

CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs, Cats and Other Animals

Article 3. Other Animals

ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Animals - means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Shelter - means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) At-large - means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within the range of public thoroughfares are deemed to be at-large.

(e) Bite - means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(f) Cat means any member of the species *felis catus*, regardless of sex.

(g) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 2-115.

(h) Dog - means any member of the species *canis familiaris*, regardless of sex.

(i) Fowl - means all animals that are included in the zoological class *aves*, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

U) Harbor - means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

(k) Humane Live Animal Trap - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize - means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method

approved by the American Veterinary Medical Association or the American Human Society.

(m) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(n) Kennel- means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding or otherwise harboring in an enclosure in one location only.

(o) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(p) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(q) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(r) Owner - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(s) Reasonable period - means a period of time not to exceed one hour in a 24-hour period, or a time that is otherwise approved by animal control.

(t) Vaccination - means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(u) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

(Code 2015)

2-102 ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE. (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the council and/or mayor of the city.

(a) Except as provided in subsection (c), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this chapter.

(b) As an alternative to the provision of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of any animal in violation of this chapter, and the person receiving the citation shall, within 30 days, appear in the municipal court of the city to answer the charged violation of this chapter.

(Code 2015)

2-103 SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impracticable to catch, capture or tranquilize.

(Code 2015)

2-104

SAME; RIGHT OF ENTRY, UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(Code 2015)

2-105

MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

(a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

(b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

(Code 2015)

2-106

BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

(Code 2015)

2-107

DEFINITIONS. (a) Inhumane Treatment - means any treatment to any animal which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances and which (1) deprives the animal of necessary sustenance, including, but not limited to (A) sufficient good and wholesome food, which means supplying at suitable intervals, not to exceed twenty four hours, a quantity of wholesome foodstuff, suitable for the animal's species and age, and sufficient to maintain a reasonable level of nutrition in each animal; or,

(B) adequate water, which means a supply of clean, fresh water in a container supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of twelve hours; or (2) deprives the animal of proper shelter, with insulation, if necessary for protection from weather; or (3) deprives the animal of exercise appropriate to the animal's species except for normal and customary husbandry practices; or (4) causes the animal to be the subject to overloading, overworking, teasing, tormenting, mistreating, beating, mutilating or other treatment deemed detrimental to the health of the animal; or (5) causes the animal to be kept in an unsanitary condition; or (6) causes the animal not to receive veterinary care when needed to treat injury or illness unless the animal is instead promptly destroyed in a humane manner; or (7) causes the animal to be abandoned; or (8) cause, instigates or permits the animal to be trained to fight other animals or humans.

(b) Cruelty to Animals: - (1) intentionally killing, injuring, maiming, torturing or mutilating any animal; or (2) abandoning or leaving any animal in any place without making provisions for its proper care; or (3) having physical custody of any animal and failing to provide such animal food, a fresh container or water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such species of animal. Exceptions: The provisions of cruelty to animals shall not apply to (1) normal or accepted veterinary practices; (2) bona fide experiments carried on by commonly recognized research facilities; (3) killing, attempted to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. Chapter 32 or 47; (4) Rodeo practices accepted by the Rodeo Cowboy's Association; (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the human killing of animals for population control, by the owner thereof, or the agent of such owner thereof, or by any officer or agent of an incorporated humane society, the operator of a licensed animal shelter or pound, local or state health officer or licensed veterinarian three (3) business days following the receipt of any such animal at such society, shelter or pound; (4) with respect to farm animals, normal or accepted practices of animal husbandry, (5) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property; or (6) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods.

(c) **INHUMANE TREATMENT AND/OR CRUELTY TO ANIMALS PROHIBITED.** It shall be unlawful for any person owning, harboring or having in custody, to permit the same to be treated inhumanely and/or be treated cruelly as defined in Section 1.

(d) **AUTHORITY TO TAKE CUSTODY OF ANIMAL WHEN ANIMAL SHOWS EVIDENCE OF INHUMANE AND/OR CRUEL TREATMENT** Any code enforcement officer, public health officer, animal control officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty and/or inhumane treatment, as defined in section 1. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animals in the care of a duly incorporated

humane society or if a veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. The owner, custodian, or harbinger of an animal killed pursuant to this section, shall not be entitled to recover damages for the killing of such animals unless the owner proves that such killing was unwarranted. Expenses incurred for the care, treatment, or boarding of any animal taken into custody pursuant to this section pending prosecution of the owner, custodian or harbinger of such animal, shall be assessed to the owner, custodian or harbinger as a cost of the case if the owner custodian, or harbinger is adjudicated guilty or pleads guilty or nolo contendere. If the owner, custodian or harbinger is found guilty by the Municipal Judge of committing cruelty and/or inhumane treatment to any animal, and the Judge having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future, subjected to such violation, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(e) In addition to the penalties provided in this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

(Code 2015)

2-108

SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

- (a) normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;
- (b) bona fide experiments carried on by commonly recognized research facilities;
- (c) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- (d) rodeo practices accepted by the rodeo cowboy's association;
- (e) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;
- (f) the humane killing of an animal by the animal control officer; a public health officer or a law enforcement officer in the performance of his or her official duty;
- (g) the humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

(Code 2015)

2-109

KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

- (a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
- (b) the maintaining of dogs which are regulated by Article 2 of this chapter;
- (c) the maintaining of non-poisonous and non-vicious animals which are commonly kept as household pets, such as hamsters, rabbits, parakeets, and comparable animals when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
- (d) the maintaining of livestock as regulated by Article 3;
- (e) the maintaining of no more than 12 chickens for the sole purpose of egg production and the same shall be maintained in accordance with Section 2-303;
- (f) the maintaining of kennels as controlled by 2-123, et seq.;
- (g) the transporting of animals through the city by ordinary and customary means, or the use of the same in parades.
- (h) the maintaining of no more than 12 rabbits for meat production without a kennel license and shall be housed as directed in 2-123, 2-124 and 2-125.
(Code 2015)

2-110 ANIMALS TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.
(Code 2015)

2-111 NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:

- (a) molests or interferes with persons in the public right-of-way;
- (b) attacks or injures persons, or other domestic animals;
- (c) damages public or private property other than that of its owner or harbinger by its activities or with its excrement;
- (d) scatters refuse that is bagged or otherwise contained;
- (e) causes any condition which threatens or endangers the health or well being of persons or other animals.

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.
(Code 2015)

2-112 NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring, screeching or noise of any kind shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.
(Code 2015)

2-113

ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on property for which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(f) No person shall tether, fasten, chain, tie, or restrain an animal, or cause an animal to be tethered, fastened, chained, tied, or restrained, to an animal house, tree, fence, or any other stationary object. A person may tether, fasten, chain, or tie an animal, but it must be no longer than is necessary for the person to complete a temporary task that requires the animal to be restrained for a reasonable period.

(g) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected. (Code 2015)

2-113A

SAME; STOCKYARDS, COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(c) premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601.608 of this code.

(d) wherever reasonable, use shall be made of anticoagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.
(Code 2015)

2-114 DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 2015)

VICIOUS ANIMALS.

2-115 (a) Prohibited: - It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Definitions.

(1) Vicious Dog - as used in this ordinance, shall mean and include any dog that attacks, bites, or injures human beings or domesticated animals without adequate provocation. Or which, because of temperament conditioning or training,

has a known propensity to attack, or bite, or injure human beings or domesticated animals.

(2) Rebuttal Presumption: There shall be a rebuttal presumption that a pit bull dog is a vicious dog. "Pit bull dog" shall mean (1) the bull terrier breed of dog; (2) the Staffordshire bull terrier breed of dog; (3) the American pit bull terrier breed of dog; (4) the American Staffordshire terrier breed of dog; (5) Any dog of mixed breed or of other breeds than the above-listed which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

- (1) The seriousness of the attack or bite;
- (2) past history of attacks or bites;
- (3) likelihood of attacks or bites in the future;
- (4) the condition and circumstances under which the animal is kept or confined;

(5) other factors which may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge shall order the impoundment, the muzzling in accordance with subsection (d) and/or the confinement of the animal accused of being in violation of this section in a manner and location that will insure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) Disposition of Certain Vicious Dogs:

(1) Any law enforcement officer, licensed veterinarian, animal control officer, or any officer or agent of a duly incorporated humane society, may take into custody any dog suspected of being kept by its owner or custodian in violation of section three. When a law enforcement agency or animal control officer takes

custody of such dog, the agency may place the animal in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment, or such other care deemed necessary.

(2) Any vicious dog kept in violation of section three may be ordered by the court destroyed in a humane manner when, in the court's judgment, such vicious dog represents a continuing threat of serious harm to human beings. If the court does not order destruction of the dog, the court shall allow the owner or custodian thereof no more than 48 hours to remove the dog from the corporate limits of the City of Madison. Failure to remove such dog within the time allowed by the court shall constitute a separate violation of section three.

(3) Any person convicted of a violation of section three shall be assessed as costs all expenses for the care, treatment, boarding or other expenses necessitated by the seizure of any dog for the protection of the public, including all expenses for the humane destruction of such dog by order of the Court.

(g) Insurance. The owner or custodian of any vicious dog shall maintain a policy of insurance in the amount not less than fifty thousand dollars (\$50,000) per incident insuring said person against any claim, loss, damage or injury to any human being resulting from the acts of such dog. Such person shall produce evidence of the required insurance upon request of a law enforcement officer, animal control officer, or a municipal court officer. This section shall not apply to dogs kept by law enforcement agencies.

(h) Ownership of Certain Vicious Dogs Prohibited. It shall be unlawful to keep, harbor, own or in any way possess any vicious dog which either:

(1) attempts to attack, bite or otherwise do bodily harm to a human being; or

(2) dog breeds presumed vicious under 2-115(b)(2).

(3) attacks, bites or otherwise does bodily harm to a human being. This section shall not apply to dogs kept by law enforcement agencies.

(Code 2015)

2-116

RUNNING AT LARGE PROHIBITED. It shall be unlawful for the owner or harbinger of an animal or fowl to permit the same to run at large. For the purpose of this article, an animal or fowl shall be deemed to be running at large (a) when the animal or fowl is not confined by a building, fence, cage or within a closed vehicle, or (b) when a animal or fowl is not restrained by means of a lead, leash, rope chain or cord held by the owner or harbinger, or (c) when the animal or fowl is not securely fastened by a rope, chain or cord to the ground, a tree or structure with strength sufficient to keep the animal or fowl within the limits of the owner's or harbinger's premises; provided, however, that an absolute defense to a complaint alleging an animal or fowl to be running at large shall be proof that said animal or fowl was at the time of such alleged violation within the limits of the owner's or harbinger's premises and in the actual control of its owner or harbinger actively exercised in the immediate presence of such owner or harbinger; and should such defense be proven, the impoundment fee established herein shall not be collected, or if already collected such fee shall be refunded. (Code 2015)

2-117

IMPOUNDMENT; FEE; NOTICE; RECORD. (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer

shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$25.00 plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken upon, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

(d) The animal control officer shall submit a quarterly report to the city council showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund.

(Code 2015)

2-118

REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Code 2015)

2-119

IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorized the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.
(Code 2015)

2-119A IMPOUNDMENT OF RABIES SUSPECTS. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Ord. 1699; Code 2007)

2-120 ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

- (a) the animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and
- (b) if the bitten animal has a current vaccination, it shall be confined for 90 days; and
- (c) the bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies;
- (d) if the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Ord. 1699; Code 2007)

2-121 VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.
(Ord. 1699; Code 2007)

2-122 EMERGENCY; PROCLAMATION. The Mayor his or her designee is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the

premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of where found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Ord. 1699; Code 2007)

2-123

KENNEL LICENSES. (a) No person or household shall own or harbor more than five animals permitted under this chapter of six months of age or older or more than one litter of animals, or more than a total of five animals more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding animals permitted, without having obtained a kennel license from the city clerk. This section shall not apply to chickens. This section shall not apply to fish, reptiles, amphibians, invertebrates or birds maintained entirely within the confines of the owner's dwelling.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the city clerk has not received any protest against the kennel, the city clerk may issue a renewal of an existing kennel license at the same location with any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(c) The animal control officer, the zoning enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

(1) the kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.

(2) the kennel is maintained so as to be a public nuisance.

(3) the kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$40.00. Payment of such license fee is in addition to, and not in lieu of, the license fees otherwise required under this chapter.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital. (Ord. 1699; Code 2007)

KENNEL AND GENERAL HOUSING REQUIREMENTS FOR RABBITS.

(A) Facilities, outdoor.

- (a) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all rabbits kept outdoors to protect themselves from the direct rays of the sun. When the atmosphere temperature exceeds 90 degrees F artificial cooling shall be provided by a sprinkler system or other means.
- (b) Shelter from rain or snow. Rabbits kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (c) Shelter from cold weather. Shelter shall be provided for all rabbits kept outdoors when the atmospheric temperature falls below 40 degrees
- (d) Protection from predators. Outdoor housing facilities for rabbits shall be fenced or otherwise enclosed to minimize the entrance of predators.
- (e) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

(B) Primary enclosures. All primary enclosures for rabbits shall conform to the following requirements:

(a) General.

- (1) Primary enclosures shall be structurally sound and maintained in good repair to protect the rabbits from injury, to contain them, and to keep predators out.
 - (2) Primary enclosures shall be constructed and maintained so as to enable the rabbits to remain dry and clean.
 - (3) Primary enclosures shall be constructed and maintained so that the rabbits contained therein have convenient access to clean food and water as required in this subpart.
 - (4) The floors of the primary enclosures shall be constructed so as to protect the rabbits' feet and legs from injury. Litter shall be provided in all primary enclosures having solid floors.
 - (5) A suitable nest box containing clean nesting material shall be provided in each primary enclosure housing a female with a litter less than one month of age.
- (b) Space requirements for primary enclosures. Primary enclosures shall be constructed and maintained so as to provide sufficient space for the animal to make normal postural adjustments with adequate freedom of movement. Each rabbit housed in a primary enclosure shall be provided a minimum amount of floor space, exclusive of the space taken up by food and water receptacles, in accordance with the following table:

Category	Individual weights (pounds)	Minimum space per rabbit (square inches)
Groups	3 through 5	144
	6 through 8	288
	9 or more	432
Individual adults	3 through 5	180
	6 through 8	360
	9 through 11	540
	12 or more	720
Nursing females	3 through 5	576
	6 through 8	720
	9 through 11	864
	12 or more	1080

(c) Space requirements for primary enclosures acquired on or after August 15, 1990.

(1) Primary enclosures shall be constructed and maintained so as to provide sufficient space for the animal to make normal postural adjustments with adequate freedom of movement.

(2) Each rabbit housed in a primary enclosure shall be provided a minimum amount of floor space, exclusive of the space taken up by food and water receptacles, in accordance with the following table:

	Individual weights		Minimum floor space		Minimum interior height	
	Kg	Lbs.	m squared	Ft squared	Cm	In
Individual Rabbits (weaned)	Less 2	Less 4.4	0.14	1.5	35.56	14
	2-4	4.4-8.8	0.28	3.0	35.56	14
	4-5.4	8.8-11.9	0.37	4.0	35.56	14
	Greater 5.4	Greater	0.46	5.0	35.56	14

	Individual weights		Minimum floor space		Minimum interior height	
	Kg	Lbs.	m squared	Ft squared	Cm	In
Females	Less 2	Less 4.4	0.37	4.0	35.56	14
With Litters	2-4	4.4-8.8	0.46	5.0	35.56	14
	4-5.4	8.8-11.9	0.56	6.0	35.56	14
	Greater 5.4	Greater 11.9	0.70	7.5	35.56	14

(3) Innovative primary enclosures that do not precisely meet the space requirements of paragraph (c)(2) of this section, but that do provide rabbits with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by the Institutional Animal Care and Use Committee, and by dealers and exhibitors when approved by the Administrator.

2-125 ANIMAL HEALTH AND HUSBANDRY STANDARDS

(A) Feeding

- a. Rabbits shall be fed at least once each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesomeness, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the rabbit.
- b. Food receptacles shall be accessible to all rabbits in a primary enclosure and shall be located so as to minimize contamination by excreta. All food receptacles shall be kept clean and sanitized at least once every 2 weeks. If self-feeders are used for the feeding of dry feed, measures must be taken to prevent molding, deterioration or caking of the feed.

(B) Watering.

- a. Sufficient potable water shall be provided daily except as might otherwise be required to provide adequate veterinary care. All watering receptacles shall be sanitized when dirty; provided however, that such receptacles shall be sanitized at least once every 2 weeks.

(C) Sanitization.

a. Cleaning of primary enclosures.

- (1) Primary enclosures shall be kept reasonably free of excreta, hair, cobwebs and other debris by periodic cleaning. Measures shall be taken to prevent the wetting of rabbits in such enclosures if a washing process is used.
- (2) In primary enclosures equipped with solid floors, soiled litter shall be removed and replaced with clean litter at least once each week.
- (3) If primary enclosures are equipped with wire or mesh floors, the troughs or pans under such enclosures shall be cleaned at least once a week. If worm bins are used under such enclosures they shall be maintained in a sanitary condition.

b. Sanitization of primary enclosures.

- (1) Primary enclosures for rabbits shall be sanitized at least once every 30 days in the manner provided in paragraph (b)(3) of this section.
- (2) Prior to the introduction of rabbits into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in paragraph (b)(3) of this section.
- (3) Primary enclosures for rabbits shall be sanitized by washing them with hot water (180 °F) and soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam or flame.
- (4) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.
- (5) Pest Control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

ARTICLE 2. DOGS AND CATS

2-201

REGISTRATION AND VACCINATION REQUIRED; FEE AND FINES

(A) Every owner of any dog or cat over four months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog or cat into the city. It shall be unlawful for the owner of any previously registered dog or cat to fail to maintain current registration of such dog or cat.

(B) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over four months of age to fail to maintain effective rabies immunization of such dog or cat.

(C) The owner of harborer of any dog or cat shall, at the time of registering such dog or cat, present to the city clerk a certificate from an accredited veterinarian showing that a male dog or cat has been neutered or a female dog or cat has been spayed, if the dog or cat has been neutered or spayed.

(D) The city clerk shall collect an annual registration fee of \$5.00 for each neutered male dog or cat and for each spayed female dog or cat, and \$7.50 for each unneutered male dog or cat and for each unsprayed female dog or cat.

(E) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 31st of each year without penalty.

Registration fees as enumerated above may be prorated for newly acquired dogs or cats for dogs or cats owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harborer of a dog or cat or dogs or cats who shall fail to register the same prior to the 31st day of March of each year may be assessed in addition to the registration fee herein provided court costs and a fine of \$75.00.

2-202.

DOG AND CAT TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs or cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefore, and shall deliver to the owner or keeper of the dog or cat a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a \$2.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 1699; Code 2007)

- 2-203 SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Ord. 1699; Code 2007)
- 2-204 EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any law enforcement officer. (Ord. 1699; Code 2007)
- 2-205 VISITING DOGS OR CATS. The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs or cats shall be kept under restraint by the owner thereof at all times. (Ord. 1699; Code 2007)
- 2-206 RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harbinger any dog or cat to permit such dog or cat to run at large within the city at any time; (b) any dog or cat running at large within the city shall be impounded as set out in section 2-207; (c) the owner of any dog or cat impounded for running at large without the tag required by section 2-202 shall, for the first offense, pay a fine of \$25.00 plus the board bill; for the second offense, pay a fine of \$50.00 plus the board bill; for third and subsequent offenses, pay a fine of \$100.00 plus the board bill; as established by the municipal court judge. (Ord. 1699; Code 2007)
- 2-207 IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE. (a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city. (b) A record of all dogs or cats impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment. (c) If the dog or cat impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog or cat's owner, the owner of such dog or cat, as shown by the records of the city clerk shall be notified in writing as soon as possible or at least 24 hours before such dog or cat is disposed of by destruction or sale. If, at the end of three days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of. (d) If the dog or cat impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding law enforcement officer then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

within three full business days the owner does not appear to claim the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.

(e) If at any time before the sale or destruction of any dog or cat impounded under the provisions of this article, the owner of an impounded dog or cat does appear and redeem the dog or cat, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and upon compliance with the registration provisions of this article. This subsection shall not apply to any dog or cat alleged as being vicious under section 2-115 or suspected of rabies under section 2-119 of this code.

(f) The minimum impoundment fee shall be \$25.00.

(g) Any dog or cat impounded may be released in the discretion of the Animal Control Officer without a current rabies vaccination. However, the owner or custodian of said dog or cat shall provide written verification of the rabies vaccination being obtained within ten working days of the animal's release. Failure to do so may cause said dog or cat to be impounded. Working days shall consist of Monday through Fridays, excluding holidays observed by the Federal Government.

(h) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

(i) The redemption of any dog or cat impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog or cat.

(Ord. 1699; Code 2007)

DISPOSITION OF UNCLAIMED DOGS OR CATS. If any dog or cat is not redeemed by its owner or harbinger within the time allowed for redemption as specified in section 2-207 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

(Ord. 1699; Code 2007)

CONFINEMENT OF DOGS OR CATS IN HEAT. Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat or dogs or cats may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Ord. 1699; Code 2007)

MUZZLING. Whenever the mayor may deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs or cats kept within the city to be effectively muzzled for such length of time as

may be specified in the order, to present them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Ord. 1699; Code 2007)

ARTICLE 3. OTHER ANIMALS

2-301

EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals;

- (1) all poisonous animals including rear-fang snakes;
- (2) apes; chimpanzees; gibbons; gorillas; orangutans; and saimangs;
- (3) baboons;
- (4) badgers;
- (5) bears;
- (6) bison;
- (7) bobcats;
- (8) cheetahs;
- (9) crocodilians, 30 inches in length or more;
- (10) constrictor snakes, four feet in length or more;
- (11) coyotes;
- (12) deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose;
- (13) elephants;
- (14) game cocks and other fighting birds;
- (15) hippopotami;
- (16) hyenas;
- (17) jaguars;
- (18) leopards;
- (19) lions;
- (20) lynxes;
- (21) monkeys;
- (22) ostriches;
- (23) pumas; also known as cougars, mountain lions and panthers;
- (24) raccoons;
- (25) rhinoceroses;
- (26) skunks;
- (27) tigers;
- (28) wolves;

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

(1) their location conforms to the provisions of the zoning ordinance of the city.

(2) all animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) animals are maintained in quarters to constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Code 2015)

2-302

LIVESTOCK. (a) It shall be unlawful for any person to keep any bovine animal, pig, hog, swine, goat, or sheep in the city limits. Miniature goats permitted prior to the adoption of this ordinance, are hereby grandfathered and therefore exempt. Any permitted miniature goats located upon any real property within the City of Madison at the time of adoption of this ordinance shall be removed therefrom upon the sell, lease, rent conveyance or gift of said real property or upon the death of the owner of said miniature goats.

(b) It shall be unlawful for any person to keep more than one horse per acre in the city limits.

2-303

ANIMAL OR FOWL PENS. (a) It shall be unlawful to maintain any stable, shed, yard, pen or other place on which any number of animals or fowl shall be kept in such a manner as to be or become offensive to those residing in the vicinity or annoying to the public or, except as otherwise provided, to fail to meet and maintain the following requirements:

(1) The primary housing for large animals must be at least seventy-five feet (75') from the lot line and one hundred feet (100') from any neighboring dwelling;

(2) Fencing for the keeping of livestock shall not be closer than twenty-five (25') from the front lot line;

(3) Fencing for any animals must be constructed in such a manner that animals may not reach legs, necks, wings, or any body part onto neighbor's property or to any plant or shrub growing on the neighbor's property;

(4) Fencing must be secure to hold the animals and be in good repair;

(5) Manure shall not be allowed to accumulate and must be cleaned up on a regular basis;

(6) Any pen/coop or other building upon a lot for the purpose of confining or housing the animal must be constructed of such material and in such manner that they can be kept clean and sanitary at all times;

(7) Every pen, cage or other yard establishment where an animal is kept shall be maintained so that no debris, garbage, water or excrement accumulates and so that no offensive, disagreeable or noxious smell or odor will arise therefrom to the injury, annoyance, or inconvenience of any neighbor. Any violation of this subsection shall be deemed a nuisance.

(p) The provisions of subsection (a)(1) and (a)(2) of this Section shall not apply to any housing or fencing which was in existence prior to August 1, 2005, provided, that once such housing or fencing deteriorates to an extent that replacement is needed, any new housing or fencing shall comply with such provisions.

(c) A basis to determine if deterioration has occurred to an extent that new house or fencing is needed shall be based on the extent that said structures are able to prevent the animal maintained therein from escaping and becoming an animal at large or preventing said animal from destroying or damaging neighboring property to any extent.

(Ord. 1699; Code 2007)

2-304

PRESUMPTION. It shall be presumed that a fence or structure needs replacement and brought into compliance with 2-303 if any animal or fowl maintained therein damages property of another or becomes an animal at large on three separate occasions in one 12month period with that period commencing on the first date the animal damages property or is at large. The three occurrences can be a combination of damaging property or being at large or can be for the repetition of the same type of event. (Ord. 1699; Code 2007)

