

CHAPTER III. REGULATION OF ANIMALS

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ARTICLE 1. GENERAL REQUIREMENTS CONCERNING ANIMALS

3-101

FINDINGS OF THE GOVERNING BODY.

The Governing Body of the City of Lawrence, Kansas hereby finds that to protect and preserve the public health, safety and welfare it is necessary to prohibit the ownership of certain animals within the City and to establish regulations governing the ownership of animals allowed within the City. (Ord. 6389)

3-102

DEFINITIONS.

As used in this Chapter:

- (A) "Domesticated" shall mean bred for and adapted to living dependently in an urban household setting.
- (B) "Humane" shall mean manner of care including, but not limited to, protection, from harm, providing of shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal's species, type, size, age and condition.
- (C) "Officer" shall mean City Animal Control Officer or City Police Officer.
- (D) "Own" or "Owning" shall mean to keep, maintain, possess, control, sell, trade, or buy.
- (E) "Owner" shall mean the person who owns, keeps, harbors or possesses an animal or specified animal.
- (F) "Spay" or "neuter" shall mean to render permanently incapable of producing offspring. (Ord. 6389)

3-103

OWNING CERTAIN ANIMALS PROHIBITED.

It shall be unlawful for any person(s) to own, within the city limits, any animal except as excluded in Section 3-104. (Ord. 6389)

3-104

ANIMALS EXCLUDED FROM PROHIBITION.

- (A) Animals excluded from prohibition are:
 - (1) Domestic dogs, except those hybridized with wild canines.
 - (2) Domestic cats, except those hybridized with wild felines.
 - (3) Domesticated rodents.
 - (4) Domesticated European ferrets.

- (5) Rabbits, except that no more than three (3) rabbits shall be permitted in a residentially-zoned district.
 - (6) Birds, except for species protected by state or federal law.
 - (7) Nonvenomous snakes less than eight (8) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.
 - (8) Nonvenomous lizards.
 - (9) Turtles, except for species protected by state or federal law.
 - (10) Amphibians.
 - (11) Fish.
 - (12) Invertebrates.
 - (13) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian.
 - (14) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.
 - (15) Any animal in the ownership of a person temporarily transporting such animal through the city.
 - (16) Any animal in the ownership of a bona fide medical institution or accredited educational institution.
 - (17) Any animal exhibited for sale, show or other temporary purpose at the Douglas County Fairgrounds.
 - (18) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals.
- (B) Persons legally owning goats, kids, sheep, rabbits or hares, horses, cows, mules or donkeys one hundred fifty (150) feet away from any building used for human habitation pursuant to Section 3-101 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property. Persons legally owning domestic fowl seventy-five (75) feet away from any dwelling other than that of the owner or tenant thereof pursuant to Section 3-105 of the 1990 Code prior to December 30, 1992, shall be allowed to continue such use, provided ownership remains with the same person on the same property. Provided, the City Commission may suspend enforcement of this subsection, or establish reasonable conditions for the enforcement thereof, for property annexed into the City after December 30, 1992.
- (C) The Municipal Court Judge may order the confiscation of a prohibited animal if the animal poses an immediate danger to the public or itself. Upon the conviction of a person for owning an animal as prohibited by this Chapter, the Municipal Court Judge shall order the animal confiscated and transferred to an appropriate licensed animal rehabilitation or care facility. The

Municipal Court Judge may order the release of the animal to the owner provided that the animal will not be kept within the City limits. (Ord. 6389)

3-105

CRUELTY TO ANIMALS.

(A) Cruel Acts and Conditions Enumerated: (Ord. 7123)

(1) It shall be unlawful for any person:

- (a) to willfully or maliciously kill, maim, disfigure or torture, strike, hit or beat with a stick, board, chain, club or other object; mutilate, burn, or scald with any substance; **or** drive over any domesticated animal, or cruelly set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals; or (Ord. 7895)
- (b) 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 harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health; or
- (c) to fail, refuse or neglect to provide any animal in his or her charge or custody as owner or otherwise with proper food, drink, shade, care, or shelter. Any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal; or
- (d) to drive or work any animal cruelly; or
- (e) to abandon any animal within the City limits. For the purposes of this Section, "abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded; or
- (f) to leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as less than thirty degrees Fahrenheit or more than 80 degrees Fahrenheit; or
- (g) to transport an animal in the trunk of a vehicle; or
- (h) to transport any animal in the open bed of a truck unless said animal is restrained in a cage or on a leash that will prevent the animal from jumping or falling off the vehicle; or
- (i) to cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human; or
- (j) except a licensed veterinarian, to crop animal ears or dock

animal tails; or

- (k) to give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

- (2) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society. (Ord. 7123)

(B) Exceptions: Nothing in subsection A of this Section shall:

- (1) Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by a law enforcement officer pursuant to the interests of public health and safety. (Ord. 7123)
- (2) Be interpreted as prohibiting any act done in self-defense or done to defend another person. (Ord. 7123)

3-105A

PROCEDURES FOR CRUELTY TO ANIMALS; FINES.

- (A) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of the Lawrence Humane Society may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined by 3-105; provided that entry upon private property shall only be accomplished with the assistance of a law enforcement officer. Such officer, agent or veterinarian may inspect, care for, or treat such animal or place such animal in the care of the Lawrence Humane Society or licensed veterinarian for treatment, boarding or other care or, if an officer of the Humane Society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane destruction. (Ord. 7123)
- (B) The owner or keeper of an animal destroyed pursuant to subsection (A) shall not be entitled to recover damages for the destruction of such animal unless the owner proves that such destruction was unreasonable and unwarranted. (Ord. 7123)
- (C) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (1) pending prosecution of the owner or keeper of such animal for the crime of cruelty to animals as defined in Section 3-105 shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime. (Ord. 7123)
- (D) If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 3-105 and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale, adoption or other disposition. (Ord. 7123)

- (E) Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution, the owner or keeper of the animal shall have a maximum of twenty (20) days after the animal is taken into custody to obtain the animal from the veterinarian or the Lawrence Humane Society having custody of the animal. The veterinarian or the Lawrence Humane Society shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the authority for the Municipal Judge to declare that the animal be disposed of by the veterinarian or Lawrence Humane Society by adoption or destruction. (Ord. 7123)
- (F) Violation of Section 3-105 shall be a municipal offense and upon conviction, the defendant shall be fined a minimum fine of \$100.00 and a maximum fine of \$1,000.00 per offense. The Municipal Judge shall not have authority to suspend the minimum fine. In addition, to the Municipal Judge shall have authority to sentence the convicted defendant to a maximum six (6) month sentence in jail. (Ord. 7123)

3-105.1

PICKETING OF DOGS.

It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal. (Ord. 7796)

No person shall:

- (A) Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours, for up to three hours total time on picket per day; provided that for the purpose of picketing a dog, a chain, leash, rope or tether shall be at least 10 feet in length; or
- (B) Use a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto to picket a dog that shall weigh more than 1/8 of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed; or
- (C) Picket a dog in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man made or natural obstacles.

This provision shall be supplemental to the cruelty to animals provisions of this Article, Section 3-105 and 3-105A. The enforcement, adjudication and fine provisions of Section 3-105A shall apply to this Section 3-105.1.

3-106

ANIMAL NUISANCES.

It shall be unlawful to own any animal, including a dog or cat, in a residentially-zoned district, which by frequent or long continued noise shall disturb the comfort or repose of any person within the vicinity of such animal; or shall by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to surrounding residences. All dogs and cats, in heat, shall be confined in a secure and sufficiently enclosed area. No person shall own on their premises five (5) or more dogs, ten (10) weeks in age or older, unless such premises is licensed as a commercial kennel. (20-2002.10(1); 1990 Code 3-106, 3-206; Ord. 6389)

3-107

ANIMAL OWNER RESPONSIBILITY FOR REMOVAL OF ANIMAL EXCREMENT.

- (A) It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal. (Ord. 7125)
- (B) It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal. (Ord. 7125)
- (C) The provisions of this Section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired. (Ord. 7125)
- (D) Violation of this Section shall be punished by a fine of not less than \$10.00, plus applicable court costs. The Municipal Judge shall have no authority to suspend the fine or any portion thereof. (Ord. 7125)

ARTICLE 2. DOGS AND CATS AND OTHER DOMESTICATED ANIMALS

3-201

IMMUNIZATION OF DOGS, CATS AND FERRETS.

No person shall own any dog, cat or ferret, four (4) months of age or older, within the city limits if such animal is not currently vaccinated against rabies. Any person owning a dog within the City shall cause such dog to wear a collar or harness at all times to which shall be attached a current tag reflecting that the dog is vaccinated against rabies. The tag shall be situated on the collar or harness in such a manner that it may be easily visible at all times. Owners of cats and ferrets may retain proof of current rabies vaccination on their person or premises. (1990 Code 3-201; Ord. 6389)

3-202

ANIMALS PROHIBITED TO RUN AT LARGE; FINES.

- (A) It shall be unlawful for any person to own or keep a dog or cat or other animal which runs at large in the City. Knowledge or acquiescence by the owner or keeper is not an element of the offense. An animal shall not be deemed to be running at large if: (Ord. 7690)
 - (1) The animal is firmly attached to a leash or chain under the physical control of its owner or keeper; or
 - (2) The animal is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure; or
 - (3) The animal has an operating electronic collar and is under the charge, care or control, of its owner or keeper who is operating an electronic pet containment system or electronic training system for the animal. Notwithstanding this subsection, all animals on the public right-of-way in the C-3 zoning district (downtown area) must be kept on a leash or chain under the physical control of its owner or keeper. (Ord. 7113)

- (4) The animal is a dog and, under the supervision of its owner or keeper, is using the City's off-leash dog park in accordance with the City's rules and regulations for the off-leash dog park. (Ord. 7358)
- (B) Any animal on property without the permission of the property owner shall be deemed to be an animal at large and the owner of such animal shall be in violation of this Section. (Ord. 7113)
- (C) Any cat that is on the property of its owner or keeper shall not be deemed to be running at large in the City. (Ord. 7113)
- (D) The provisions of this Section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired. (Ord. 7113)
- (E) Any person found guilty of animal at large as defined herein shall be fined as follows: \$30.00 for the first offense within a twelve (12) month period; \$40.00 for the second offense within a twelve (12) month period; \$60.00 for the third offense within a twelve (12) month period; and \$100.00 for the fourth and subsequent offense(s) within a twelve (12) month period. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of fine established by this Section. The fine shall be in addition to any applicable court costs or impoundment fees. The Humane Society or other impoundment facility shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this Section. (Ord. 7113, Ord. 7690)

3-202A

HABITUAL VIOLATOR; ANIMAL AT-LARGE.

It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 3-202 within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. A person cited for violation of this Section shall be required to appear in municipal court. In addition thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed, of Section 3-202 for a specific citation issued under Section 3-202. (Ord. 7113)

3-202B

AGGRESSIVE ANIMAL AT LARGE DEFINED; PENALTIES.

- (A) An "aggressive animal at large" means any animal at large that without provocation, exhibits aggression or combativeness toward a person or another domestic animal, whether or not said person or animal is attacked, bitten, or scratched by the aggressive animal at large. (Ord. 7690)
- (B) Any person found guilty of animal at large as defined in Section 3-202, where such animal is an aggressive animal shall be fined as follows: \$30.00 for the first offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$40.00 for the second offense within a twelve (12) month period, or by

imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$60.00 for the third offense within a twelve (12) month period, or by imprisonment, for not more than 14 days, or by both such fine and imprisonment; and \$100.00 for the fourth and subsequent offense(s) within a twelve (12) month period, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of the fine established by this Section but shall have the authority to suspend the term of imprisonment. The fine shall be in addition to any applicable court costs or impoundment fees. The Humane Society or other impoundment facility shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this Section. (Ord. 7690)

3-202C

HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT-LARGE.

It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 3-202B within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. A person cited for violation of this Section shall be required to appear in municipal court. In addition thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed, of Section 3-202B for a specific citation issued under Section 3-202B. (Ord. 7690)

3-203

PURSUIT ONTO PRIVATE PROPERTY.

An officer may pursue and capture any animal, including a dog or cat, found to be running at large as defined in Section 3-202 of this Article. The officer shall have the authority to enter upon private property to effectuate capture. However, the officer shall not enter into any secured fenced area or structure located upon private property. (1990 Code 3-203; Ord. 6389)

3-204

IMPOUNDING, REDEMPTION AND DISPOSITION.

A dog, cat or other animal found running at large within the corporate limits of the city, contrary to the provisions of Section 3-202 may be taken up by the officer or brought in by a member of the public and may be impounded at the Lawrence Humane Society. The officer shall make a record of all dogs or cats so impounded with their description, date of impoundment and rabies vaccination number. If, within seventy-two (72) hours from the date any dog or cat is impounded and the owner of such dog or cat shall appear and claim his or her dog or cat, said dog or cat may be released upon payment of the following fees:

- (A) Impoundment fee for the first twenty-four (24) hour period or any part thereof in any consecutive twelve (12) months:
 - (1) First pickup and release - \$10.00;
 - (2) Second pickup and release - \$20.00; plus an additional fee of \$10.00 if the animal is not spayed or neutered.
 - (3) Third pickup and release - \$30.00; plus an additional fee of \$15.00 if the animal is not spayed or neutered.
 - (4) Each subsequent pickup and release - \$40.00; plus an additional

fee of \$20.00 if the animal is not spayed or neutered.

Owners may seek a refund of the additional fee if proof that the animal was spayed or neutered is presented to the City within thirty (30) days of release of the animal.

- (B) Board Fee: Five dollars (\$5.00) for each additional twenty-four (24) hour period up to a maximum of forty-eight (48) hours to pay the cost of keeping the animal. If any animal so impounded is not claimed by the owner thereof within three (3) business days of the date of such impounding, such animal shall become the property of the Lawrence Humane Society. The above described costs for impounding and keeping such animal will be due and payable to the City for any animal claimed by an owner after the three (3) business day period. All impounding fees shall be paid to the City and no animal shall be released until the owner proves the animal, if a dog, cat or ferret, is currently immunized against rabies. (1990 Code 3-204; Ord. 6389; Ord. 6704)

3-205

FILING COMPLAINT; ENFORCEMENT.

It is hereby made the duty of the animal control officer, or anyone having the authority of animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this chapter. Pursuant to Charter Ordinance No. 31, and other lawful authority, the animal control officer is authorized to issue citations to the owner of and/or impound any dog, cat or other animal found in violation of the terms of this Chapter. The City Manager may appoint persons to be known as an animal control officer, whose duties it shall be to assist in the enforcement of this Article as defined by K.S.A. 12-4113(j) and to work under the immediate supervision and direction of the Police Department.

Any person having personal knowledge of the violations of any of the provisions of this article may make a verified complaint of the facts showing a violation of this article before the municipal court judge and upon the filing of such a complaint, the municipal court judge may issue proper legal process to enforce the penalties provided herein. (1990 Code 3-205; Ord. 6389)

3-206

NOISE DISTURBANCE.

No person shall own within the city limits any animal, including a dog or cat, which, by creating a noise for prolonged periods of time by day or night, disturbs the peace and quiet of any person or family within the City. (1990 Code 3-207; Ord. 6389)

3-207

DAMAGE TO PRIVATE PROPERTY.

The owner of any animal shall be in violation of this Article and subject to the penalties prescribed herein if any such animal damages private property not belonging to the owner. (1990 Code 3-208; Ord. 6389)

3-208

ANIMAL BITES; QUARANTINE.

- (A) OWNER KNOWN. Upon receipt of notification from a duly licensed practitioner of medicine or registered nurse that an animal bite incident has occurred, the officer shall make reasonable effort to contact the owner of the animal involved in the incident and advise the owner to place the animal immediately with a regularly licensed and practicing veterinarian of the owner's choice for a confinement period of a minimum of ten (10) days from the time of the occurrence of the bite. The exact period of confinement may be longer than ten (10) days at the discretion of the veterinarian selected and the owner shall be liable for all such costs incurred.

- (B) **FAILURE TO COMPLY.** Any owner who shall fail to comply with the provisions of this Section, within twenty-four (24) hours or one (1) business day of notification, shall be deemed in violation of this Article and the officer shall take such animal into custody and commit it for the above described confinement period.
- (C) **OWNER UNKNOWN.** Biting animals for which an owner cannot be located shall be taken into custody by the animal control officer and confined for observation. If the bite to the victim is on the neck or head, or if the animal is behaving strangely or is ill, the animal shall be held for twenty-four (24) hours before euthanized. If the bite to the victim is not on the neck or head, and if the animal is not behaving strangely or is not ill, the animal shall be held for three days before euthanized. If the owner seeks to claim the animal, the provisions of Subsection (A) shall govern the confinement of the animal. Should such animal become ill, die or is euthanized within the confinement period, the bite victim or victim's representative shall be notified and the City shall direct further management of the animal or animal remains. If the animal is alive and well at the end of the confinement period, the bite victim or victim's representative shall be notified, and the animal shall become the property of the Lawrence Humane Society.
- (D) **STATE LAW.** Kansas Administrative Regulations (K.A.R.) 28-1-13, and amendments thereto, shall be followed concerning the isolation of biting animals for observation, examination and quarantine, unless the provisions of this Chapter require more stringent procedures. (1990 Code 3-209; Ord. 6389) (K.S.A. 47-125)

3-209

PENALTY FOR VIOLATION OF CHAPTER.

Any person convicted of the violation of any of the provisions of this Chapter shall upon conviction thereof be fined not less than \$10.00 nor more than \$500.00, and that upon any second or subsequent violation shall be fined not less than \$10.00 nor more than \$500.00 and or imprisoned for not more than ten (10) days. Each consecutive day's violation shall constitute a separate punishable offense. (1990 Code 3-107, 3-210; Ord. 6389)

ARTICLE 3. DANGEROUS DOGS

3-301

DEFINITIONS.

Dangerous dog, as used in this Article, shall mean:

- (A) Any dog with a known propensity tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or
- (B) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property; or (Ord. 7796)
- (C) Any dog which attacks or bites, or has attacked or bitten a human being or domestic animal; or
- (D) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

Notwithstanding the definition of a dangerous dog above, no dog 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 committing a willful trespass or other tort

upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

Nothing in this Article shall be deemed to regulate or prohibit the lawful maintenance of dogs by law enforcement agencies. (Ord. 7112)

Enclosure means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog. An enclosure shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. An enclosure shall have a secure top suitable to confine a dangerous dog. If such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. (Ord. 7112)

Owner means an individual who has lawful title to a dog, including the keeper or harbinger of the dog. A parent or legal guardian shall be deemed to be an owner of dogs owned or maintained by children upon their premises. (Ord. 7112)

3-302

PROCEDURE FOR THE DETERMINATION OF A DANGEROUS DOG.

In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by Section 3-301, the municipal judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous as defined by Section 3-301. The animal control officer or law enforcement officer may order the dog to be impounded at a licensed veterinary clinic or the Humane Society pending the determination of whether the dog is dangerous. The owner or keeper of the dog shall be liable for the costs of keeping such dog.

The animal control officer or law enforcement officer shall notify the owner or keeper of the dog that the hearing will be held, at which time evidence will be presented that the dog is dangerous and at which time the owner or keeper of the dog may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant. The failure of the owner or keeper to attend or participate in the hearing shall not keep the judge from making the appropriate determination concerning the dog. The hearing shall be held promptly within no less than five (5) nor more than twenty (20) days after service of notice upon the owner or keeper of the dog. The City shall have the burden of proof to show that the dog is dangerous pursuant to Section 3-301.

After the hearing, the owner or keeper of the dog shall be notified in writing of the determination. If a determination is made that the dog is dangerous, the owner or keeper shall comply with the provisions of this Article within fifteen (15) days. If the owner fails to comply with the provisions of this Article within the time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the determination, he or she may appeal within ten (10) days to the district court pursuant to law. (Ord. 7112, Ord. 7690)

3-303

CONTROL OF DANGEROUS DOG; REGISTRATION AND CONFINEMENT.

If the municipal court judge determines that a dog is dangerous pursuant to this Article, the owner or keeper of the dangerous dog shall be required to comply with

the following:

- (A) **Registration.** The owner or keeper shall annually register the dangerous dog with the City, on such forms designated by the City Clerk, and shall have a microchip inserted into the dog by the Lawrence Humane Society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner or keeper shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner or keeper shall be responsible for maintaining with the City Clerk the address of the owner or keeper and the dangerous dog. The owner or keeper shall notify the City Clerk within seven (7) days of a change in address for the owner or keeper and dangerous dog. (Ord. 7112)
- (B) **Confinement.** All dangerous dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises that does not have a locked enclosure. It shall be unlawful for any owner or keeper to allow a dangerous dog to be outside of the dwelling of the owner or keeper or outside the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. (Ord. 7112, Ord. 7690)

3-304

VIOLATION OF REQUIREMENTS FOR DANGEROUS DOG

It shall be unlawful for any person to violate the provisions of this Article. Any person found guilty of violating the provisions of this Article shall be assessed, fined, and the animal disposed of, as provided below:

- (A) **At-Large.** Any dangerous dog that is not confined or registered as required pursuant to this Article shall be impounded by an animal control officer or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine. For a second offense within twenty-four (24) months, in which the dog is not confined or registered as required pursuant to this Section, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof. (Ord. 7112)
- (B) **Attack on Human.** If any dangerous dog shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof. (Ord. 7112)
- (C) **Attack on other animal.** If any dangerous dog shall kill or wound, or assist in killing or wounding, any animal, the owner or keeper shall pay a Two

Hundred Fifty Dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof. If the owner or keeper of a dog impounded pursuant to this Section shall believe that there shall not have been a violation of the provisions of this Section, such owner may petition the Municipal Court, on forms approved by the Municipal Judge, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending the resolution of such owner's petition if the petition shall have been filed within five (5) days of impoundment of such dog and notice shall be have been delivered within five (5) days of the impoundment of such dog to the Humane Society. The dog shall remain impounded pending the determination of the petition. If the court shall find that there shall not have been a violation, such dog shall be released to the custody of the owner upon the payment of the expenses by the owner or keeper. (Ord. 7112)

In addition to the fines provided in this Section, the Municipal Judge shall have the authority to sentence the person adjudicated guilty of this Article to serve up to a maximum of six (6) months in jail. (Ord. 7112)

3-305

DOGS; THREATS TO PUBLIC SAFETY.

Notwithstanding any other provision of this Article to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this Article, the Municipal Judge may order any dog destroyed if the Judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this Article will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the Judge may consider the severity of the attack and such other relevant information. The Municipal Judge shall have the authority to sentence the person adjudicated guilty of this Section to serve up to a maximum of six (6) months in jail and to pay a fine not to exceed \$1,000.00.(Ord. 7112, Ord. 7690)

ARTICLE 4. ENFORCEMENT OF DOUGLAS COUNTY RESOLUTION NO. HR-03-7-3

3-401

ENFORCEMENT OF DOUGLAS COUNTY RESOLUTION NO. HR-03-7-3 WITHIN THE CORPORATE LIMITS OF THE CITY OF LAWRENCE.

Pursuant to K.S.A. 19-101a(a)(5), the City of Lawrence, Kansas, (hereinafter the "City") hereby consents that Resolution No. HR-03-7-3 (relating to the regulation of vicious dogs within Douglas County, Kansas and imposing criminal penalties for the violation thereof) (hereinafter the "Resolution"), as adopted by the Board of County Commissioners of Douglas County, Kansas on July 9, 2003, shall apply within the City limits of the City of Lawrence. (Ord. 7691)

3-402

ENFORCEMENT BY DOUGLAS COUNTY SHERIFF.

The Sheriff of Douglas County, Kansas and said Sheriff's deputies and other agents are hereby expressly granted permission and jurisdiction to investigate and enforce violations or suspected violations of Douglas County Resolution No. HR-03-7-3 within the City limits of the City of Lawrence. (Ord. 7691)

3-403

JOINT COOPERATION.

It is hereby declared the policy of the City that the City's law enforcement officers, animal control officers, and other agents shall jointly cooperate with the Sheriff of Douglas County, Kansas and said Sheriff's deputies and other agents in sharing intelligence, investigating, and enforcing violations or suspected violations of the

Douglas County Resolution No. HR-03-7-3 within the City limits of the City of Lawrence. (Ord. 7691)

3-404

OTHER CITY OF LAWRENCE ANIMAL CONTROL REGULATIONS.

The provisions of Douglas County Resolution No. HR-03-7-3 shall apply within the City of Lawrence in addition to all other City ordinances or regulations. Nothing in this Article shall, by implication or otherwise, serve to repeal or invalidate any other animal control regulations otherwise applicable within the City. (Ord. 7691)

For informational purposes only Douglas County Resolution No. HR-03-7-3 appears below.

RESOLUTION NO. HR-03-7-3

A Resolution of the Board of County Commissioners of Douglas County, Kansas (the "Board"), Imposing Regulations and Criminal Penalties on Owning and Possessing Vicious Dogs in Douglas County, Kansas

WHEREAS, K.S.A. 19-101a, *et seq.* provides the Board with home rule authority to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, consistent with its home rule authority, the Board has previously adopted certain regulations concerning animal control, which regulations are codified in Chapter II of the Code of Douglas County, Kansas; and

WHEREAS, the Board has the authority and desires to adopt additional animal control regulations, with such additional regulations applying within the city limits of any incorporated city within Douglas County, Kansas that consents thereto.

NOW THEREFORE, be it resolved by the Board that:

1. Adoption. The following is hereby enacted and adopted, to be added to the Code of Douglas County, Kansas as Article 5 of Chapter II (Animal Control):

ARTICLE 5. VICIOUS DOGS

2-501 **FINDINGS**. The Board of County Commissioners hereby finds that certain dogs, because of a combination of their physical attributes and disposition or training for aggression, fighting, or attack pose a clear and present threat to public safety in Douglas County, Kansas. Although relatively few in number, such dogs represent a threat to all persons of Douglas County, particularly those persons who can not protect and defend themselves such as children and the elderly. Regardless of the procedures taken to confine such dogs, their mere presence in Douglas County creates an unacceptable risk to the public because such dogs may escape or be released at any time. Because of the clear and present threat to public safety, such dogs are found to be a public nuisance. As a result, the Board of County Commissioners hereby prohibits the ownership and possession of these vicious dogs within Douglas County, Kansas and imposes related regulations, as set forth in this Article.

2-502 **DEFINITIONS**. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

- (a) County Animal Control Director means the person employed by Douglas County and appointed by the Douglas County Sheriff to supervise and administer animal control rules and regulations.
- (b) Court means the Kansas District Court and any county court that Douglas

County may establish from time to time or, if the context requires, a judge, whether a District Judge, a District Magistrate Judge, Judge Pro Tem, a judge of any county court, acting in the judge's official capacity for the such Court, or any other judge authorized to hear cases arising under this Article.

- (c) Law Enforcement Officer means any sworn law enforcement officer, whether of Douglas County or any city within Douglas County, or other person authorized, employed or elected to preserve peace, make arrests or enforce the law within the jurisdiction to which this Article applies.
- (d) Own or Possess means a property interest in an animal, actual or claimed, or the exercise of dominion or control over an animal, or the intent to exercise dominion or control over an animal with the present ability to do so. Any person who keeps, harbors, controls, acts as a custodian of, or knowingly permits an animal to remain on or about any premises shall be deemed to Own or Possess the animal.
- (e) Owner or Possessor means a person who Owns or Possesses an animal.
- (f) Vicious Dog means any dog which,
 - (1) Kills a human being; or
 - (2) Inflicts severe injury to a human being through a sustained and vicious attack; or
 - (3) Has been trained to fight and possess physical attributes such as size, build, or bite strength to inflict Serious Injury to a human being; for this purpose, the following shall be presumed to have been trained to fight: (i) any dog involved in a staged fight, (ii) any dog exhibiting wounds or bodily disfigurements commonly associated with dog fighting, (iii) any dog found or kept on premises at which equipment is located that is commonly associated with training dogs to fight, and (iv) any dog found or kept with other dogs that (a) have been trained to fight or (b) are presumed to have been trained to fight; or
 - (4) Because of its disposition and physical attributes, such as size, build, or bite strength, poses a substantial threat to the life and safety of public safety and emergency response personnel (such as law enforcement officers, fire fighters and paramedics) who are seeking or may seek lawful access to any property in order to perform their duties; or
 - (5) Has the propensity, tendency or disposition to attack a human being without provocation and possesses physical attributes such as size, build, or bite strength to inflict Severe Injury to a human being.

Exceptions. Provided, however, that no dog shall be deemed or declared a Vicious Dog:

- (6) Solely because it inflicted Severe Injury on a human being if the human being was, at the time the Severe Injury was sustained, (i) assaulting the Owner or Possessor of the dog, provided the Owner or Possessor of the dog was not the aggressor, (ii) committing a willful trespass upon the premises of the Owner or Possessor of the dog, or (iii) provoking, tormenting abusing, or assaulting the dog, or

can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times; or

- (7) Solely because it inflicted Severe Injury on a human being if the dog was, at the time the Substantial Injury was sustained, (i) responding to pain or injury, (ii) protecting itself, its kennel, its offspring, or its Owner or Possessor's property, or (iii) protecting or defending another human being within the immediate vicinity of the dog from an unjustified attack or assault; or
- (8) Is Owned or Possessed by a federal, state, or local law enforcement agency.
- (g) Severe Injury means serious bodily injury, such as muscle tears, broken bones, serious disfigurement requiring corrective or cosmetic surgery, or serious impairment of any bodily function.

2-503 UNLAWFUL ACTS CONCERNING VICIOUS DOGS.

- (a) Vicious Dogs as Public Nuisance. Vicious Dogs are declared to be a public nuisance and are hereby prohibited in Douglas County, Kansas.
- (b) Ownership or Possession of Vicious Dog. It shall be unlawful to Own or Possess a Vicious Dog in Douglas County, Kansas. An Owner or Possessor of a dog that falls within the definition of "Vicious Dog" shall be strictly liable under this Section and a conviction shall not require proof of (i) any criminal intent, or (ii) the Owner or Possessor's knowledge of any particular propensity, tendency or disposition of the dog. Each Vicious Dog Owned or Possessed in violation of this Section shall constitute a separate offense.
- (c) Ownership or Possession of Dog following Conviction. It shall be unlawful for any person convicted of Owning or Possessing a Vicious Dog in violation of Section 2-503(b) to Own or Possess any dog, whether or not found to be a Vicious Dog, for a period of 3 years following the date of such conviction.

2-504. EUTHANIZATION OF VICIOUS DOG. If the Court finds, after hearing evidence, that any dog is a Vicious Dog, the Court shall, in addition to any other applicable penalties or remedies, order the County Animal Control Director to cause the dog to be euthanized in accordance with applicable state euthanization laws. The Court may enter such an order as part of a criminal proceeding brought pursuant to Section 2-506 or in a separate civil proceeding brought for such purpose and, in either event, shall impose against the Owner or Possessor of the Vicious Dog the expenses of impounding, keeping, and euthanizing the Vicious Dog. Regardless of whether part of a criminal proceeding or civil proceeding, the standard of proof to determine whether the dog is a Vicious Dog shall be by a preponderance of the evidence. The Owner or Possessor shall be notified (at the Owner or Possessor's last known address) at least 5 days in advance of the date and time of any evidentiary hearing pursuant to this Section and may present contrary evidence at such hearing. The failure of the Owner or Possessor to attend or participate in the hearing, however, shall not prevent the Court from making an appropriate determination concerning the dog.

2-505 IMPOUNDMENT OF VICIOUS DOGS.

- (a) Impoundment. When the County Animal Control Director or any other Law Enforcement Officer has probable cause to believe that any dog is a Vicious Dog, such officer may, in his or her discretion, take custody of the dog and impound it until such time as evidence shall be heard and a determination

made as to whether the dog is a Vicious Dog; provided that if the Owner or Possessor of the dog is not known, the dog may be disposed of pursuant to other applicable law. The dog may be impounded at any incorporated humane society or other location that the County Animal Control Director permits and which is consistent with applicable state impoundment laws. A warrant may be obtained to allow the County Animal Control Director or any other Law Enforcement Officer to go onto any property and take custody of any dog for which there is probable cause to believe it is a Vicious Dog. In addition, the Court may, through its contempt power, compel the Owner or Possessor of any dog to surrender it to the County Animal Control Director or any other Law Enforcement Officer. In the event any dog is found to be a Vicious Dog, the Owner or Possessor of such dog shall be responsible for payment of any expenses of impounding and keeping the dog pending disposition of the case and expenses of euthanizing the dog.

- (b) Discretionary Testing of Suspected Vicious Dog. Whenever any dog is impounded pursuant to this Section based upon probable cause to believe that the dog is a Vicious Dog under Section 2-502(f)(3) (dogs trained to fight with physical attributes to inflict Serious Injury), under Section 2-502(f)(4) (dogs with physical attributes to pose a substantial threat to the life and safety of public safety and emergency response personnel), or Section 2-502(f)(5) (dogs with the propensity, tendency or disposition to attack without provocation with physical attributes to inflict Serious Injury), the County Animal Control Director or any other Law Enforcement Officer may, in his or her discretion, cause any person who is knowledgeable in identifying dogs trained to fight, or who is trained or certified at evaluating animal temperament, including appropriate representatives of the Lawrence Humane Society, to examine the dog and render an opinion as to whether the dog is a Vicious Dog under Section 2-502(f)(3), Section 2-502(f)(4), or Section 2-502(f)(5), with the person examining and rendering the opinion to be chosen by the County Animal Control Director or other Law Enforcement Officer requesting the examination.
- (c) Unauthorized Removal of Impounded Dogs: Actual or Attempted. No person shall remove or attempt to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, whether by force, threat, deceit or otherwise, when such dog has been impounded under the provisions of this Section or any other law, unless the County Animal Control Director or a court of appropriate jurisdiction expressly authorizes the release of the dog.
- (d) Post-Impoundment Review. Within 10 days of impounding a dog pursuant to this Section without a warrant, the Court shall review documentary evidence substantiating the County Animal Control Director's or Law Enforcement Officer's probable cause to determine whether the dog is a Vicious Dog. If the Court determines that the evidence is not sufficient to establish probable cause that the dog is a Vicious Dog and the dog's Owner or Possessor is known, the dog shall be released to its Owner or Possessor as soon as practical.

2-506 CRIMINAL PENALTIES. In addition to any applicable restitution, any person who violates the provisions of this Article shall be subject to the following penalties:

- (a) Violation of Vicious Dog Provisions. Any person who Owns or Possesses a Vicious Dog in violation of Section 2-503(b) shall be guilty of a misdemeanor, punishable as follows:

- (1) First offense, a fine, which shall be set at \$500. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 90 days.
- (2) Second offense committed within 5 years of a prior offense, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.
- (3) Third offense committed within 5 years of 2 prior offenses, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall sentence the defendant to confinement in the county jail for a minimum of 30 days and a maximum of 6 months. The defendant shall be required to serve the minimum 30 day jail sentence and the Court shall have no authority to suspend the first 30 days of such sentence.

(b) Violation of Provisions Regarding Unauthorized Removal of Impounded Dogs. Any person who removes or attempts to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, in violation of Section 2-505(c), shall be guilty of a misdemeanor, punishable by a fine in the amount of \$1,000. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.

(c) Violation of Other Provisions. Any person who Owns or Possesses a dog in violation of Section 2-503(c) or violates any other provision of this Article, shall be guilty of a misdemeanor, punishable by a fine in the amount of \$250. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 30 days.

2-507 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

2-508 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas that adopts an ordinance or resolution or takes other formal action consenting to have this Article apply within such city's boundaries; provided, however, that any city's election to have this Article apply within such city's boundaries shall not, by implication, serve to repeal or invalidate any other animal control regulations otherwise applicable within such city.

2-509 SUPPLEMENTAL REGULATIONS. This Article is supplemental to other existing regulations concerning animal control and the adoption of this Article shall not serve to repeal or invalidate any such regulation.

1. Effective Date. This Resolution shall take effect and be in force from and after its

adoption and publication once in the official County newspaper.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 9th day of July, 2003.

**BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS:**

Bob Johnson, Chair
Charles Jones, Member
Jere McElhane, Member

ATTEST:
Patty Jaimes, County Clerk