

BILL NO. 14-2024

ORDINANCE NO. 1564-2024

AN ORDINANCE AMENDING CHAPTER 205 ANIMAL REGULATIONS SECTIONS 205.010 THROUGH 205.190

WHEREAS, On February 5, 2024, the Board of Aldermen requested staff prepare an ordinance for consideration proposing changes to Chapter 205 Animal Regulations;

WHEREAS, the Kearney Board of Aldermen deems it to be in the best interest of the City to allow amend Municipal Code Chapter 205 Animal Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF KEARNEY MISSOURI, AS FOLLOWS:

Section 1. Chapter 205 - Animal Regulations, Sections 205.010 through 205.190 shall be amended to read as follows:

Section 205.010 Definitions

As used in this Chapter, the following terms mean:

DOG

A dog of either sex if over the age of four (4) months.

EXPOSED TO RABIES

When bitten by, or fought with, or has come in close contact with a dog or other animal shown to be infected with the rabies virus as determined by standard laboratory testing.

OWNER

Any person, group of persons or corporation owning, keeping or harboring a dog or dogs.

RESTRAINT

A dog is under restraint if it is:

- (1) Within a fully enclosed or fenced area including an electronic fence or electric 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, harborer's or maintainer's property. The collar may be controlled manually by a person or automatically in a predetermined manner;
- (2) On a handheld leash by a responsible person physically capable of controlling such dog.

SPAYED FEMALE DOG

A female dog certified by a licensed veterinarian to have been spayed.

Section 205.020 Enforcement.

- A. The provisions of this Chapter shall be enforced by the Chief of Police of Kearney, Missouri, or such members of the Police Department of Kearney, Missouri, as shall be available, or other authorized city official.
- B. For the purpose of discharging the duties imposed by this Chapter and to enforce its provisions, the Chief of Police of Kearney, Missouri, or any Police Officer, or any other authorized city official, is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog of the license for such dog. It is further provided that any such city official acting in their official capacity may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of same when in his/her opinion it requires humane treatment.

Section 205.030 Licensing.

- A. Every person or persons who shall keep or harbor one (1) or more dogs within the City of Kearney, Missouri, shall pay an annual license fee in the amount of \$10.00 for each dog.
- B. The City Clerk shall not issue the license herein required unless there is presented to him/her a signed certificate of a qualified veterinarian admitted to practice in the State of Missouri showing that the dog for which the license is to be issued has been inoculated or vaccinated against hydrophobia or.
- C. No fee shall be required for a dog (but not more than one (1)) owned by a blind person or persons sixty-five (65) years or older. Proof of blindness or age may be made in the form of an affidavit to be signed by the person applying for such license. Such affidavit if based on blindness shall recite that the applicant does not have vision greater than what is known as light perception as such term is used within the meaning of those persons qualified to obtain a blind pension as outlined in the State of Missouri Statutes. All other provisions of this Chapter shall remain in full force and effect as to such persons. In the event of a transfer in ownership to a person who is not blind or sixty-five (65) years or older, immediate application for a license is required.
- D. *Kennels.*
 - 1. Kennel owners or breeders, in compliance with the city's zoning ordinance, shall obtain and maintain an occupational license, or business license, per Municipal Code Section 605.
- E. It shall be the duty of each person purchasing such license to cause a tag to be put upon the neck of the dog for which license is purchased, said tag to bear a number corresponding to the number of the license issued.

Section 205.040 Restraint.

- A. It shall be the duty of the Chief of Police or any person authorized by him/her, or any other authorized city official, to capture all dogs running at large within the City limits upon which

the license fee shall have not been paid. If the same are not claimed within five (5) days from date of said capture, the required license not paid, then the Chief of Police or other authorized officer is directed to destroy or release for adoption such unclaimed or unlicensed dog.

- B. Dogs not licensed pursuant to this Chapter or found not under restraint or abandoned may be seized and impounded by any Police Officer or authorized agent of the City and the owner of any dog captured and restrained by any Police Officer or authorized agent shall pay twenty-five dollars (\$25.00) for the cost of such capture and \$40.00 a day for each day, or partial day thereof, of restraint.
- C. Due to weather conditions, dogs may be impounded in an animal shelter so designated by the City in accordance with an animal housing agreement. The owner of the dog shall be responsible for the expenses of impoundment and/or treatment, per said agreement.

Section 205.050 Confinement and Keeping of Dogs.

- A. The owner, keeper or person harboring such female dogs shall confine the same in heat within a building in such manner that the dog will not be accessible to other dogs except for planned breeding and will not attract male dogs. If any such female dog is found running at large, the Chief of Police or other authorized Police personnel, or any other authorized city official, may capture, restrain and impound the same under the same penalties and the same charges heretofore designated for dogs without license.
- B. The owner of a dog shall provide it with humane shelter from heat, cold, wind and snow and shall give it food, water adequate to keep the animal in good health and comfort. Doghouses and kennels must be soundly constructed, dry and provided in cold weather with clean bedding. All dogs must be given opportunity for vigorous daily exercise and must be provided by the owners with veterinary care when needed to prevent suffering. No owner shall permit a dog to habitually bark, howl, or in other ways to be a public nuisance. The word "*dog*", as used in this Section, shall be held and construed to mean all animals of the canine species, both male and female.
- C. No person shall kill a rabid animal, whether dog or otherwise, exposed to rabies nor remove such an animal from the City limits without permission from the Chief of Police or authorized Police personnel except when it is necessary to kill such animal to prevent it from escaping or from biting any other animal or person. The body of any animal dead of rabies or been exposed to rabies prior to death shall be surrendered by the owner upon demand of the Chief of Police or authorized Police personnel to the City of Kearney.

Section 205.060 Exemptions.

Hospitals, clinics and other facilities operated by a licensed veterinarian for the care and treatment of animals within the City limits of the City of Kearney are exempt from all provisions of this Chapter except those Sections referring to the care of dog, female dogs in heat, and those in connection with the care and treatment of dogs suspected of rabies or having died from rabies. The licensing provisions of the Chapter shall not apply to non-residents of the City unless they keep a dog within the City for more than thirty (30) days.

Section 205.070 Number of Animals Allowed.

Except for kennel owners or breeders, no owner or family shall own, keep or harbor more than three (3) dogs over the age of four (4) months. Not more than three (3) such dogs shall be allowed in any single household.

Section 205.080 Penalties.

Any person, group of persons or corporation violating any Section of this Chapter shall be deemed guilty of an ordinance violation and shall be punished by a fine of not less than one dollar (\$1.00) and not more than ninety dollars (\$90.00). If such violation be continuing, each day's violation shall be a separate ordinance violation.

Article II – Dangerous Animals

As used in this Article, the following terms shall have these prescribed meanings:

Section 205.090 Definitions.

ANIMAL CONTROL OFFICER

An officer or agent designated by the City of Kearney to enforce this Article and may include a Police Officer.

DANGEROUS ANIMAL

Any animal having evidenced a disposition, propensity or tendency to attack or bite any person or other animal without provocation; or any animal which, without provocation, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any animal which is wild by nature and of a species which, due to size, vicious nature or other characteristics, constitutes a danger to human life, physical well-being or property; or any animal which has been found to be vicious, dangerous, or a danger or menace to persons or other animals by a court of law of another jurisdiction after a hearing or upon a plea agreement is hereby deemed to be a dangerous animal. For the purpose of this Article, where the official records of the Animal Control Officer or the Police Department of this City or any other jurisdiction establish that an animal has bitten any person or other animal on one (1) or more separate occasions without provocation, such evidence shall be prima facie evidence that said animal is a dangerous animal. In making a determination as to whether an animal is dangerous, elements that may be considered, but are not required to be, are provocation, location of the event, reason for the attack, whether the animal is acting protectively, whether the animal was tormented or abused, the seriousness of an attack, and previous attacks.

OWNER

The person having the right of property or custody of a dog or animal or who keeps or harbors a dog or animal or knowingly permits a dog or animal to remain on or about any premises occupied by that person.

Section 205.100 Enforcement of Provisions.

The provisions of this Article shall be enforced by Police and/or Animal Control Officers.

Section 205.110 Animals That Bite Humans.

- A. Every animal that has bitten any person or persons shall be immediately confined by the owner who shall promptly notify a Police Officer or Animal Control Officer. The owners shall, upon demand by a Police Officer or Animal Control Officer, surrender any such animal for quarantine in the designated City pound or a licensed veterinary hospital and shall be held responsible for all costs incurred during the quarantine period. The animal must, in any event, be quarantined for ten (10) days. The owner shall pay all boarding fees and costs of having his/her animal vaccinated against rabies, if any, before release from the kennel.
- B. When bitten by a rabid animal, unvaccinated animals should be destroyed immediately. If the owner is unwilling to have this done, the unvaccinated animal shall be placed in strict isolation for six (6) months and shall be vaccinated one (1) month before being released. The owner shall pay the cost of the "strict isolation" and the vaccination.

Section 205.120 Authority To Inspect Premises.

Any Police Officer or Animal Control Officer is authorized to enter any premises, other than the interior of any human residence located thereon, where a dog or other animal is kept or harbored to inspect conditions under which the dog or animal is kept and to require the owner to exhibit a veterinarian tag for a dog. No person shall hinder, molest or interfere with any Police Officer or Animal Control Officer in the performance of his/her duties.

Section 205.130 Harboring Dangerous Animal.

It is illegal to harbor or keep within the City of Kearney an animal that is a "dangerous animal" or to own such an animal and allow it to be kept or harbored within the City of Kearney, except as allowed by the provisions of this section.

Section 205.140 Dangerous Animals, Exotic Animals and Wild Animals Prohibited.

- A. Prohibition. The owning, keeping and harboring of any dangerous, exotic or wild animal is hereby prohibited, except as provided in subsection B of this section, and no person shall keep or permit to be kept any dangerous, exotic or wild animal as a pet other than dangerous dogs as regulated by this chapter. The animal control officer shall have the authority to declare an animal dangerous if such animal demonstrates dangerous behavior or has demonstrated prior dangerous behavior, is deemed inherently dangerous due to the nature of the animal, or presents a violation of any of the provisions of this chapter.
- B. Exception. Dangerous, exotic or wild animals may be kept in a properly maintained and licensed zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge, only after animals have been registered with the animal control office. The Federal Animal Welfare Act must be strictly followed if any dangerous, exotic or wild animal is to be kept by a zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge.

- C. Notice. Upon the written complaint of any person that a person owns, or is keeping or harboring a dangerous, exotic or wild animal within the city in violation of this section, the animal control officer shall conduct an investigation, and if the investigation reveals evidence that indicates that such person named in the complaint is in fact the owner, keeper or harbinger of any such dangerous, exotic or wild animal in the city, the city shall mail written notice, return receipt requested, to the property owner where the animal is located requiring the safe removal of the animal from the city within five (5) days.
- D. Severe injury or death to any person. If a dangerous, exotic or wild animal has caused severe injury or death to any person, the city shall cause the animal to be immediately seized and impounded without notice to the owner. No such animal may be redeemed by the owner or possessor unless ordered by the animal control officer, chief of police, or his or her designee, or by order of a court of competent jurisdiction, and the city shall have the power to destroy such animal as an exercise of police power to protect the health and safety of the city.
- E. At Large. If a dangerous, exotic or wild animal has escaped and is at large, the city shall cause the animal to be immediately seized and impounded. The animal control officer shall make reasonable efforts to immediately notify the owner or possessor of said animal of the seizure and impoundment. Any animal impounded may be redeemed by its owner or possessor from the location where impounded during business hours or as authorized by the supervisor of said facility. Any animal not redeemed from the city within ten days shall be disposed of at the discretion of the animal control officer, the chief of police, or his or her designee.
- F. Noncompliance. If, after notice as described in subsection D above, the person owning, keeping or harboring a dangerous, exotic or wild animal has failed to comply with the notice to remove the animal within the specified time period, the city shall forthwith cause the animal to be seized and impounded. Any animal so impounded may be redeemed by its owner or possessor during business hours as authorized by the supervisor of said facility when the owner or possessor provides proof to the animal control officer and the chief of police, or his or her designee, that a site outside of the city has been prepared for the relocation and removal of the animal. Any animal not redeemed within ten days shall be disposed of at the discretion of the animal control officer and the chief of police, or his or her designee.
- G. Seizure and Impoundment. Any animal seized and impounded by the city, for any reason, shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept own, keep or harbor such animals. If, during either the seizure or impoundment of any such animal or both, the animal poses a risk of causing severe injury or death to any persons, such person or persons authorized by the city, including a licensed veterinarian providing care for said animal, may render the animal immobile by means of tranquilizer or other safe drugs, and if such mobilization cannot be safely performed, then the animal shall be destroyed as an exercise of police power to protect the health and safety of the city.
- H. Expenses. Any reasonable expenses incurred by the city in seizing, impounding and confining any dangerous, exotic or wild animal shall be charged against the owner, keeper or harbinger of such animal. Such charges shall be in addition to any fine or penalty provided for violating this section.

- I. Appeals. The owner, keeper or harbinger of any dangerous, exotic or wild animal may appeal the findings of the animal control officer by filing a written request for hearing within five (5) days of receipt of a notice requiring the removal of the animal from the city.

Section 205.150 Failure To Comply With Notice.

- A. The Animal Control Officer or Police Officer shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice given pursuant to Section 205.140 and shall issue to said person a general ordinance summons for a violation of Section 205.140.
- B. Any time a dangerous animal is seized, impounded or killed, a general ordinance summons for the violation of either Section 205.130 or Section 205.140 shall be issued.

Section 205.155 – Dangerous Animal Provisions - Dogs

- A. The Judge of the municipal court shall declare a dog dangerous when:
 1. Bite to a Human
 - (a) When evidence shows an attack or bite to a human is a Level 4 or higher on the Dunbar scale, set forth in this section; or
 - (b) When evidence shows an attack or bite to a human is less than a Level 4 on the Dunbar scale and pattern of vicious behavior such as habitually snapping, charging, growling, or otherwise manifests a disposition to bite, attack or injure any person, domestic animal or pet if afforded the opportunity, or if in the judgment of the court it causes any person to have a reasonable fear of immediate serious physical injury.
 - (c) Dunbar Scale – Bite to Human
 - (1) Level 1. Obnoxious or aggressive behavior but no skin-contact by teeth.
 - (2) Level 2. Skin-contact by teeth but no skin-puncture. However, may be skin nicks (less than one-tenth of an inch deep) and slight bleeding caused by forward or lateral movement of teeth against skin, but no vertical punctures.
 - (3) Level 3. One to four punctures from a single bite, which may have lacerations in a single direction, caused by victim pulling hand away, owner pulling dog away, or gravity (little dog jumps, bites and drops to floor).
 - (4) Level 4. One to four punctures from a single bite, with deep bruising around the wound (such as when a dog held on and bore down) or lacerations in both directions (such as when a dog held on and shook its head from side to side).
 - (5) Level 5. Multiple-bite incident with at least two Level 4 bites or multiple-

attack incident with at least one Level 4 bite in each.

(6) Level 6. Victim dead.

2. Bite to an Animal

(a) When evidence shows an attack upon another domestic animal is a Level 4 or higher on the Animal bite scale, set forth in this section, and a pattern of vicious behavior such as habitually snapping, charging, growling, or otherwise manifests a disposition to bite, attack or injure any person or domestic animal or pet if afforded the opportunity, or if in the judgment of the court it causes any person to have a reasonable fear of immediate serious physical injury.

(b) Dunbar Scale – Bite to Animal

(1) Level 1. Growls, shows teeth, barks, hard stares, snaps, no contact by teeth.

(2) Level 2. Single bite, saliva, no punctures, possible missing fur or scrapes.

(3) Level 3. One to four punctures, bruising and swelling may be present.

(4) Level 4. One to four punctures, lacerations or tearing, bruising, swelling, signs of shaking may be present.

(5) Level 5. Same elements of level 4 may be present, consists of multiple bites, or internal injuries instead of or in addition to.

(6) Level 6. Victim dead.

3. Has been previously found to be dangerous by another entity and the owner or keeper received notice of such.

Any animal, whether previously declared to be a dangerous animal or not, responsible for a severe or fatal attack on a human being or another animal may be ordered humanely euthanized by the Judge of the municipal court upon the expiration of the appeal period.

4. In the event of a successful appeal, the Judge of the municipal court shall require that the owner pay all dangerous animal boarding and redemption fees in addition to any other costs of care incurred, prior to the animal being released. Such amount as established by ordinance from time to time, plus any other license fees or immunization costs imposed under this chapter. Failure or refusal to pay such fees shall constitute abandonment of any ownership rights to the seized animal, and the Judge shall immediately order the animal's disposal.

B. Upon recommendation by Animal Control.

Upon the filing of an affidavit of the Animal Control Officer with the municipal Prosecutor,

alleging the animal should be deemed a dangerous animal, and upon the request of the Prosecutor, the Judge of the municipal court may order any of the following: that the animal be seized and impounded, that the animal be impounded past the rabies observation period, or that the animal be impounded during the pendency of charges and appeal and not be released while the charges or appeal are pending.

C. Dangerous animal provisions, when euthanization not ordered.

It shall be unlawful for any person to own, harbor or possess a dangerous or dangerous animal, except as allowed by the provisions of this section.

1. Fees – Animals impounded under this section are subject to a dangerous animal boarding fee. An owner, when release is granted by the Judge of the municipal court, may redeem such animal from impoundment upon payment of all boarding and redemption fees, license fee and any costs of care incurred.
2. Conditions of release - Any animal declared dangerous by the Judge of the municipal court and not ordered euthanized shall, as a condition of residing within the corporate limits of the City, be required to meet the following mandated restrictions:
 - (a) Microchip. That a microchip has been placed into the animal by the Animal Control Authority for the purpose of registering such animal with the City. The microchip shall contain the owner's, keeper's or harborer's generated and assigned "dangerous animal registration number" and such other information as required pursuant to the rules and regulations of the City. The Animal Control Authority shall keep records of the microchip placement and of the registration number.

It shall be a violation of this Code for a microchip to be removed unless it is for a medical reason and then only by a licensed practicing veterinarian. The Animal Control Authority must be notified immediately of said removal.

- (b) Confinement. The animal shall be securely confined indoors or in a securely enclosed and locked kennel or cage. The kennel or cage shall be the size appropriate to the size of the animal kept therein (minimum dimensions of five feet (5) by 10 feet) and shall provide adequate ventilation, shade from the sun, and protection from the elements. In the event of a dispute over the appropriate size, the guidelines of the state department of agriculture regulations for animal care facilities shall apply. The kennel or cage must be constructed with nine-gauge steel chain link. Such kennel or cage must have secure sides, a secure top, and secure bottom or floor attached to the sides, or the sides must be embedded in the ground. In addition, the kennel or cage must have a double-blind entrance and must be locked with a key or combination lock when such animal is within the structure. Any such kennel or cage must be located at least 25 feet from the nearest point to the dwelling of another, a church, a school or a place of business of another and must comply with all zoning and building regulations of the City.
 - (1) Notice. A conspicuous notice, which shall be at least two feet by three feet, posted at the place of confinement and on the premises stating

"Dangerous Animal" in at least two-inch block letters and contain the international symbol for danger, as to warn the public of the nature of the animal therein confined.

- (2) No dangerous animal shall be confined by an electronic fence or an electric collar. Electronic collars may not be used to control a dangerous animal when it is off the owner's, keeper's, harborer's or maintainer's property.
 - (3) No dangerous animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such structure on its own volition. In addition, no dangerous animal shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only barrier preventing the animal from exiting the structure.
- (c) No person shall permit a dangerous animal to go outside its kennel, cage, or secure structure unless that person is age 18 or older, that person has the dangerous animal securely leashed to a buckle collar and on a leash no longer than six feet in length, and that person has physical control of the animal. Such dangerous animal shall not be leashed to inanimate objects such as trees, posts and buildings. Additionally, such dangerous animal on a leash outside the animal's kennel, cage, or secure structure must be muzzled by a humane muzzling device sufficient to prevent the animal from biting persons or other animals.
- (d) The dangerous animal shall not be allowed by remedy to be removed from the City to a location outside of the City limits, unless ordered by the municipal Judge.
- (e) Any animal declared dangerous by the Judge of the municipal court cannot be sold, given away, or ownership otherwise transferred without the expressed permission of the Animal Control Authority.
- (f) Sterilization. That the animal has been sterilized by a licensed veterinarian and proof of such has been provided to the Animal Control Authority. Sterilization must be completed prior to the release of the animal to the owner, keeper or harborer from impoundment due to rabies quarantine or immediately following the quarantine period, if animal is to be confined to owner's premises.

Exceptions:

- (1) The animal is under eight (8) weeks of age;
 - (2) The animal cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such condition and determine the time frame after which the animal can be spayed or neutered.
- (g) Proof of Liability Insurance. For a dangerous animal a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less

than \$300,000, insuring the owner or keeper for personal injuries inflicted by the animal. An insurance policy issued to satisfy the insurance requirements of this section shall provide for written notice to the City within 30 days of cancellation, reduction of limits, or termination of coverage.

- (h) Licensure required. Other than when a commissioned Police Officer is using an animal for law enforcement or when an animal is being held in quarantine pursuant to law by a licensed veterinarian, no person shall own, keep, harbor or allow to be upon any premises occupied by him or her or under his or her charge or control a dangerous animal without first having obtained a license within 30 days of the date of declaration provided for by this section.
- (i) Licensure. The owner, keeper, or harbinger of a dangerous animal shall obtain a dangerous animal license from the Animal Control Authority for any such animal.

(1) Licensure Fees

The owner, keeper, or harbinger shall pay the fee for such dangerous animal license in the amount set forth in this section. In addition, the owner, keeper, or harbinger of such animal shall pay an annual renewal fee for such license in the amount set forth in this subsection. Annual renewal of any license shall be conditioned on compliance with the requirements of this section. The Animal Control Authority is authorized to pro rate the license fee for the remainder of the first year during which an animal becomes subject to the registration requirements, of this section.

(2) Licensure Information. The owner, keeper, or harbinger of an animal that is subject to a dangerous animal license shall furnish the following information along with the appropriate license fee:

- (i) The animal's age, weight, coloring, breed, and any other special identifying characteristics;
- (ii) Two 3" x 5" color photographs of the animal;
- (iii) Proof of current rabies vaccination for the animal;
- (iv) Certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous animal by any other jurisdiction; and (5) a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

(3) Licensure Fee Amounts. The license fee for each dangerous animal to be licensed pursuant to this section is \$250.00. The annual renewal fee for each dangerous animal licensed pursuant to this subsection is \$125.00.

- (j) Issuance of certificate of registration. A certificate of registration for a dangerous

animal shall be issued by the City upon a showing of compliance with the requirements of this Article:

- (1) Microchipped;
- (2) Secure Enclosure and Posted Notice;
- (3) Sterilization;
- (4) Liability Insurance; and
- (5) Dangerous Animal License.

(k) Age Violation

It is a violation of this chapter for any person under the age of 18 years to own, keep, harbor or maintain control of a dangerous animal, within the City limits.

- (l) Refusal or failure to comply with any of the mandated restrictions or authorized inspection shall constitute a violation of this section and, in addition, shall be considered as justifiable grounds for the Judge of the municipal court to order further restrictions or euthanization of the animal.

Section 205.160 Penalties.

Any person found guilty of violating the provisions of this Article shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. The court shall have the power to order the impoundment, release, removal from the City, return to the City, or confinement by an individual of any animal seized, impounded, or the subject of a violation charge under Sections 205.130, 205.140 and 205.150 after a preliminary or final hearing on the merits. Nothing herein shall in any way restrict the initial seizure or impoundment pursuant to Sections 205.130, 205.140 and 205.150. Nothing herein confers a right to any preliminary hearing before the court on any issue. The court shall have the power to assess the costs of boarding any dangerous animal boarded by the City upon any conviction and cause said assessment to be paid.

Section 205.170 Authority To Designate Animal Shelters.

Dogs which have not been vaccinated against rabies and have not been issued a tag by a licensed veterinarian pursuant to this Article; or dogs or animals who have allegedly been cruelly treated or been abused by those in whose care they reside; or dogs or animals that are sick or have been injured and require treatment and the owner cannot be located; or dogs or other animals found not under restraint may be seized and impounded by any Police or Animal Control Officer and said dog or animal that has been impounded may be treated if necessary. Impoundment may be in any animal shelter so designated by the person in charge of animal control. The owner of the dog or animal shall be responsible for the expenses of impoundment and/or treatment.

Section 205.180 Disposition of Unredeemed Animals.

If a dog or other animal is not redeemed by the owner within five (5) business days after impoundment, the dog or other animal may be disposed of in one (1) of the following ways: Euthanasia, using a method approved by the Humane Society of the United States; release for adoption by a new owner who shows evidence of ability and intention to provide the dog or other animal with an appropriate home and humane care and who has the dog or other animal vaccinated against rabies by a licensed veterinarian within forty-eight (48) hours. Proof of said vaccination shall be submitted to the Animal Control Officer within that time period.

Section 205.190 Redemption By Owners.

- A. An owner of an animal impounded under Sections 205.130, 205.140 or 205.150 or the persons charged with a violation of any of said Sections may redeem the animal at any time after impoundment terms are completed but shall not return said animal to the City of Kearney or allow said animal to remain within the City of Kearney unless and until said animal is found not to be dangerous by the Municipal Court of the City of Kearney or a higher court or until said court has authorized, by order, its return.
- B. Animals not redeemed shall be impounded until a decision is rendered by the court as to whether the animal is a dangerous animal. If the animal is adjudged a "dangerous animal" by the court and it is not redeemed with five (5) business days of the court's decision, the animal shall be disposed of in the manner set forth in Section 205.180.
- C. If the animal is not found by the court to be a "dangerous animal", it shall be released immediately to its owner or the person charged with the violation. If it is not claimed or redeemed within five (5) business days thereafter, it shall be disposed of pursuant to Section 205.180.

Section 2. This ordinance shall be in full force and effect on after passage by the Board of Aldermen and approval by the Mayor.

ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN, CITY OF KEARNEY, MISSOURI, THIS 4TH DAY OF MARCH, 2024.

APPROVED:

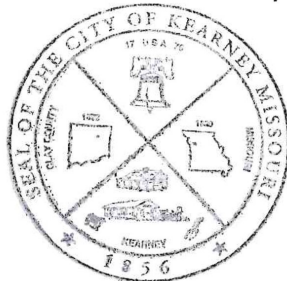


Randy Pogue, Mayor

ATTEST:



Sheila Ernzen, City Clerk



Proposed Changes to Chapter 205 – Animal Regulations

Proposed additions in **bold**

Proposed deletions in ~~strikethrough~~

Article I – In General

Section 205.010 Definitions

As used in this Chapter, the following terms mean:

DOG

A dog of either sex if over the age of four (4) months.

EXPOSED TO RABIES

When bitten by, or fought with, or has come in close contact with a dog or other animal shown to be infected with the rabies virus as determined by standard laboratory testing.

OWNER

Any person, group of persons or corporation owning, keeping or harboring a dog or dogs.

RESTRAINT

~~A dog is under restraint if it is under the immediate and effective control of a responsible person provided, however, that if such a dog is not within an enclosed place on its owner's premises or other premises with the consent of the owner of such premises or securely tied on its owner's premises or other premises with the consent of the owner of such premises. "Immediate and effective control" shall be construed to mean that a responsible person must be in a position to see and control the dog.~~

A dog is under restraint if it is:

- (1) **Within a fully enclosed or fenced area including an electronic fence or electric 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, harborer's or maintainer's property. The collar may be controlled manually by a person or automatically in a predetermined manner;**
- (2) **On a handheld leash by a responsible person physically capable of controlling such dog.**

SPAYED FEMALE DOG

A female dog certified by a licensed veterinarian to have been spayed.

Section 205.020 Enforcement.

- A. The provisions of this Chapter shall be enforced by the Chief of Police of Kearney, Missouri, or such members of the Police Department of Kearney, Missouri, as shall be available, or other authorized city official.
- B. For the purpose of discharging the duties imposed by this Chapter and to enforce its provisions, the Chief of Police of Kearney, Missouri, or any Police Officer, or any other authorized city official, is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog of the license for such dog. It is further provided that any such city official acting in their official capacity may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of same when in his/her opinion it requires humane treatment.

Section 205.030 Licensing.

- A. Every person or persons who shall keep or harbor one (1) or more dogs within the City of Kearney, Missouri, ~~except kennel operators as hereinafter defined,~~ shall pay an annual license ~~fee tax~~ in the amount of **\$10.00** ~~seven dollars fifty cents (\$7.50)~~ for each dog, ~~except that the license tax for each unspayed female shall be ten dollars (\$10.00) annual tax.~~
- B. The City Clerk shall not issue the license herein required unless there is presented to him/her a signed certificate of a qualified veterinarian admitted to practice in the State of Missouri showing that the dog for which the license is to be issued has been inoculated or vaccinated against hydrophobia or ~~rabies within six (6) months prior to the date of such application.~~
- C. No fee shall be required for a dog (but not more than one (1)) owned by a blind person or persons sixty-five (65) years or older. Proof of blindness or age may be made in the form of an affidavit to be signed by the person applying for such license. Such affidavit if based on blindness shall recite that the applicant does not have vision greater than what is known as light perception as such term is used within the meaning of those persons qualified to obtain a blind pension as outlined in the State of Missouri Statutes. All other provisions of this Chapter shall remain in full force and effect as to such persons. In the event of a transfer in ownership to a person who is not blind or sixty-five (65) years or older, immediate application for a license is required.
- ~~D. It shall be the duty of the City Clerk to purchase for the City as many dog license~~

~~blanks as the Chief of Police may estimate to be necessary for that year and to deliver a blank to each person paying for one (1) or more licenses. Such blank to be signed by the City Clerk and the Seal of the City affixed thereto.~~

~~E. D. Kennels.~~

- ~~1. Kennel owners or breeders, in compliance with the city's zoning ordinance, shall obtain and maintain an occupational license, or business license, per Municipal Code Section 605. a kennel license upon payment of fifteen dollars (\$15.00). An affidavit, together with the application for license, shall be presented setting forth and describing the kennel or breeding operation for which such license is sought. If such application is by a person who is a bona fide kennel owner or breeder of dogs and provide that all dogs kept in connection with such operation and not licensed as otherwise provided herein are kept upon the applicant's premises at all times, such payment shall be exclusive of any other fees mentioned.~~
- ~~2. Such kennel license shall be issued for one (1) year beginning on the first (1st) day of June of each calendar year in the year of operation. The operator may apply for the license in June without penalty or delay when an application which should have been made by June thirtieth (30th) is not made until after said date, the appropriate license fee shall be increased by fifty percent (50%). If an operation shall commence after June thirtieth (30th), then the license fee for the year of commencement may be prorated to the nearest quarter and the fifty percent (50%) penalty for delinquency shall be added thirty (30) days after the date the license should have been procured.~~

~~F. E. It shall be the duty of each person purchasing such license to cause a tag to be put upon the neck of the dog for which license is purchased, said tag to bear a number corresponding to the number of the license issued.~~

~~G. The license herein required shall be purchased on or before the first (1st) day of June of each calendar year except for dogs acquired after such date on which tax must be paid in ten (10) days of the acquisition of the dog and the license tax prorated then to the nearest quarter.~~

Section 205.040 Restraint.

A. It shall be the duty of the Chief of Police or any person authorized by him/her, or any other authorized city official, to capture all dogs running at large within the City limits upon which the license fee shall have not been paid. If the same are not claimed within five (5) days from date of said capture, the required license not paid, then the Chief of Police or other authorized officer is directed to destroy or release for adoption such unclaimed or unlicensed dog.

- B. Dogs not licensed pursuant to this Chapter or found not under restraint or abandoned may be seized and impounded by any Police Officer or authorized agent of the City and the owner of any dog captured and restrained by any Police Officer or authorized agent shall pay twenty-five dollars (\$25.00) for the cost of such capture and **\$40.00** ~~five dollars (\$5.00)~~ a day for each day, or **partial day thereof**, of restraint.
- C. **Due to weather conditions, dogs may be impounded in an animal shelter so designated by the City in accordance with an animal housing agreement. The owner of the dog shall be responsible for the expenses of impoundment and/or treatment, per said agreement.**

Section 205.050 Confinement and Keeping of Dogs.

- A. The owner, keeper or person harboring such female dogs shall confine the same in heat within a building in such manner that the dog will not be accessible to other dogs except for planned breeding and will not attract male dogs. If any such female dog is found running at large, the Chief of Police or other authorized Police personnel, or any other authorized city official, may capture, restrain and impound the same under the same penalties and the same charges heretofore designated for dogs without license.
- B. The owner of a dog shall provide it with humane shelter from heat, cold, wind and snow and shall give it food, water adequate to keep the animal in good health and comfort. Doghouses and kennels must be soundly constructed, dry and provided in cold weather with clean bedding. All dogs must be given opportunity for vigorous daily exercise and must be provided by the owners with veterinary care when needed to prevent suffering. No owner shall permit a dog to habitually bark, howl, or in other ways to be a public nuisance. The word "*dog*", as used in this Section, shall be held and construed to mean all animals of the canine species, both male and female.
- C. No person shall kill a rabid animal, whether dog or otherwise, exposed to rabies nor remove such an animal from the City limits without permission from the Chief of Police or authorized Police personnel except when it is necessary to kill such animal to prevent it from escaping or from biting any other animal or person. The body of any animal dead of rabies or been exposed to rabies prior to death shall be surrendered by the owner upon demand of the Chief of Police or authorized Police personnel to the City of Kearney.

Section 205.060 Exemptions.

Hospitals, clinics and other facilities operated by a licensed veterinarian for the care and treatment of animals within the City limits of the City of Kearney are exempt from all provisions of this Chapter except those Sections referring to the care of dog, female dogs in heat, and those in connection with the care and treatment of dogs suspected of rabies or having died from rabies. The licensing provisions of the Chapter shall not apply to non-

residents of the City unless they keep a dog within the City for more than thirty (30) days.

Section 205.070 Number of Animals Allowed.

Except for kennel owners or breeders, no owner or family shall own, keep or harbor more than three (3) dogs over the age of four (4) months. Not more than three (3) such dogs shall be allowed in any single household.

Section 205.080 Penalties.

Any person, group of persons or corporation violating any Section of this Chapter shall be deemed guilty of an ordinance violation and shall be punished by a fine of not less than one dollar (\$1.00) and not more than ninety dollars (\$90.00). If such violation be continuing, each day's violation shall be a separate ordinance violation.

Article II – Dangerous Animals

As used in this Article, the following terms shall have these prescribed meanings:

Section 205.090 Definitions.

ANIMAL CONTROL OFFICER

An officer or agent designated by the City of Kearney to enforce this Article and may include a Police Officer.

DANGEROUS ANIMAL

Any animal having evidenced a disposition, propensity or tendency to attack or bite any person or other animal without provocation; or any animal which, without provocation, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any animal which is wild by nature and of a species which, due to size, vicious nature or other characteristics, constitutes a danger to human life, physical well-being or property; or any animal which has been found to be vicious, dangerous, or a danger or menace to persons or other animals by a court of law of another jurisdiction after a hearing or upon a plea agreement is hereby deemed to be a dangerous animal. For the purpose of this Article, where the official records of the Animal Control Officer or the Police Department of this City or any other jurisdiction establish that an animal has bitten any person or other animal on one (1) or more separate occasions without provocation, such evidence shall be prima facie evidence that said animal is a dangerous animal. In making a determination as to whether an animal is dangerous, elements that may be considered, but are not required to be, are provocation, location of the event, reason for the attack, whether the animal is acting protectively, whether the animal was tormented or abused, the seriousness of an attack, and previous attacks.

OWNER

The person having the right of property or custody of a dog or animal or who keeps or harbors a dog or animal or knowingly permits a dog or animal to remain on or about any premises occupied by that person.

Section 205.100 Enforcement of Provisions.

The provisions of this Article shall be enforced by Police and/or Animal Control Officers.

Section 205.110 Animals That Bite Humans.

- A. Every animal that has bitten any person or persons shall be immediately confined by the owner who shall promptly notify a Police Officer or Animal Control Officer. The owners shall, upon demand by a Police Officer or Animal Control Officer, surrender any such animal for quarantine in the designated City pound or a licensed veterinary hospital and shall be held responsible for all costs incurred during the quarantine period. The animal must, in any event, be quarantined for ten (10) days. The owner shall pay all boarding fees and costs of having his/her animal vaccinated against rabies, if any, before release from the kennel.
- B. When bitten by a rabid animal, unvaccinated animals should be destroyed immediately. If the owner is unwilling to have this done, the unvaccinated animal shall be placed in strict isolation for six (6) months and shall be vaccinated one (1) month before being released. The owner shall pay the cost of the "strict isolation" and the vaccination.

Section 205.120 Authority To Inspect Premises.

Any Police Officer or Animal Control Officer is authorized to enter any premises, other than the interior of any human residence located thereon, where a dog or other animal is kept or harbored to inspect conditions under which the dog or animal is kept and to require the owner to exhibit a veterinarian tag for a dog. No person shall hinder, molest or interfere with any Police Officer or Animal Control Officer in the performance of his/her duties.

Section 205.130 Harboring Dangerous Animal.

It is illegal to harbor or keep within the City of Kearney an animal that is a "dangerous animal" or to own such an animal and allow it to be kept or harbored within the City of Kearney, **except as allowed by the provisions of this section.**

Section 205.140 Dangerous Animals, Exotic Animals and Wild Animals Prohibited.

- A. **Prohibition. The owning, keeping and harboring of any dangerous, exotic or wild animal is hereby prohibited, except as provided in subsection B of this section, and no person shall keep or permit to be kept any dangerous, exotic or wild animal as a**

pet other than dangerous dogs as regulated by this chapter. The animal control officer shall have the authority to declare an animal dangerous if such animal demonstrates dangerous behavior or has demonstrated prior dangerous behavior, is deemed inherently dangerous due to the nature of the animal, or presents a violation of any of the provisions of this chapter.

- B. Exception. Dangerous, exotic or wild animals may be kept in a properly maintained and licensed zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge, only after animals have been registered with the animal control office. The Federal Animal Welfare Act must be strictly followed if any dangerous, exotic or wild animal is to be kept by a zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge.**
- C. Notice. Upon the written complaint of any person that a person owns, or is keeping or harboring a dangerous, exotic or wild animal within the city in violation of this section, the animal control officer shall conduct an investigation, and if the investigation reveals evidence that indicates that such person named in the complaint is in fact the owner, keeper or harbinger of any such dangerous, exotic or wild animal in the city, the city shall mail written notice, return receipt requested, to the property owner where the animal is located requiring the safe removal of the animal from the city within five (5) days.**
- D. Severe injury or death to any person. If a dangerous, exotic or wild animal has caused severe injury or death to any person, the city shall cause the animal to be immediately seized and impounded without notice to the owner. No such animal may be redeemed by the owner or possessor unless ordered by the animal control officer, chief of police, or his or her designee, or by order of a court of competent jurisdiction, and the city shall have the power to destroy such animal as an exercise of police power to protect the health and safety of the city.**
- E. At Large. If a dangerous, exotic or wild animal has escaped and is at large, the city shall cause the animal to be immediately seized and impounded. The animal control officer shall make reasonable efforts to immediately notify the owner or possessor of said animal of the seizure and impoundment. Any animal impounded may be redeemed by its owner or possessor from the location where impounded during business hours or as authorized by the supervisor of said facility. Any animal not redeemed from the city within ten days shall be disposed of at the discretion of the animal control officer, the chief of police, or his or her designee.**
- F. Noncompliance. If, after notice as described in subsection D above, the person owning, keeping or harboring a dangerous, exotic or wild animal has failed to comply with the notice to remove the animal within the specified time period, the city shall forthwith cause the animal to be seized and impounded. Any animal so impounded may be redeemed by its owner or possessor during business hours as**

authorized by the supervisor of said facility when the owner or possessor provides proof to the animal control officer and the chief of police, or his or her designee, that a site outside of the city has been prepared for the relocation and removal of the animal. Any animal not redeemed within ten days shall be disposed of at the discretion of the animal control officer and the chief of police, or his or her designee.

- G. Seizure and Impoundment.** Any animal seized and impounded by the city, for any reason, shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept own, keep or harbor such animals. If, during either the seizure or impoundment of any such animal or both, the animal poses a risk of causing severe injury or death to any persons, such person or persons authorized by the city, including a licensed veterinarian providing care for said animal, may render the animal immobile by means of tranquilizer or other safe drugs, and if such mobilization cannot be safely performed, then the animal shall be destroyed as an exercise of police power to protect the health and safety of the city.
- H. Expenses.** Any reasonable expenses incurred by the city in seizing, impounding and confining any dangerous, exotic or wild animal shall be charged against the owner, keeper or harbinger of such animal. Such charges shall be in addition to any fine or penalty provided for violating this section.
- I. Appeals.** The owner, keeper or harbinger of any dangerous, exotic or wild animal may appeal the findings of the animal control officer by filing a written request for hearing within five (5) days of receipt of a notice requiring the removal of the animal from the city.
- ~~A. Upon the written complaint of any person that a person owns, or is keeping or harboring, within the City a dangerous animal in violation of this Article, the Animal Control Officer or Police Officer shall forthwith cause the matter to be investigated; and if, after investigation, the facts indicate the animal is a dangerous animal, and such person named in the complaint is, in fact, the owner of, or is keeping or harboring, any such dangerous animal in the City, the Animal Control Officer or Police Officer shall forthwith issue a general ordinance summons for a violation of Section 205.130 to such person owning or keeping or harboring said animal and give written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice.~~
- ~~B. Notice as herein provided shall not be required where such dangerous animal has caused serious physical harm or death to any person or other animal or has escaped and is at large. In such case, the Animal Control Officer shall immediately issue a general ordinance summons to the person who owns or is keeping or harboring the animal for a violation of Section 205.130 and cause said animal to be immediately seized and impounded or killed if seizure or impoundment is not possible without risk~~

~~of serious physical harm or death to any person. Impoundment may be in any animal shelter so designated by the person in charge of animal control. It is unlawful to fail to remove the animal within the three (3) day period and said failure shall constitute a violation of this Section.~~

Section 205.150 Failure To Comply With Notice.

- A. The Animal Control Officer or Police Officer shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice given pursuant to Section 205.140 and shall issue to said person a general ordinance summons for a violation of Section 205.140.
- B. Any time a dangerous animal is seized, impounded or killed, a general ordinance summons for the violation of either Section 205.130 or Section 205.140 shall be issued.

Section 205.155 – Dangerous Animal Provisions - Dogs

A. The Judge of the municipal court shall declare a dog dangerous when:

1. Bite to a Human

- (a) When evidence shows an attack or bite to a human is a Level 4 or higher on the Dunbar scale, set forth in this section; or
- (b) When evidence shows an attack or bite to a human is less than a Level 4 on the Dunbar scale and pattern of vicious behavior such as habitually snapping, charging, growling, or otherwise manifests a disposition to bite, attack or injure any person, domestic animal or pet if afforded the opportunity, or if in the judgment of the court it causes any person to have a reasonable fear of immediate serious physical injury.
- (c) Dunbar Scale – Bite to Human
 - (1) Level 1. Obnoxious or aggressive behavior but no skin-contact by teeth.
 - (2) Level 2. Skin-contact by teeth but no skin-puncture. However, may be skin nicks (less than one-tenth of an inch deep) and slight bleeding caused by forward or lateral movement of teeth against skin, but no vertical punctures.
 - (3) Level 3. One to four punctures from a single bite, which may have lacerations in a single direction, caused by victim pulling hand away, owner pulling dog away, or gravity (little dog jumps, bites

and drops to floor).

- (4) **Level 4. One to four punctures from a single bite, with deep bruising around the wound (such as when a dog held on and bore down) or lacerations in both directions (such as when a dog held on and shook its head from side to side).**
- (5) **Level 5. Multiple-bite incident with at least two Level 4 bites or multiple-attack incident with at least one Level 4 bite in each.**
- (6) **Level 6. Victim dead.**

2. Bite to an Animal

(a) **When evidence shows an attack upon another domestic animal is a Level 4 or higher on the Animal bite scale, set forth in this section, and a pattern of vicious behavior such as habitually snapping, charging, growling, or otherwise manifests a disposition to bite, attack or injure any person or domestic animal or pet if afforded the opportunity, or if in the judgment of the court it causes any person to have a reasonable fear of immediate serious physical injury.**

(b) **Dunbar Scale – Bite to Animal**

- (1) **Level 1. Growls, shows teeth, barks, hard stares, snaps, no contact by teeth.**
- (2) **Level 2. Single bite, saliva, no punctures, possible missing fur or scrapes.**
- (3) **Level 3. One to four punctures, bruising and swelling may be present.**
- (4) **Level 4. One to four punctures, lacerations or tearing, bruising, swelling, signs of shaking may be present.**
- (5) **Level 5. Same elements of level 4 may be present, consists of multiple bites, or internal injuries instead of or in addition to.**
- (6) **Level 6. Victim dead.**

3. Has been previously found to be dangerous by another entity and the owner or keeper received notice of such.

Any animal, whether previously declared to be a dangerous animal or not, responsible for a severe or fatal attack on a human being or another animal

may be ordered humanely euthanized by the Judge of the municipal court upon the expiration of the appeal period.

4. In the event of a successful appeal, the Judge of the municipal court shall require that the owner pay all dangerous animal boarding and redemption fees in addition to any other costs of care incurred, prior to the animal being released. Such amount as established by ordinance from time to time, plus any other license fees or immunization costs imposed under this chapter. Failure or refusal to pay such fees shall constitute abandonment of any ownership rights to the seized animal, and the Judge shall immediately order the animal's disposal.

B. Upon recommendation by Animal Control.

Upon the filing of an affidavit of the Animal Control Officer with the municipal Prosecutor, alleging the animal should be deemed a dangerous animal, and upon the request of the Prosecutor, the Judge of the municipal court may order any of the following: that the animal be seized and impounded, that the animal be impounded past the rabies observation period, or that the animal be impounded during the pendency of charges and appeal and not be released while the charges or appeal are pending.

C. Dangerous animal provisions, when euthanization not ordered.

It shall be unlawful for any person to own, harbor or possess a dangerous or dangerous animal, except as allowed by the provisions of this section.

1. Fees – Animals impounded under this section are subject to a dangerous animal boarding fee. An owner, when release is granted by the Judge of the municipal court, may redeem such animal from impoundment upon payment of all boarding and redemption fees, license fee and any costs of care incurred.
2. Conditions of release - Any animal declared dangerous by the Judge of the municipal court and not ordered euthanized shall, as a condition of residing within the corporate limits of the City, be required to meet the following mandated restrictions:
 - (a) Microchip. That a microchip has been placed into the animal by the Animal Control Authority for the purpose of registering such animal with the City. The microchip shall contain the owner's, keeper's or harborer's generated and assigned "dangerous animal registration number" and such other information as required pursuant to the rules and regulations of the City. The Animal Control Authority shall keep records of the microchip placement and of the registration number.

It shall be a violation of this Code for a microchip to be removed unless it is for a medical reason and then only by a licensed practicing veterinarian. The Animal Control Authority must be notified immediately of said removal.

- (b) Confinement. The animal shall be securely confined indoors or in a securely enclosed and locked kennel or cage. The kennel or cage shall be the size appropriate to the size of the animal kept therein (minimum dimensions of five feet (5) by 10 feet) and shall provide adequate ventilation, shade from the sun, and protection from the elements. In the event of a dispute over the appropriate size, the guidelines of the state department of agriculture regulations for animal care facilities shall apply. The kennel or cage must be constructed with nine-gauge steel chain link. Such kennel or cage must have secure sides, a secure top, and secure bottom or floor attached to the sides, or the sides must be embedded in the ground. In addition, the kennel or cage must have a double-blind entrance and must be locked with a key or combination lock when such animal is within the structure. Any such kennel or cage must be located at least 25 feet from the nearest point to the dwelling of another, a church, a school or a place of business of another and must comply with all zoning and building regulations of the City.**
- (1) Notice. A conspicuous notice, which shall be at least two feet by three feet, posted at the place of confinement and on the premises stating "Dangerous Animal" in at least two-inch block letters and contain the international symbol for danger, as to warn the public of the nature of the animal therein confined.**
- (2) No dangerous animal shall be confined by an electronic fence or an electric collar. Electronic collars may not be used to control a dangerous animal when it is off the owner's, keeper's, harborer's or maintainer's property.**
- (3) No dangerous animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such structure on its own volition. In addition, no dangerous animal shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only barrier preventing the animal from exiting the structure.**
- (c) No person shall permit a dangerous animal to go outside its kennel, cage, or secure structure unless that person is age 18 or older, that person has the dangerous animal securely leashed to a buckle collar and on a leash no longer than six feet in length, and that person has physical control of the animal. Such dangerous animal shall not be leashed to**

inanimate objects such as trees, posts and buildings. Additionally, such dangerous animal on a leash outside the animal's kennel, cage, or secure structure must be muzzled by a humane muzzling device sufficient to prevent the animal from biting persons or other animals.

- (d) The dangerous animal shall not be allowed by remedy to be removed from the City to a location outside of the City limits, unless ordered by the municipal Judge.**
- (e) Any animal declared dangerous by the Judge of the municipal court cannot be sold, given away, or ownership otherwise transferred without the expressed permission of the Animal Control Authority.**
- (f) Sterilization. That the animal has been sterilized by a licensed veterinarian and proof of such has been provided to the Animal Control Authority. Sterilization must be completed prior to the release of the animal to the owner, keeper or harbinger from impoundment due to rabies quarantine or immediately following the quarantine period, if animal is to be confined to owner's premises.**

Exceptions:

- (1) The animal is under eight (8) weeks of age;**
 - (2) The animal cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such condition and determine the time frame after which the animal can be spayed or neutered.**
- (g) Proof of Liability Insurance. For a dangerous animal a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$300,000, insuring the owner or keeper for personal injuries inflicted by the animal. An insurance policy issued to satisfy the insurance requirements of this section shall provide for written notice to the City within 30 days of cancellation, reduction of limits, or termination of coverage.**
 - (h) Licensure required. Other than when a commissioned Police Officer is using an animal for law enforcement or when an animal is being held in quarantine pursuant to law by a licensed veterinarian, no person shall own, keep, harbor or allow to be upon any premises occupied by him or her or under his or her charge or control a dangerous animal without first having obtained a license within 30 days of the date of declaration provided for by this section.**

- (i) Licensure. The owner, keeper, or harborer of a dangerous animal shall obtain a dangerous animal license from the Animal Control Authority for any such animal.**

- (1) Licensure Fees**

The owner, keeper, or harborer shall pay the fee for such dangerous animal license in the amount set forth in this section. In addition, the owner, keeper, or harborer of such animal shall pay an annual renewal fee for such license in the amount set forth in this subsection. Annual renewal of any license shall be conditioned on compliance with the requirements of this section. The Animal Control Authority is authorized to pro rate the license fee for the remainder of the first year during which an animal becomes subject to the registration requirements, of this section.

- (2) Licensure Information. The owner, keeper, or harborer of an animal that is subject to a dangerous animal license shall furnish the following information along with the appropriate license fee:**

- (i) The animal's age, weight, coloring, breed, and any other special identifying characteristics;**
- (ii) Two 3" x 5" color photographs of the animal;**
- (iii) Proof of current rabies vaccination for the animal;**
- (iv) Certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous animal by any other jurisdiction; and (5) a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.**

- (3) Licensure Fee Amounts. The license fee for each dangerous animal to be licensed pursuant to this section is \$250.00. The annual renewal fee for each dangerous animal licensed pursuant to this subsection is \$125.00.**

- (j) Issuance of certificate of registration. A certificate of registration for a dangerous animal shall be issued by the City upon a showing of compliance with the requirements of this Article:**

- (1) Microchipped;**
- (2) Secure Enclosure and Posted Notice;**

- (3) Sterilization;**
- (4) Liability Insurance; and**
- (5) Dangerous Animal License.**

(k) Age Violation

It is a violation of this chapter for any person under the age of 18 years to own, keep, harbor or maintain control of a dangerous animal, within the City limits.

- (l) Refusal or failure to comply with any of the mandated restrictions or authorized inspection shall constitute a violation of this section and, in addition, shall be considered as justifiable grounds for the Judge of the municipal court to order further restrictions or euthanization of the animal.**

Section 205.160 Penalties.

Any person found guilty of violating the provisions of this Article shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. The court shall have the power to order the impoundment, release, removal from the City, return to the City, or confinement by an individual of any animal seized, impounded, or the subject of a violation charge under Sections 205.130, 205.140 and 205.150 after a preliminary or final hearing on the merits. Nothing herein shall in any way restrict the initial seizure or impoundment pursuant to Sections 205.130, 205.140 and 205.150. Nothing herein confers a right to any preliminary hearing before the court on any issue. The court shall have the power to assess the costs of boarding any dangerous animal boarded by the City upon any conviction and cause said assessment to be paid.

Section 205.170 Authority To Designate Animal Shelters.

Dogs which have not been vaccinated against rabies and have not been issued a tag by a licensed veterinarian pursuant to this Article; or dogs or animals who have allegedly been cruelly treated or been abused by those in whose care they reside; or dogs or animals that are sick or have been injured and require treatment and the owner cannot be located; or dogs or other animals found not under restraint may be seized and impounded by any Police or Animal Control Officer and said dog or animal that has been impounded may be treated if necessary. Impoundment may be in any animal shelter so designated by the person in charge of animal control. The owner of the dog or animal shall be responsible for the expenses of impoundment and/or treatment.

Section 205.180 Disposition of Unredeemed Animals.

If a dog or other animal is not redeemed by the owner within five (5) business days after impoundment, the dog or other animal may be disposed of in one (1) of the following ways: Euthanasia, using a method approved by the Humane Society of the United States; release for adoption by a new owner who shows evidence of ability and intention to provide the dog or other animal with an appropriate home and humane care and who has the dog or other animal vaccinated against rabies by a licensed veterinarian within forty-eight (48) hours. Proof of said vaccination shall be submitted to the Animal Control Officer within that time period.

Section 205.190 Redemption By Owners.

- A. An owner of an animal impounded under Sections 205.130, 205.140 or 205.150 or the persons charged with a violation of any of said Sections may redeem the animal at any time after impoundment **terms are completed** but shall not return said animal to the City of Kearney or allow said animal to remain within the City of Kearney unless and until said animal is found not to be dangerous by the Municipal Court of the City of Kearney or a higher court or until said court has authorized, by order, its return.
- B. Animals not redeemed shall be impounded until a decision is rendered by the court as to whether the animal is a dangerous animal. If the animal is adjudged a "dangerous animal" by the court and it is not redeemed with five (5) business days of the court's decision, the animal shall be disposed of in the manner set forth in Section 205.180.
- C. If the animal is not found by the court to be a "dangerous animal", it shall be released immediately to its owner or the person charged with the violation. If it is not claimed or redeemed within five (5) business days thereafter, it shall be disposed of pursuant to Section 205.180.