

CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs

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 or domesticated.
- (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 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) Competent Authority - means any of the following:
 - (1) A designated representative of the City of Ozawkie.
 - (2) A licensed veterinarian.
- (h) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 2-110.
- (i) Dog - means any member of the species canis familiaris, regardless of sex.
- (j) 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.
- (k) 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.
- (l) 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.

- (m) **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 Humane Society.
- (n) **Immediate Control** - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- (o) **Kennel** - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than five (5) dogs.
- (p) **Livestock** - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.
- (q) **Neutered** - means any male or female cat or dog that has been permanently rendered sterile.
- (r) **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.
- (s) **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.
- (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.

2-102. **CAPTURE/DESTRUCTION:** When deemed necessary by law enforcement officers 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 2-110, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture to tranquilize.

2-103 **RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.**

- (a) 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 law enforcement officer in the exercise of his or her duties.

2-104. **CRUELTY TO ANIMALS:** Cruelty to animals is:

- (a) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal It shall be unlawful for any person to:

- (b) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals..

(KSA 21-6412)

2-105. 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 dogs which are regulated by Article 2 of this chapter;
- (b) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-109 of this chapter;
- (c) The transporting of animals through the city by ordinary and customary means.

2-106. ANIMAL 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.

2-107. 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) Causes any condition, which threatens or endangers the health or well-being of persons or other animals.

2-108. NOISY ANIMALS: The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewling, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. Such period of time shall consist of incessant noise for 30 minutes or more in any 24- hour period or intermittent barking for 60 minutes or more during any 24-hour period . The animal shall not be deemed a noisy for purposes of this article if, at any time the animal is noisy when a person is trespassing or threatening to trespass upon private property in or upon which the animal is situated, or when the animal is being teased or provoked. The complainant shall submit the complaint in writing. The complaint must contain the date, nature of the offense, where the offense occurred and the name of the person making the complaint. The complaint must also be dated. The responsible person is given 10 days to resolve the situation. 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 impose a fine on the owner. After seven days, if the offense continues, the fine will double and will be charged at that rate for

every seven day period thereafter, i.e. first offense, \$25 ; 7 days after, \$50 ; at twenty-one days , \$100. Not to exceed \$200

First Offense...\$25

Second Offense...\$50

2-109.

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 devoid of rodents and vermin and offensive odors that detract from a neighbor's enjoyment of their property.
- (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 where the barbed wire fence or electrically charge fence is protected by an exterior fence.
- (f) All premises on which animals are kept shall be subject to inspection by, 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 will be fined. After seven days, if the offense continues, the fine will double and will be charged at that rate for every seven day period thereafter, i.e. first offense, \$35; 7 days after \$70 ; at twenty-one days\$140 . Not to exceed--\$400 .

First Offense---\$35

Second Offense--\$70

2-110.

VICIOUS OR AGGRESSIVE ANIMALS:

- (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious or aggressive animal within the city. Strict enforcement of this ordinance shall be in effect after this date August 13, 2012 . Those animals presently licensed within the city limits are grandfathered.
- (b) Defined: For purposes of this chapter a vicious or aggressive animal shall include:
 - (1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
 - (2) Any animal which attacks a human being or domestic animal without provocation;

- (3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
- (4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.
- (c) Complaint: Whenever a sworn complaint is filed in the city office against the owner of an animal alleging that such animal is vicious and in violation of this section, the owner of the animal shall be notified in writing and the city will notify the Jefferson County Sheriff's Office.
- (d) Vicious or Aggressive Dogs to be Muzzled: It shall be the duty of every owner, keeper or harborer of any dog in the city, when a dog is vicious, aggressive or has been known to bite, chase, intimidate 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 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) PROHIBITED DOGS: Whereas the Supreme Court of the State of Kansas, 244 Kan. 638 (1989) , has determined that certain dog "types", commonly known as "Pit Bulls" represent a unique public health hazard not presented by other breeds or mixes of breeds, and that they possess both the capacity for extraordinarily savage behavior and physical capability in excess of those possessed by many other breeds or mixes of dogs and finally, have an unpredictable nature, the City of Ozawie prohibits the ownership of said dogs in the corporate limits of the City. Ref : Jefferson County Resolution 97-32
- (g) REBUTTABLE PRESUMPTION:
 - (a) There shall be a rebuttable presumption that a "pit bull type dog" is a vicious animal as described in Ordinance 2- 110(b) of these Ordinances.
 - (b) The following breeds or mixes of breeds shall fall under the purview of these Ordinances:
 - (1) The bull terrier.
 - (2) The Staffordshire bull terrier.
 - (3) The American pit bull terrier.
 - (4) The American Staffordshire terrier.
 - (5) Dogs of mixed breed or of other breeds other than those above listed, which breed or mixed breed is commonly known as pit bull dogs or pit bull terriers.
- (h) OWNERSHIP OF VICIOUS DOGS:
 - (a) It shall be unlawful for any person to keep, harbor, or own or in any way possess any vicious dog or any dog with a "rebuttable presumption of viciousness".

(b) However, any dog with a “rebuttable presumption of viciousness”, as opposed to one exhibiting vicious behavior, which dog was possessed within the city limits of the City of Ozawkie before the effective date of this ordinance, shall be permitted to remain within the city limits of the City of Ozawkie so long as the dog does not exhibit vicious behavior.

(i) Violations and Penalties. Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court. In addition to the fine imposed, the city shall order the registration of the subject pit bull revoked and the dog removed from the City.

2-111. RUNNING AT LARGE: It shall be unlawful for any owner or harbinger to allow any dog to run at large within the city. In the case of any dog seen running at large, the owners or harbinger will be fined.

(a) The owner or harbinger of any dog seen running at large without the tags required by ARTICLE 2:SECTION 2-201 shall, for the first offense pay a fine of \$50.

(b) For the first offense of an animal running at large with a tag as required by ARTICLE 2: SECTION2-201; The known owner or harbinger shall pay a fine of \$ 25, in addition to presenting a registration receipt. For the second offense within a one year period, the owner or harbinger shall pay double the \$25 or \$50. For the third and all subsequent offenses with a one year period, the owner or harbinger shall pay a fine of \$200.

2-112. NUMBER OF ANIMALS PER HOUSEHOLD: “No household shall harbor more that a total combination of 3 dogs/cats six months of age or older. There shall be no more than one litter of pups/kittens at any one time. Anyone found owning or harboring more animals than allowed shall be fined \$ 10 for the first offense. The owner or harbinger shall have ten days to rectify the offense or be fined at double the rate of the first offense and be charged at that higher rate for every ten day period that this offense continues.

ARTICLE 2. DOGS AND CATS

2-201.

REGISTRATION AND VACCINATION REQUIRED; FEE.

- (a) Every owner of any dog or cat over six 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 into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.
- (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 six months of age to fail to maintain effective rabies immunization of such dog.
- (c) The owner or harbinger of any dog or cat shall, at the time of registering such animal present to the city clerk a certificate from an accredited veterinarian showing that the male has been neutered or the female has been spayed.
- (d) At the time of registration, the owner of any dog that has been considered or labeled one of a vicious breed must show proof of liability insurance of not less than \$50,000 per incident, insuring said person against any claim, loss, damage or injury to any human or to the property of others including other animals resulting from the acts of such dog. Ref. Jefferson County Resolution 97-32
- (e) The city clerk shall collect an annual registration fee, as set by fee ordinance for each neutered male and for each spayed female \$ 4 and for each unneutered male dog and for each un-spayed female dog the fee shall be \$25
- (f) The registration year shall be 365 days from the month of purchase. Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same year shall pay in addition to the registration fee herein provided a penalty fee for late registration, as set by a fee schedule ordinance.

2-202.

DOG/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 dog/cat 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/cat and the number by which the dog/cat is registered, and shall also deliver to the owner or keeper of the dog/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/cat so registered. When any tag has become lost during a registration period, the owner of the dog/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 fee, as set by a fee schedule ordinance. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

- 2-203. COUNTERFEIT TAG: It shall be unlawful for any person to place on any dog/cat a tag issued for any other dog/cat or to make or use any false, forged or counterfeited or out dated tag. The fine shall be \$ 100 .
- 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/cat within two years, when requested by any law enforcement officer.
- 2-205. VISITING DOGS. The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times.

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 siamangs.
 - (3) Baboons.
 - (4) Badgers.
 - (5) Bears.
 - (6) Bison.
 - (7) Bobcats.
 - (8) Cheetahs.
 - (9) Crocodilians, 30 inches in length or more.
 - (10) Constrictor snakes, six 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.
 - (29) Vietnamese Pot Bellied Pigs.
 - (30) Opossum.
 - (31) Squirrels.
 - (32) Camels.
 - (33) Llamas.
 - (34) Alpacas
- (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 so constructed as to prevent their escape.
- (4) Any Law enforcement officer shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

CHAPTER II.
ANIMAL CONTROL AND REGULATION

AUGUST 13, 2012