Code 1988, § 7-41; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

### **Sec. 7-52. Destruction of impounded animal.**

The director of animal control shall not destroy, or cause or permit to be destroyed any animal impounded until the expiration of impounding time limit of three working days or five working days if the animal is found with tags which identify its owner, except that the director of animal control may, when an animal so impounded has

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been examined by a licensed veterinarian and found by such veterinarian to be suffering from an injury or disease from which recovery in the veterinarian's judgment is doubtful, destroy such animal in a humane manner.

(Code 1988, § 7-42; Ord. No. O-22-03, § 1, 6-5-2003)

State law reference(s)—Euthanizing animals, K.S.A. 47-1710, 47-1718.

**Secs. 7-53—7-77. Reserved.**

**ARTICLE III. ANIMAL PROTECTION<sup>3</sup>**

**Sec. 7-78. Municipal court hearing on complaints.**

- (a) An animal control officer may, if a complaint has been signed against an individual pursuant to any provision of section 7-79, precedent to or after the individual has been convicted of violation of such section, sign an affidavit petitioning the municipal court judge to immediately take custody and control of such animal if it appears to the director of animal control that it would be in the best interest of such animal to be seized by the municipal court.
- (b) The municipal court judge, upon receiving such affidavit and petition, shall set the matter involving the custody or control of an animal for hearing within ten days from the date that the petition and affidavit are filed. If it appears from the affidavit that the life of the animal is in immediate jeopardy, then the court may set the hearing as soon as practical. The owner or person having control or custody of such animal shall be provided notice of the hearing by serving such persons with a summons to appear; such summons shall be served in the same manner as is required for serving notice to appear pursuant to section 23-17.
- (c) The municipal court judge, after a hearing has been held, may order that an animal be seized and placed in the custody of the director of animal control if the following findings are made:
  - (1) The person summoned to appear is the owner or person having possession or custody of the animal in question.
  - (2) That there is probable cause to believe that a violation of any provision of section 7-79 has occurred or is occurring and, based upon the violation, it appears that it would be in the best interest of the animal to remove that animal from the possession and custody of the owner of the animal or the person having possession or custody of the animal.
- (d) If an order is issued by the municipal court judge ordering that such animal be seized and brought into custody, then the director of animal control shall take such animal into custody and shall inspect such animal, care for or treat such animal or place such animal under the care of a licensed veterinarian for treatment, boarding or other care. If it appears, as determined by the director of animal control or by a licensed veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, then such animal may be destroyed humanely as soon thereafter as is conveniently possible in accordance with K.S.A. 21-6412(e) et seq.
- (e) Unless the animal obtained pursuant to this section is required to be kept as evidence for a pending prosecution, or is being held for the protection of the animal during the pendency of a pending prosecution, the owner or keeper of an impounded animal shall have a maximum of ten days after the animal is taken

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<sup>3</sup>Cross reference(s)—Injury to a domestic animal, § 22-85.

State law reference(s)—Cruelty to animals, etc., K.S.A. 21-4310 et seq.; animal dealers, K.S.A. 47-1701 et seq.

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into custody to obtain the animal from the veterinarian or the animal control facility having custody of the animal. The veterinarian or the director of animal control shall provide written notice to the owner or keeper of the animal, if known or reasonably ascertainable, when time will expire to retrieve the animal. The failure of the owner or keeper to obtain custody of the animal, or an owner that is unknown or not reasonably ascertainable, in the time provided shall provide the authority of the director of animal control to dispose of the animal by adoption or euthanasia.

- (f) If the owner, keeper, or harbinger is charged with a violation of this section, and the animal is being kept past the ten days allowed in subsection (e) as evidence for the pending prosecution or for the protection of the animal from the owner, keeper, or harbinger, the city may petition the municipal court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified that a renewable case or performance bond must be filed with the city clerk in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the municipal court shall determine whether the animal may be placed for adoption or euthanized (K.S.A. 21-6412(e)).
- (g) If the owner or person having control or custody of such an animal is convicted of violating any provision of section 7-79, the municipal court judge may order that such animal shall not be returned to or remain with such person. Such animal may be turned over to the director of animal control or licensed veterinarian for sale or other disposition.
- (h) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to section 7-79 may be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.
- (i) If the owner or person having control or custody of such animal is adjudicated not guilty or if the municipal court judge, after an adjudication of guilty is made, finds that such animal should be returned, such person may redeem such animal within 72 hours. If such animal is not redeemed within 72 hours, then such animal may be disposed of in accordance with K.S.A. 47-1710 et seq.
- (j) An order issued by the municipal court judge under this section may be appealed to the district court pursuant to the provisions contained in K.S.A. 60-2101(d).

(Code 1988, § 7-56; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

### **Sec. 7-79. Cruelty to and neglect of animals.**

- (a) It is unlawful for any person to intentionally kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance, or overdrive any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) It is unlawful for any person to drive or work any animal cruelly.
- (c) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with adequate care, food, health care, shelter, and water.
- (d) It is unlawful for any owner or keeper to abandon any animal. For purpose of this section, "to abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody or to leave an animal for more than 12 hours without providing for adequate food, water and shelter for the duration of the absence.
- (e) It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with a harmful or poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin that pose a threat to the public health.

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- (f) It is unlawful for any person to carry any animal or cause any animal to be carried in or upon any vehicle in a dangerous or careless manner.
- (g) *Legislative findings.* It is the purpose of this section to promote the health and safety of the residents of the city and protect dogs from neglect by reducing the number of improperly tethered dogs. The unified government recognizes that dogs that are continuously and improperly tethered have an increased potential to be poorly socialized, act aggressively toward humans, and be neglected by their owner. In order to better protect the safety of its citizens and the welfare of the animal, restraint by tethering must meet certain standards.
- (h) Tethered animals must not:
- (1) Be tethered unattended to any utility pole, parking meter, building, structure, fence, sign, tree, shrub, bench or other object on public property or on private property without the prior permission of the person or agency in charge thereof, and no pet animal shall be tethered within ten feet of, or in such a manner as to permit it to intrude upon, neighboring property, a public sidewalk or street;
  - (2) Be tethered directly with chains or other tethers, restraints or implements without the proper use of a collar, harness or other device designed for tethering;
  - (3) Be tethered with a chain, leash, rope or tether that is shorter than ten feet in length;
  - (4) Be tethered with a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto that due to weight, inhibit the free movement of the animal within the area tethered;
  - (5) Tether any animal in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, posts or other man-made or natural obstacles.
- (i) It is unlawful for any person to have, keep or harbor any animal that is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A municipal court judge may order a person convicted under this section to turn the animal involved over to the animal control division. If, in the opinion of a licensed veterinarian, the animal appears to be diseased or disabled beyond recovery for any useful purpose, the animal may be humanely euthanized. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- (j) It is unlawful for any person to cause, instigate, stage, train or torment any animal for or permit any fight between any animal and another animal or human.
- (k) It is unlawful for any person to attend or solicit attendance at or be an umpire, judge, or other official at a fight staged between any animal and another animal or human.
- (l) It is unlawful for any person to give or to offer to give a live animal as a prize, a business inducement, or any other form of gratuity, except purebred livestock given away as a part of a farm youth organization program.
- (m) It is unlawful for any person to use as a toy or for display or decorative purposes, to sell or offer for sale, to expose for sale, to subject to any form of mistreatment or careless handling, or to dye any newly hatched fowl or newly born rabbit.
- (n) It is unlawful for any person to confine calves, sheep or hogs by tying their legs, except during a properly licensed rodeo, or in any way confine them in closed boxes or otherwise, or have in his possession any calves, sheep or hogs so tied or confined, or load into any freight car or into any other conveyance, for the purpose of transportation, any animal in a cruel or inhumane manner.
- (o) It is unlawful for any person to induce or encourage any animal in an animal exhibition, rodeo or circus to perform through the use of the chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering.

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- (p) It is unlawful for any person to display for sale, sell, exchange, barter, or give away any animal except in the following places:
- (1) A commercial animal establishment having a valid business license and licensed with the state department of agriculture.
  - (2) A private kennel or cattery licensed with the state department of agriculture.
  - (3) A private residence, provided that should the residence exceed the limit of animals sold under K.S.A. 47-1701(f), that residence is licensed with the state department of agriculture.
- (q) It is unlawful for any person to intentionally use 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.
- (r) The provisions of this section shall not apply to:
- (1) Normal or accepted veterinary practices;
  - (2) Bona fide experiments carried on by commonly recognized research facilities;
  - (3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. 32-101 et seq. or K.S.A. 47-101 et seq.;
  - (4) Rodeo practices accepted by the Rodeo Cowboys' Association;
  - (5) 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, by the agent of such owner residing outside of a city, by the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, by a licensed veterinarian at the request of the owner thereof, by any officer or agent of an incorporated humane society, by the operator of an animal shelter or pound, by a local or state health officer, or by a licensed veterinarian five working days following the receipt of any such animal with tags identifying its owner at such society, shelter or pound;
  - (6) With respect to farm animals, normal or accepted practices of animal husbandry;
  - (7) The killing of any animal by any person at any time which may be found outside the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
  - (8) 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; or
  - (9) Laying an equine down for medical or identification purposes.
- (s) As used in this section, the term "equine" means a horse, pony, mule, jenny, donkey or hinny.
- (t) Cruelty to animals is a Class A violation.

(Code 1988, § 7-57; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015; Ord. No. O-159-22, § 1, 11-3-2022)

### **Sec. 7-80. Rescue 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 an animal control officer and/or law enforcement officer, law enforcement may, enter such vehicle and rescue such animal and 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.

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(Code 1988, § 7-58; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

**Sec. 7-81. Animals injured by motor vehicles.**

Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the city, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department of the location, and the police department will notify such agency as may be providing injury services.

(Code 1988, § 7-59; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-82. Reckless pet owner; declaration; violation.**

- (a) Upon a fourth conviction of any violation of chapter 7 within a 36-month time period, the convicted person shall be deemed a reckless pet owner. Upon the fourth conviction, the municipal court may issue a notification of the declaration of reckless pet owner to the person with the following:
- (1) Name and address of the person subject to the declaration, and;
  - (2) Description, violation, and convictions that lead to the declaration, and;
  - (3) Name and description of all pets subject to the effects of the declaration, and;
  - (4) Instructions on appealing the declaration to district court.
- (b) *Violation.* Once declared a reckless pet owner, a person shall not own, keep, possess, or harbor any additional animals for a period of five full years from the date of the declaration. No reckless pet owner will be allowed to own, keep or possess an animal deemed dangerous by the municipal court. If convicted of possessing a dangerous animal or any additional animal after being declared a reckless pet owner, that violation constitutes a separate and distinct offense subject to the penalty provisions of section 7-2.

( Ord. No. O-159-22, § 1, 11-3-2022)

**Secs. 7-83—7-105. Reserved.**

**ARTICLE IV. ANIMAL BITES AND DISEASE CONTROL**

**Sec. 7-106. General powers of director of health.**

- (a) In the event that the director of health determines that a rabies or other zoonotic disease control emergency exists, the director shall so declare, stating the boundaries of the affected area, and the director may issue emergency regulations and take all necessary steps within the provisions of this chapter and state law to abate the threat. Such emergency steps and regulations shall be in effect only during the period of the declared emergency.
- (b) The director of health may issue standing regulations for rabies and zoonoses control that the director finds necessary to protect the public health which shall be filed with the unified government clerk. Such regulations shall be in keeping with the U.S. Public Health Service guidelines and state law.
- (c) The director of health may issue a proclamation ordering persons owning, keeping or harboring animals to muzzle or confine such animals, by good and sufficient means, to the house, stable, outhouse, or yard wherein such person may reside or at a properly licensed kennel for such a time as may be specified in such

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proclamation, and each person keeping or harboring any dog shall confine the same by good and sufficient means within such person's house, yard, stable or outhouse or have such dog properly and securely muzzled during the time specified in such proclamation. Animals found running at large within the city during the time so specified by the proclamation, without being securely muzzled, may be killed by any police officer.

(Code 1988, § 7-60; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-107. Human exposure to zoonotic diseases by animals other than dogs or cats.**

- (a) Any bite wound by an animal other than a dog or cat exposing an individual to the possibility of rabies or other zoonotic disease (hereinafter referred to as "incident") shall be immediately reported to the director of animal control by the victim and by the owner, keeper or harbinger of the animal if the incident is known to such person. Any animal bite that requires medical treatment shall be reported within 24 hours to the director of health or the director of animal control by the treating physician or hospital caring for the patient. It is the duty of the health department to promptly notify the director of animal control of any such bite reported to the police.
- (b) It is unlawful for the owner, keeper or person harboring the animal involved in such incident to release it from custody, to hide or conceal such animal, or to take or allow such animal to be taken beyond the limits of the city, unless so authorized by the director of animal control, until an observation period stipulated by the state department of agriculture for the particular species of animal is over or such period is ruled unnecessary by the director of animal control.
- (c) It is the duty of such owner or keeper, upon receiving notice of such incident, to immediately place the animal involved in a duly licensed veterinary medical facility, the address of which must be furnished to the director of animal control at once, or in the unified government animal shelter where such animal shall be isolated and confined for observation. The owner or keeper of an animal involved in a biting incident is liable for the cost of confinement and observation (K.A.R. 28-1-13).
- (d) The death or any suspicious change in health or behavior of any such animal undergoing observation shall be reported immediately by the observing authority to the director of health or the director's designated representative. In the event that a proper period of observation is undetermined or undeterminable for the species of animal involved in an incident, the director of health may order whatever laboratory examination of the animal or the animal's tissues is required by prudent medical practice for the protection of the victim, and no liability for damages shall arise from any injury to or the death of the animal occasioned by the laboratory examination.
- (e) When an animal involved in an incident is outside the city, the director of health or the director of animal control shall forward information concerning the incident to the appropriate authority of the jurisdiction of residence of the owner, keeper or harbinger or the appropriate state health department for coordinated disease prevention.

(Code 1988, § 7-61; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15 , § 1, 1-29-2015)

**Sec. 7-108. Domestic dog and cat bites resulting in human exposure to rabies.**

- (a) Any bite wound by a dog or cat exposing an individual to the possibility of rabies or other zoonotic disease (hereinafter referred to as "incident") shall be immediately reported to the director of animal control by the victim and by the owner, keeper or harbinger of the animal if the incident is known to such person.
- (b) It is the duty of every owner or keeper of any dog or cat upon receiving notice or having knowledge of the involvement of his pet in a human exposure to the possibility of rabies or other zoonotic disease by biting (hereinafter referred to as "incident") to immediately contact the director of animal control for instruction

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on quarantine for the biting animal. Quarantine location and period shall be regulated by the state department of agriculture, through K.A.R. 28.1.13, and any amendments thereto. However, any city police department canine and/or any assisting police canine from other law enforcement agencies involved in an incident may continue on active duty.

- (c) It is unlawful for the owner harboring the animal involved in such incident to release it from custody, to hide such animal, or to take or allow such animal to be taken beyond the limits of the city, unless so authorized by the director of animal control, until the period of confinement and observation here required is completed. The owner or keeper of such animal involved in an incident shall be liable for the cost of confinement and observation.
- (d) The death or any suspicious change in the health or behavior of any such dog or cat undergoing observation shall be reported as soon as possible by the observing authority to the director of animal control and the director of health or the director's designee.

(Code 1988, § 7-62; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-106-07, § 1(7-62), 12-17-2007; Ord. No. O-8-15, § 1, 1-29-2015)

### **Sec. 7-109. Reserved.**

Editor's note(s)—Ord. No. O-8-15, § 3, adopted Jan. 29, 2015, repealed the former § 7-109 in its entirety, which pertained to non-family bite violations and derived from the Code of 1988, § 7-63, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

### **Sec. 7-110. Destruction of animals and rabid animal investigation.**

- (a) If any dangerous, fierce, or vicious dog, cat or other animal believed involved in an incident (as the term "incident" is used in sections 7-107 and 7-108) cannot be safely captured or prevented from escaping by usual means, such animal may be slain by a police officer or animal control director.
- (b) In all cases where such animal may have exposed a person to rabies and is slain before the completion of the observation period stipulated for the species by the director of health, it shall be the duty of any person slaying such animal to forthwith deliver or cause to be delivered all the remains of such animal to the director of animal control. If the animal is slain by a police officer, the officer shall contact the director of animal control to arrange pickup of the remains. Particular care shall be taken to preserve the head of the slain animal. A departure from this procedure must be requested of and authorized by the director of health.

(Code 1988, § 7-64; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-111. Animals in transit.**

For the purpose of disease or injury control, the director of animal control may impound and observe pets in transit through the city at the request of any official animal control agency, health officer, or law enforcement agency of another jurisdiction.

(Code 1988, § 7-65; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-112. Confinement of animals bitten by rabid animals.**

The owner of any animal known to have been bitten by a rabid animal or by an animal suspected of being rabid shall immediately notify the director of animal control. The animal shall be confined for a period determined by the director of health, and if determined to be rabid by a licensed veterinarian, shall be destroyed immediately.



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(Code 1988, § 7-66; Ord. No. O-22-03, § 1, 6-5-2003)

**Secs. 7-113—7-137. Reserved.**

## **ARTICLE V. LIVESTOCK, ETC.**

### ***DIVISION 1. GENERALLY***

#### **Sec. 7-138. Restraining of livestock.**

Livestock shall not be allowed to run at large and, when legally kept, must be restrained in a manner and by such means as will prevent such animals from escaping, straying or running at large. In agriculturally zoned areas, gates around the perimeter of the property used to restrain livestock shall be kept closed with a chain and padlock to minimize vandalism.

(Code 1988, § 7-81; Ord. No. O-22-03, § 1, 6-5-2003)

#### **Sec. 7-139. Release of livestock from large animal holding area; fees.**

Livestock impounded or otherwise held because of the owner's violation or alleged violation of any of the provisions of this chapter may be released by the director of animal control to the owner upon the owner's completion of an affidavit of ownership and payment of expenses incurred for the pickup, shelter, handling, feeding, and care, including medical care, of the livestock, as determined by the supervisor of animal control, and any expenses for publication of notice as required by section 7-140. The owner of released livestock shall remain responsible for penalties imposed for violation of any of the provisions of this chapter.

(Code 1988, § 7-82; Ord. No. O-22-03, § 1, 6-5-2003)

#### **Sec. 7-140. Release for adoption, humane destruction, or sale at public auction of unclaimed livestock; publication of notice; extension of time to pay fees.**

- (a) If impounded livestock has not been released to the owner within 14 calendar days, the director of animal control shall arrange for the release for adoption, humane destruction, or sale at public auction of the livestock, as provided in sections 7-141, 7-142, and 7-143.
- (b) Except in the circumstances set forth in section 7-142(a), prior to the release for adoption or humane destruction of livestock, the director of animal control shall publish for seven consecutive days in a newspaper of general circulation in the area where the animals were found a notice stating the date on which the animals shall be released for adoption or destroyed and also stating that failure of a person having an interest in the animals to claim them by the specified date shall result in their forfeiture. The notice shall state the kind, sex, age, and brand of the livestock and the date and location where the animals were picked up, but shall not contain any statement as to the color of the animals, any marks or other distinguishing features, or the location of the impounded animals. The notice shall inform persons with an interest in the livestock that they may present any objections to the release for adoption or destruction of the animals to the director of animal control in writing prior to the date specified for the animal's disposition.
- (c) Prior to sale at public auction of livestock, the director of animal control shall publish for seven consecutive days in a newspaper of general circulation in the area where the animals were found a notice stating the

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date, place, and time of sale. The notice shall identify the animals in the manner specified in subsection (b) of this section. The notice shall state that proceeds from the sale of the livestock may be claimed as provided in section 7-143(b) and that failure to claim the proceeds within the time specified in section 7-143(b) shall result in their forfeiture. The notice shall inform persons with an interest in the livestock that they may present any objections to the sale at public auction of the animals to the director of animal control in writing prior to the date specified for the animals' disposition.

- (d) In addition to publishing notices as required by subsections (b) and (c) of this section, the director of animal control shall send to any person known to have an interest in impounded livestock seven days' written notice by first class mail of the pending release for adoption, humane destruction, or sale at public auction of the animals. The notice shall contain information specified in this section.
- (e) If, following the notice, the owner fails to secure the release of the livestock, the livestock may be released to any person having an interest therein upon completion of an affidavit of interest and payment of fees as provided in section 7-139.
- (f) If a person claiming an interest in the livestock objects in writing to the release for adoption, destruction, or sale at public auction of the animals, the supervisor of animal control shall hear the reasons for the objection and render a decision prior to the disposition of the animals.
- (g) If a person having an interest in the livestock completes an affidavit of ownership or interest prior to the release for adoption, humane destruction, or sale at public auction of the livestock, but is unable to pay the required fees for release of the livestock, the animal control director shall grant to the person a reasonable extension of time in which to pay the fees before release for adoption, humane destruction, or sale at public auction of the animals.
- (h) "Interest," as used in this section and in section 7-143, means legal interest and includes ownership interest, security interest, and statutory and judicial liens.

(Code 1988, § 7-83; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-141. Adoption of livestock.**

- (a) Subject to the provisions of section 7-140, livestock may be released by the director of animal control for adoption if:
  - (1) The director of animal control determines that the price that the livestock would bring at public auction probably would not exceed the expenses incurred for the pickup, shelter, handling, feeding, and care, including medical care, of the livestock, the cost of publication of notice as required by section 7-140, and any expenses, including handling and transportation expenses, associated with the sale of the animals at public auction;
  - (2) The person seeking to adopt the livestock agrees in writing to furnish proper care to the livestock in accordance with the provisions of this chapter; and
  - (3) The person seeking to adopt the livestock pays the expenses incurred for the pickup, shelter, handling, feeding, and care, including medical care, of the livestock.
- (b) Priority for adoption of livestock shall be given to the provider of livestock pickup and boarding services.

(Code 1988, § 7-84; Ord. No. O-22-03, § 1, 6-5-2003)

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**Sec. 7-142. Destruction of livestock.**

- (a) The director of animal control shall not order the destruction of any livestock that is impounded or otherwise held until the expiration of at least 21 calendar days, except at any time the director may destroy in a humane manner such livestock if:
  - (1) In the judgment of a licensed veterinarian, the livestock is injured or diseased beyond recovery and faces imminent death;
  - (2) In the judgment of a licensed veterinarian, the livestock is injured or diseased beyond recovery, but does not face imminent death, if its owner cannot be located within 24 hours; or
  - (3) The livestock appears likely to injure any person or property.
- (b) Except in the circumstances specified in subsection (a) of this section, the director of animal control shall not order the destruction of any livestock unless he determines that the price the livestock would bring at public auction probably would not exceed the expenses incurred for the pickup, shelter, handling, feeding, and care, including medical care, of the livestock, the cost of publication of notice as required by section 7-140, and any expenses, including handling and transportation expenses, associated with the sale of the animals at public auction.

(Code 1988, § 7-85; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-143. Auction of livestock; proceeds.**

- (a) Unclaimed livestock not released for adoption or destroyed shall be sold for cash at public auction in agriculturally zoned areas.
- (b) Proceeds from the sale of impounded livestock shall be used to pay expenses incurred for the pickup, shelter, handling, feeding, and care, including medical care, of the livestock, the cost of publication of notice of sale, and any expenses, including handling and transportation expenses, associated with the sale of the animals at public auction. Any remaining proceeds shall be deposited in a special livestock account. If the proceeds are not claimed by a person having interest in the livestock within six months of the date of sale, the proceeds shall be deposited in the general fund of the unified government for public use.

(Code 1988, § 7-86; Ord. No. O-22-03, § 1, 6-5-2003)

**Secs. 7-144—7-169. Reserved.**

***DIVISION 2. KEEPING REGULATIONS***

**Sec. 7-170. Permit.**

- (a) It shall be unlawful for any person to keep or maintain any livestock or fowl or any pen for the same within the city in areas not zoned agricultural without first obtaining a permit to do so from the office of director of animal control.
- (b) Application for the permit shall be made to the office of director of animal control on forms furnished by the office. Such application shall state the name of the person so desiring to keep such animals or fowl and maintain pens therefore within the city, the location of the premises where the same are to be kept and maintained, the kind of animals and fowl to be kept and maintained, and any other information that the

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office may desire. Such application shall be signed by the applicant and shall bear the date that the application is made. No permit will be granted unless the request conforms with the zoning ordinances of the city. The initial permit fee and renewal fees shall be set by the county administrator.

- (c) A permit issued under this section shall be renewed once every two years. Such permit shall not be transferable from one person to another or from one premises to another. This permit provision shall not be applicable to birds, less than five in number, kept in the residence as pets, such as canaries, parakeets, parrots, finches and doves.
- (d) A permit issued under this section may be cancelled by the office of director of animal control upon failure of the holder thereof to comply with any provision of this chapter. No person who has had a permit cancelled shall be permitted to make application for another permit within one month from the date of the cancellation of a previous permit. Permitted premises shall be inspected upon complaint. Permit holder has no authority to refuse inspection without forfeiting the issued permit.
- (e) No permit shall be granted unless applicant has no outstanding codes violations on the premises.
- (f) It shall be unlawful for any livestock or fowl to be off the premises of the owner, keeper, harbinger, or permit holder. Any livestock or fowl found off the premises of the owner, keeper, harbinger, or permit holder may be impounded pursuant to section 7-46.

(Code 1988, § 7-96; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-63-16, § 1, 10-27-2016; Ord. No. O-102-21, § 1, 8-12-2021)

### **Sec. 7-171. Keeping of swine prohibited.**

- (a) No person shall keep live swine within the corporate limits of the city unless the swine are confined to:
  - (1) Licensed stockyards located in districts zoned for heavy industry; or
  - (2) Livestock exhibitions of a temporary duration such as the county fair or at locations approved by the director of animal control where such swine are being kept by a participant in an educational project of a youth farm program such as 4H or Future Farmers of America. Such approval shall designate the number of swine that may be kept and shall terminate when the educational program is completed. Approval may be denied by the director of animal control if keeping of swine at the particular location would cause problems of sanitation or would affect the neighbor's enjoyment of their property. The decision of the director of animal control shall be final and conclusive; or
  - (3) Locations within the area annexed by Ordinance No. 65653, if the location is zoned for agriculture.
- (b) This prohibition does not apply to certified purebred Vietnamese miniature potbellied pigs that weigh less than 100 pounds. Such miniature pigs kept within the city limits must be registered by the age of four months following the provisions of division 2 of article VI of this chapter, pertaining to the registration of dogs and cats. Each miniature pig must undergo blood testing each year to show that such pig is free from pseudorabies and have a health certificate to that effect. Such miniature pigs must be kept in a fenced area. Each residence within the city limits may have no more than one miniature pig, and the total of dogs, cats, and miniature pigs shall not exceed five. Male miniature pigs must be neutered and female miniature pigs spayed when they reach the age of four weeks.

(Code 1988, § 7-97; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-172. Keeping livestock.**

- (a) In this section, the term "livestock" includes, but is not limited to, horses, mules, cattle, sheep, and goats.

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- (b) Except in areas zoned agriculturally, no livestock or animals of similar or larger size shall be kept, maintained, pastured or fed within 50 feet of the nearest portion of any building in any way used by human beings, other than the dwelling occupied by the owner or keeper of any of such animals. Beyond this limitation of 50 feet, not more than two of such animals shall be kept, provided that the limitation of two horses shall not apply to a licensed commercial riding stable, as a riding academy, nor shall the limitation of two such animals apply to a commercial stockyard or land zoned for agricultural use, or on parcels of five or more acres. Stables, coops, pens or other structures for the housing of any of the aforementioned animals shall comply with all zoning restrictions.

(Code 1988, § 7-98; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-173. Offensive odors from enclosures in which animals are kept.**

It shall be unlawful for any person to keep any cattle, horses, goats, rabbits, or other animals, chickens, ducks, geese, turkeys, or any other fowl in any pen, shed, or yard within the city from which any deleterious or offensive odor shall be emitted. The maintaining of any of the animals or fowl mentioned in this section in such condition is a nuisance.

(Code 1988, § 7-99; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-174. Manure accumulations.**

All manure accumulations in the area where livestock and other animals are kept shall be removed, stored or disposed of in such a manner as to prevent attracting flies or the spread of disease.

(Code 1988, § 7-100; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-175. Small animals and fowl in pens.**

- (a) Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, roosters (male chickens), hens (female chickens) ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zoned agricultural with the following exceptions:
- (1) Ducks.
  - (2) Hens (chickens), female.
- (b) This section does not apply to the keeping of dogs or cats.
- (c) Except where fowl or animals are kept for sale within a bona fide produce market, commission house or store for the purposes of trade and while so kept are confined in small coops, boxes or cages, or where such animals or fowl are kept for purposes of research in a laboratory, or less than five birds are kept in a home as pets, such as canaries, parakeets, parrots, finches, and doves, it shall be unlawful for any person to keep or maintain any chicken coop, dove cote, rabbit hutch or other yard establishment for the housing of fowl or small animals closer than 25 feet to the nearest portion of any building occupied by or in anywise used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than ten feet to the property line of the lot. Animals and fowl so kept or maintained shall be enclosed on all sides and shall not be allowed to run or fly at large, except for homing pigeons.
- (d) The maximum number of permitted fowl shall not exceed six, regardless of the size of the lot.

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(Code 1988, § 7-101; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-63-16, § 1, 10-27-2016; Ord. No. O-102-21, § 2, 8-12-2021)

**Sec. 7-176. Maintenance of enclosures for fowl.**

All earthen yards or runways wherein five or more fowl are kept or permitted to be shall be spaded and then limed once every three months from the month of April through the month of December. For the purpose of killing flies and other insects, all structures, pens or coops wherein fowl are kept or permitted to be shall be sprayed with such substances as will eliminate such insects.

(Code 1988, § 7-102; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-63-16, § 1, 10-27-2016)

**Sec. 7-177. Condition of enclosures.**

- (a) This section does not apply to the keeping of dogs or cats.
- (b) Any structure, pen, coop, or yard wherein animals or fowl are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Applicants for permits shall include a vermin control plan with the application. Permit holders shall use bait boxes to safely poison rodents and vermin. The enclosed area of all such structures shall be constructed in such a way as to be dry at all times on the inside. The person maintaining any aforementioned structure, pen, coop or yard in the city does by such act of maintenance authorize the director of health to, at any time, inspect any such structure or premises and issue any such order as may be necessary to carry out the provisions of this section.
- (c) For every three chickens, a minimum of one laying box space, with a minimum size of one square foot, shall be required. Each laying box shall contain adequate clean bedding material such as hay or other soft material. Laying boxes shall not be required for ducks.

(Code 1988, § 7-103; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-63-16, § 1, 10-27-2016)

**Sec. 7-178. Reserved.**

Editor's note(s)—Ord. No. O-63-16, § 1, adopted Oct. 27, 2016, repealed the former § 7-178, which pertained to subsequent development of adjacent property and derived from the Code of 1988, § 7-104; Ord. No. O-22-03, § 1, adopted June 5, 2003.

**Secs. 7-179—7-209. Reserved.**

**ARTICLE VI. DOGS AND CATS**

***DIVISION 1. GENERALLY***

**Sec. 7-210. Enumeration and record; notice to register.**

It shall be the duty of the director of animal control to keep a record of all dogs and cats owned, kept or harbored within the corporate limits of the city and to make and keep a correct record of all such dogs and cats

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currently registered, with the name and place of residence of the owner or keeper thereof, and to serve notice on such owner or keeper to register the same as provided by this chapter.

(Code 1988, § 7-121; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-211. Consent to remove female in heat.**

Any female dog or cat in heat and not confined in a building or solid enclosure as required by section 7-218 may be removed from the property of its owner or keeper to the shelter to abate such nuisance.

(Code 1988, § 7-122; Ord. No. O-22-03, § 1, 6-5-2003)

### **Sec. 7-212. Maximum number.**

It shall be unlawful for any person in charge of a residence to keep or to allow to be kept more than three dogs or three cats over 120 days of age or any combination of such animals exceeding six in number, unless one or more of the following conditions are met:

- (1) The residence is licensed as a commercial animal establishment in accordance with K.S.A. 47-1701 and meets local criteria set forth by the unified government.
- (2) If the individual in charge of the residence is not engaged in the commercial sale of dogs and has a current permit to exceed the pet limit issued by the unified government board of commissioners.
- (3) Animals in residences that are owned by a Kansas licensed animal shelter, pound, or rescue, and are being fostered under the supervision of a Kansas licensed animal shelter, pound, or rescue, and the residence is registered with the state department of agriculture, those animals shall be exempt from being counted toward the pet limit, provided the number of foster dogs does not exceed more than five adult dogs over six months of age.

(Code 1988, § 7-123; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15, § 1, 1-29-2015)

### **Sec. 7-213. Rabies inoculation required.**

It is the duty of every owner of a dog or cat to have such dog or cat inoculated against rabies. The owner of harbored of such dog or cat shall at all times possess evidence of rabies inoculation consisting of a certificate signed by the licensed veterinarian administering the vaccine. A copy of the certificate of rabies inoculation shall be presented, mailed or electronically delivered to the director of animal control no later than 15 days following the application for license as required by section 7-263. No license shall be issued unless such certificate bears a date within one year prior to the date of license. The veterinarian administering the rabies vaccination shall issue a metallic tag for the particular dog vaccinated, on which shall be distinctly marked the veterinarian's name or veterinary clinic name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination. The owner of any dog which is determined by the director of animal control to be running at large and which is not wearing a collar with identification consisting of owner's name and current address and, if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

(Code 1988, § 7-124; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-44-10, § 1, 7-22-2010)

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## Sec. 7-214. Parasite control.

No person shall offer for sale, sell or give away any dog or cat unless such animal has been dewormed or certified in writing by a duly licensed veterinarian to be free of intestinal helminthes in order to prevent the spread of such to other animals and humans. It is the responsibility of the buyer to have the animal reexamined to determine if it is free of parasites.

(Code 1988, § 7-125; Ord. No. O-22-03, § 1, 6-5-2003)

## Sec. 7-215. Nuisance animals.

(a) *Excessive animal noise.*

- (1) No person shall own or keep any animal that, by making excessive noise, disturbs a neighborhood.
- (2) The following definitions and conditions shall be specially applicable to enforcement of this section:
  - (i) *Excessive noise* means and includes any noise produced by an animal that is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor.
  - (ii) *Neighbor* means an individual residing in a residential structure that is within 200 yards of the property on which the animal is kept or harbored.

(b) *Property damage.* It shall be unlawful for any person owning or possessing an animal to permit such animal to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever or to defecate thereon.

(c) *Running at large—Prohibited; exceptions.*

- (1) It shall be unlawful for any person owning, keeping or harboring any animal to permit, suffer or allow the animal to run at large within the city. For the purpose of this section, any animal shall be deemed to have been permitted, suffered or allowed by its owner, keeper or harborer to run at large when found outside the residence structure of the owner, keeper or harborer and not effectively physically restrained on a chain or leash or behind a suitable fence or other proper method of physical restraint from which it cannot escape.
- (2) A person with a disability using an assistance dog as defined in K.S.A. 39-1113 shall be deemed to be in compliance with subsection (a) of this section.
- (3) Official use of dogs by any governmental unit shall be deemed in compliance with subsection (a) of this section.
- (4) An owner, while participating in or training for obedience classes or trials, shall be deemed to be in compliance with subsection (a) of this section. Evidence of this shall be shown by the fact that the dog and owner are going through standard obedience exercises, the owner has a leash on the owner's person, and the dog is under immediate control. The dog's tags must be readily available on the owner's person.
- (5) A dog shall be considered effectively physically restrained behind a suitable fence if restrained by a properly functioning electronic fence and a properly functioning 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. Dogs confined to residential property of the owner, keeper, or harborer, by an electronic fence and an electronic collar, shall not be permitted to be nearer than ten feet away from



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- any public sidewalk or property line that is contiguous to neighboring property. In addition, dogs are prohibited from being confined by an electronic fence and an electronic collar in the front yard of an owner's, keeper's or harborer's property. No dog having been found a dangerous animal, as defined by section 7-216, shall be confined by an electronic fence and 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 and electronic collar.
- (6) In order to comply with this section, any electronic fence and electronic collar must be approved by the unified government animal control division. In order to obtain approval, the owner, keeper, or harborer must submit for approval the following information:
- (i) The name of the owner, keeper, or harborer;
  - (ii) Identification of all animals to be restrained by said electronic fence or electronic collar;
  - (iii) The owner, keeper or harborer shall be required to post signs or notices to clearly indicate to the public that a dog is confined to the property by an electronic fence or electronic collar. Said notices shall be posted in such a manner as to notify the public of the location and boundaries of any electronic fence.
- (7) *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:
- (i) 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;
  - (ii) If a cat causes injury to persons or animals;
  - (iii) If a cat causes damage to property other than its owner's, keeper's or harborer's property, including, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, glower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
  - (iv) This section does not apply to unowned ear-tipped feral cats.
- (d) *Animals putting person in fear.* No person shall own, keep or harbor any animal that jumps upon or threatens persons upon public streets or another's private property; or without provocation, molests, chases or interferes with persons or vehicles in the public right-of-way by jumping upon, chasing, barking or biting at persons or vehicles. This section shall also apply to animals while being walked on leashes, or otherwise physically restrained.
- (e) *Animal injury.* No person shall own, keep, or harbor any animal that, without provocation, causes injury to another domestic dog or cat. This section shall not apply to animals injured while trespassing on the owner, keeper, or harborer of the offending animal's premises.
- (f) *Same—Violations.*
- (1) Upon a person's conviction for a third time involving the same animal in any 24-month period of subsections (a), (b), or (c), and (e) in any combination thereof, or first conviction of subsection (d), shall constitute a "nuisance animal."
  - (2) No animal may be declared a nuisance if, at the time of violations the person or animal was teasing, tormenting, abusing or assaulting the alleged nuisance animal. No animal may be declared a nuisance if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

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- (3) No person owning, harboring or having the care or custody of a nuisance animal shall suffer or permit such animal to go unconfined beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained.
  - (4) A nuisance animal is "unconfined" if while on the premises of its owner or harborer such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of the person. Such pen or dog run area must be adequate to ensure the confinement of such dog upon the premises.
  - (5) Failure to keep a nuisance animal according to the above requirements shall be a separate violation of this chapter.
  - (6) The municipal court judge may revoke said person's license for that individual nuisance animal.
  - (7) It is unlawful for a person to keep, harbor or maintain the animal involved in the violations within the corporate limits of the city when that person's license to keep the animal has been revoked pursuant to this section.

(Ord. No. O-8-15 , §§ 2, 3, 1-29-2015; Ord. No. O-102-21 , § 3, 8-12-2021)

Editor's note(s)—Ord. No. O-8-15 , §§ 2 and 3, adopted Jan. 29, 2015, repealed and reenacted § 7-215, as herein set out. The former § 7-215 pertained to vicious dogs, prohibited, and derived from the Code of 1988, § 7-126, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

### **Sec. 7-216. Dangerous animals.**

- (a) It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a dangerous animal. A dangerous animal is any animal which has done any of the following:
  - (1) Caused a bite injury, other than a bite that resulted in great bodily harm, disfigurement, or death, to any person; or
  - (2) Killed another dog or cat.
- (b) A "bite injury" is any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion or other piercing of the skin.
- (c) Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was:
  - (1) A member of the household; or
  - (2) Teasing, tormenting, abusing or assaulting the dog or committing or attempting to commit a crime; or
  - (3) Protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.
  - (4) The provisions of this article shall not apply to a police dog being used to assist one or more law enforcement officers acting in an official capacity.
- (d) Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous based solely on size or breed, or mix of breed; or if death to a dog or cat occurred solely due to a size disparity between the animals and there was no sustained vicious attack on the dog or cat.
- (e) Any dangerous animal which is in the custody of an animal control officer and which in the judgment of the director of animal control or municipal court judge, would constitute a menace to the health, safety or welfare of the public if released from custody, may be held pending a hearing on any charges or complaints

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filed in the municipal court to determine the disposition thereof. If not so determined, the animal may, after having been held pursuant to section 7-108, be returned to its owner, keeper, or harborer until final determination is made by the municipal court as to whether a violation of this section has occurred. If returned pending the final disposition of the case, the animal must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this section occurred.

- (f) Any violation of this section shall be punishable pursuant to the provisions of subsection 7-2(f). Upon conviction, the court may order that the animal be humanely euthanized and direct the director of animal control, or his or her designee, to ensure that the order is enforced.
- (g) Upon conviction of keeping a dangerous animal, the municipal court judge may order restitution be paid to the victim of the violation of subsection (a).
- (h) Upon conviction of keeping a dangerous animal, and the animal returning to its owner, the animal shall be kept subject to the following standards:
  - (1) *Leash and muzzle.* No person shall permit a dangerous animal to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a dangerous animal 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 object such as trees, posts, buildings, etc. In addition, all dangerous animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.
  - (2) *Confinement.* All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel when not indoors, 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 dangerous animals must be locked with a key or 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 feet. All structures erected to house dangerous animals 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, and must not be the primary enclosure for keeping of the animal. Animal control Officers shall have the authority to monitor and inspect the keeping of all dangerous animals.
  - (3) *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in a part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when screen doors are the only obstacle preventing the animal from exiting the structure.
  - (4) *Signs.* All owners, keepers or harborers of dangerous animals within the city shall within ten days of conviction, display in a prominent place on their premises a signs easily readable by the public using the words "Beware of Dog" or "Beware of Dangerous Animal", whichever is applicable.
  - (5) *Insurance.* All owners, keepers or harborers of dangerous animals must within ten days of conviction provide proof to the director of animal control of public liability insurance in a single incident amount of \$500,000.00 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. The insurance policy will provide that no cancellation of the policy will be made unless ten days written notice is first given to the director of animal control.
  - (6) *Identification photographs.* All owners, keepers or harborers of dangerous animals must within ten days of conviction provide to the animal control two color photographs of the registered animal clearly showing the color and approximate size of the animal.

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- (7) *Microchip.* All owners, keepers or harborers of dangerous animals must within ten days of conviction microchip the animal and provide microchip information to the animal control to register the animal as dangerous.
  - (8) *Spaying/neutering.* All owners, keepers or harborers of dangerous animals must within ten days of conviction spay or neuter the animal and provide proof of sterilization to the director of animal control.
  - (9) *Sale or transfer of ownership prohibited.* Sale—No person shall sell, barter or in any other way dispose of a dangerous animal registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such animal; provided that the registered owner of a dangerous animal may sell or otherwise dispose of a registered dog or the offspring or such dog to persons who do not reside within the city.
  - (10) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of an animal deemed by the municipal court to be a dangerous animal to fail to comply with the keeping requirements and conditions set forth in this article. Any animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply with the provisions of this article is deemed a separate offense. Upon conviction, the court shall order the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(Ord. No. O-8-15 , §§ 2, 3, 1-29-2015; Ord. No. O-159-22 , § 1, 11-3-2022)

Editor's note(s)—Ord. No. O-8-15 , §§ 2 and 3, adopted Jan. 29, 2015, repealed and reenacted § 7-216, as herein set out. The former § 7-216 pertained to disposition of vicious dogs, and derived from the Code of 1988, § 7-127, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

### **Sec. 7-217. Vicious animals.**

It shall be unlawful to keep, possess, or harbor a vicious animal within the city limits. A vicious animal means any animal which has caused great bodily harm, disfigurement, or death to any person.

- (a) A vicious animal does not include an animal that has caused great bodily harm to any person while a person was committing a criminal offense on the property of the owner, keeper, or harborer of the animal. The provisions of this article shall not apply to a police dog being used to assist one or more law enforcement officers acting in an official capacity.
- (b) Upon conviction, the court shall order that the animal be removed from the city or humanely euthanized and direct the director of animal control to ensure that the order is enforced. Upon an order of removal, the owner, keeper or harborer of the animal shall remove it within 14 days of the order.
- (c) If the court orders removal per subsection (b), the owner shall provide proof of removal to the municipal court clerk through an affidavit with the address at which the animal will reside, no later than five business days after the 14-day removal period.
- (d) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of an animal ordered removed from the city per subsection (b) to fail to comply with the provisions of this section. In addition, failure to comply with the provisions of (b) or (c) is deemed a separate offense. Any animal found to be the subject of a violation of (b) shall be subject to immediate seizure and impoundment. Upon conviction of a violation of subsection (b), the court shall order that the animal be humanely euthanized. If an appeal is timely filed, the municipal court shall suspend the euthanasia order pending the final determination of the court in which the appeal is under review.

(Ord. No. O-8-15 , §§ 2, 3, 1-29-2015; Ord. No. O-159-22 , § 1, 11-3-2022)

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Editor's note(s)—Ord. No. O-8-15 , §§ 2 and 3, adopted Jan. 29, 2015, repealed and reenacted § 7-217, as herein set out. The former § 7-217 pertained to vicious dogs, determination, notice and hearing, confinement and destruction, and derived from the Code of 1988, § 7-128, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

**Sec. 7-218. Confinement of females in heat.**

It shall be the duty of every owner or keeper of a female dog or of a female cat to keep such dog or cat confined in a proper enclosure when it is in heat, so that such dog or cat may not be permitted to run in the yard or other open spaces outside an enclosed structure. Should the owner or keeper of such dog or cat fail to provide a proper enclosure in which it may be kept, the animal control officer may request entry to the premises, and if entry is refused, the animal control director or his authorized representative shall have recourse to every remedy at law to secure entry in order to take and place such dog or cat in the animal shelter or some veterinary hospital in the city, at the cost of such owner or keeper.

(Code 1988, § 7-129; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-219. Reserved.**

Editor's note(s)—Ord. No. O-36-19 , § 1, adopted May 30, 2019, repealed § 7-219, which pertained to pit bull dogs and derived from the Code of 1988, § 7-130; Ord. No. O-22-03, § 1, adopted June 5, 2003.

**Secs. 7-220—7-260. Reserved.**

***DIVISION 2. REGISTRATION***

**Sec. 7-261. Required.**

- (a) It is unlawful for any person to keep any weaned dog or cat past the age of six months in the city, unless the same has been registered for the current year in accordance with this division.
- (b) Subsection (a) of this section does not apply to any nonresident owner or keeper of a dog or cat while such nonresident is passing through the city, provided such dog or cat shall remain on a leash or otherwise effectively physically restrained, as in a closed vehicle.

(Code 1988, § 7-141; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-262. Fee.**

The owner, keeper or harbinger of each dog or cat required to be registered by this division shall pay the director of animal control an annual registration fee in the amount established by the county administrator.

(Code 1988, § 7-142; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-263. Vaccination certificate.**

Each person registering a dog or cat under this division shall present, mail or send electronically to the director of animal control a current vaccination certificate showing that the dog or cat has been vaccinated against rabies, as required by section 7-213 within 15 days following registration. The director of animal control shall issue a license to the person and keep a record of the transaction.

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(Code 1988, § 7-143; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-44-10, § 2, 7-22-2010)

**Sec. 7-264. Registration year.**

All dogs and cats shall be registered annually at such times and pursuant to such regulations as are established by the county administrator.

(Code 1988, § 7-144; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-265. Tag—Generally.**

At the time of the issuance of the registration certificate provided for in this division, the director of animal control shall deliver to the owner or keeper of the dog or cat a metallic tag with the registration number marked or stamped thereon. The metallic tag or registration shall be issued once and renewed on an annual basis as provided by section 7-263.

(Code 1988, § 7-145; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-44-10, § 3, 7-22-2010; Ord. No. O-8-15, § 1, 1-29-2015)

**Sec. 7-266. Same—Display.**

No owner or keeper of any licensed dog shall allow or permit such dog to be outside of the residence of such owner or keeper at any time other than when enclosed on all sides in a cage or covered dog run without having attached to a collar about the neck of such animal or to a secure body harness the license tag provided for in section 7-265, except when such dog is being trained for or participating in an obedience training course or trial or a dog show or match, provided such dog is not in violation of section 7-18(a)—(d).

(Code 1988, § 7-146; Ord. No. O-22-03, § 1, 6-5-2003)

**Sec. 7-267. Spaying and neutering.**

- (a) *Legislative findings.* It is the purpose of this section to promote the health, safety and general welfare of the residents of the city by reducing the number of stray dogs and cats. The unified government board of commissioners finds that each year, thousands of dogs and cats are euthanized in the city because they are not wanted. It is the purpose of this section to eliminate the excessive number of unwanted animals and thereby stop the needless killing of these animals by restricting the breeding practices of pet owners and breeders through legislation that is both reasonable and enforceable.
- (b) *Prohibition.* It shall be unlawful to own, possess or keep in the city any dog or cat over the age of six months that has not been spayed or neutered, except as provided in subsection (c) of this section.
- (c) *Exceptions.* The prohibition contained in subsection (b) of this section shall not apply:
  - (1) If a licensed veterinarian states in writing that an animal is unfit to undergo the required surgical procedure because of risk to the animal's health.
  - (2) If the owner of the animal annually obtains a permit from the animal shelter to possess an animal that is not neutered. The permit shall be issued or renewed only if the director of animal control determines that the following conditions have been met:
    - a. The animal is examined regularly by a licensed veterinarian;
    - b. The animal is vaccinated annually for rabies and other common diseases;

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- c. The animal is housed properly;
  - d. The owner has not had more than two violations of the provisions of this chapter in the preceding 24 months;
  - e. The owner pays a permit fee established by the county administrator. The fee is intended to cover a portion of the cost that the unified government currently incurs for each unwanted animal impounded and euthanized;
- (3) If an animal is temporarily in the city to participate in a show or event sponsored by a sanctioned animal organization;
- (4) If an animal is owned, possessed or kept in the city for fewer than 30 days in a one-year period.

(Code 1988, § 7-147; Ord. No. O-45-05, § 3, 6-2-2005; Ord. No. O-106-07, § 1(7-147), 12-17-2007; Ord. No. O-8-15, § 1, 1-29-2015)

**Secs. 7-268—7-297. Reserved.**

***DIVISION 3. RESERVED<sup>4</sup>***

**Secs. 7-298—7-324. Reserved.**

***DIVISION 4. RESERVED<sup>5</sup>***

**Secs. 7-325—7-331. Reserved.**

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<sup>4</sup>Editor's note(s)—Ord. No. O-8-15, § 3, adopted Jan. 29, 2015, repealed the former Div. 3, §§ 7-298—7-303 in its entirety, which pertained to patrol dogs and derived from the Code of 1988, §§ 7-161—7-166, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

<sup>5</sup>Editor's note(s)—Ord. No. O-8-15, § 3, adopted Jan. 29, 2015, repealed the former Div. 4, §§ 7-325—7-331 in its entirety, which pertained to dog kennels and derived from the Code of 1988, § 7-181—7-187, and Ord. No. O-22-03, § 1, adopted June 5, 2003.