

CHAPTER II. ANIMALS AND FOWL

Article 1. Animals and Fowl Generally

Article 2. Dogs

ARTICLE 1. ANIMALS AND FOWL GENERALLY

2-101. DEFINITIONS. For the purpose of this article, the following words shall mean:

(a) Animal shall include, but shall not be limited to, cattle, horses, mules, goats, hogs, and sheep.

(b) Fowl shall include, but shall not be limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

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

(d) Owner shall mean the one who owns, his or her employee, agent, or other competent person into whose charge the actual owner has placed the animal.

(e) At large shall mean off the premises of the owner or keeper or not under the direct control or supervision of the owner or keeper by means of a leash or chain.

(f) Harborer means any person who allows or permits any animal to habitually remain or to be lodged or fed within or upon the premises of such person.

(g) Person shall mean any person, firm, partnership, association or corporation.

(h) Undomesticated animal means and includes any wild mammal, reptile or fowl which is not naturally tame but is of a wild nature or disposition.

(Code 1983)

2-102. KEEPING SWINE, PROHIBITED. It shall be unlawful for any person to keep, harbor or mair any swine upon premises located within the corporate limits of this city. The provisions of this section shall not apply to commercial stockyards or slaughterhouses located within and licensed by the governing body of this city. (Code 1974, 2-101)

2-103. KEEPING ANIMALS, FOWL. (a) It shall be unlawful for any person to keep on the same premises or within the same pen, pasture, stable or enclosure more than one head of cattle, horses, sheep or goats for each ½ acre of land within the pen, pasture. or enclosure. One additional animal under six months of age for each female adult animal may be kept without complying with additional site area requirements. No such animals shall be kept closer than 1 00 feet from any dwelling or mobile home not located on the premises of the property on which said animals are kept.

(b) No fowl shall be housed, hatched, or maintained within 25 feet of any place of residence in the city.

(Code 1983)

2-104. SAME; NUISANCE. Any person who maintains any animal or fowl in any building, pen or enclosure on his or her premises which is not kept clean, sanitary and free from filth, debris, garbage and offensive odors at all times, or which is or becomes offensive to those residing in the vicinity shall be deemed to maintain a nuisance. Such a nuisance shall be abated pursuant to the procedure set out in Chapter eight of this code. (Code 1 987)

2-105. CONTROL OF ANIMALS. No owner, keeper or harbinger of an animal shall keep or harbor an animal within the city, unless it is securely confined or securely, physically restrained, or on a leash or otherwise under the owner, keeper or harbinger's direct supervision and control. (Ord. 3438, Sec. 1)

2-106. HERDING, GRAZING. It shall be unlawful for any person to herd or graze any animal along the streets and alleys, or upon the public grounds of the city, even when such animal is picketed upon private grounds. Any animal found in violation of this section shall be considered at large and shall be impounded, as provided in section 2-107. (Code 1983)

2-107. IMPOUNDMENT. The chief of police or his or her duly appointed officer shall impound any animal or fowl found at large in the city 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 return the animal to such owner when his or her identity is ascertained. The city shall be entitled to a fee of \$1 5 plus a pound fee of \$5 per day after the first day after the animal, including cats, is kept in the pound. In case the identity of the owner of the impounded animal, cat, or fowl cannot be ascertained, the animal shall be considered a stray. The chief of police shall report the impounding of such stray to the county sheriff and the animal shall be disposed of as provided by law. (Ref. K.S.A. 47-230 for disposition of stray (Code 1983; Ord. 3638, Sec. 1)

2-108. BREAKING POUND. It shall be unlawful for any person to break open, or assist, counsel or advise the breaking open of the city pound, or to take or let out any animal placed therein by the impounding officer. This section shall not apply to any officer duly authorized to handle animals impounded. (Code 1 983)

2-109. CRUELTY TO ANIMALS. (a) It shall be unlawful for any owner, keeper or harbinger of any animal, to fail to provide such animal with sufficient, sanitary and wholesome food and water, shelter and protection from the weather, veterinary care as needed, or to otherwise fail to provide humane care and treatment. No person shall beat, torment, overload, overwork, or otherwise ill- treat or abuse any animal. No person shall intentionally injure, destroy or kill any animal in the city, unless such animal is an immediate threat to the physical safety of such person or other persons. Provided nothing herein shall prohibit the disposition of any animal in a humane manner as provided in this chapter.

(b) In the event any law enforcement officer has probable cause to believe that any owner, keeper, harbinger or other person is mistreating any animal within the city limits, as set forth in this section, such officer may enter upon private property to investigate the matter in order to make a proper determination, and if in the opinion of the officer, such animal is being mistreated, the officer may seize the animal for emergency treatment and/or care.

(Code 1983)

2-110. CARCASS OF ANIMAL. It shall be unlawful for any person to put the carcass of any animal, domestic fowl, or any part thereof, into or upon any private or public property within the city, including the city dumping grounds, or in any streams or near any dwelling under the jurisdiction of the board of health of this city, or for any person owning such carcass to knowingly permit the same to remain in any of the aforementioned places to the injury of the health, or to the annoyance or damage of any citizen of the city. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Code 1 974, 2-109:110; Code 1 983)

ARTICLE 2. DOGS

2-201. LICENSE REQUIRED; FEES. Every person owning, keeping or harboring a dog within the city limits shall cause to be registered the name and description of the dog in a record to be kept by the city clerk for that purpose and shall pay each year to the city clerk, or to any veterinarian duly authorized by the clerk, before registering such mammalian pet a fee of \$3 for each male, or spayed female, dog or \$6 for each female dog, not spayed, so registered. A certificate of a duly licensed veterinarian shall be filed with the city clerk as proof of the fact that a female dog has been spayed. All dogs shall be registered annually, regardless of age. The tax herein specified shall be due and payable on January 1st of each year, and if the same is not paid on or before March 1st a penalty of \$1 shall be charged in addition to the license fee plus an additional penalty of 50 percent per month thereafter until the license fee is paid. Any person who shall become the keeper or harbinger of a dog at any time after January 1 st in any year shall pay the required license fee within 30 days after the person becomes the keeper or harbinger of such dog. (Ord. 3091, Sec. 1)

2-202. IMMUNIZATION. A certificate of a duly licensed veterinarian of the State of Kansas shall be presented to and filed with the city clerk as proof of the fact that each animal is currently immunized against rabies for a period of time which will extend throughout the license period, or that the animal is too young to immunize. (Ord. 3091, Sec. 1)

2-203. REGISTRATION TAGS. (a) Each person so registering a dog as above required shall at all time cause the dog to wear a suitable metallic or leather collar with the metallic check or tag furnished by the city clerk for the particular dog for which the tag is issued on which tag the number and year of registration shall be distinctly marked, and which tag may contain information showing that the dog is currently immunized against rabies. In case of the loss of any tag, the city clerk shall upon presentation of the duplicate receipt and the payment of 25 percent issue a duplicate tag for the dog so registered. No person shall place upon any dog any tag other than the one given for the particular dog for which it is issued under the registration certificate. All licenses herein issued shall expire on December 31st of each year.

(b) It shall be unlawful for any person to counterfeit a registration tag, or to take off or remove a tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

(Ord. 3091, Sec. 1; Code 1 974, 2-207)

2-204. VETERINARIANS AUTHORIZED TO ISSUE LICENSES. The city clerk may authorize veterinarians in and around the city to collect fees and issue licenses for dogs provided for in section 2-201 for and on behalf of the city, and such veterinarians shall pay all fees so collected to the city clerk for the use and benefit of the city. Prior to any such authorization, the city clerk shall establish a specific procedure to be followed by such veterinarians in reporting and remitting to the city clerk all fees collected and in reporting to the clerk all other information necessary for the clerk to keep and maintain registration records and financial records pertaining to mammalian pets as are required by this section and by other provisions of the code. (Ord. 3091, Sec. 1)

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 subject to all other requirements of this article. (Code 1 983)

2-206. PUBLIC NUISANCE. Any dog found running at large or on which the license tax has not been paid or which has not been immunized as required by this article is hereby declared to be a public nuisance and shall be impounded. In case of any dog found running at large which cannot be captured or taken

up by any police officer of the city or other person duly authorized by the governing body and where ownership can be established, the owner of the dog shall be given a summons or ticket for allowing the dog to run loose. (Ord. 3438, Sec. 2)

2-207. TRANQUILIZER GUN; KILLING AUTHORIZED. The impounding officer shall be authorized to use a tranquilizer gun in the enforcement of this article. It shall be lawful for any officer at any time to kill any dog which may be found injuring any person or causing damage to the person of any individual, or when any person or individual reasonably appears to be in imminent danger of suffering injury or damage from .any dog, or any dog which may be found unconfined in violation of any rabies quarantine or any other quarantine order issued by the state livestock commissioner or by the secretary of health and environment. (K.S.A. 47-646a; Ord. 3422, Sec. 1)

2-208. RIGHT OF ENTRY. The impounding 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 article. It shall be unlawful for any person to interfere with the impounding officer in the exercise of this right. (Code 1 983)

2-209. IMPOUNDMENT; REDEEMING. Any dog found in violation of the provisions of this article shall be subject to impoundment by the city. A record of all dogs 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.

(a) If the dog impounded has a current registration tag attached to its collar, the owner of such dog, as shown by the records of the city clerk shall be notified in writing as soon as possible within 72 hours of the impoundment. If, at the end of 72 hours the police department has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem the dog, then the dog may be sold, euthanized or otherwise humanely disposed of.

(b) If the dog impounded has no current registration tag, it shall be kept for 72 hours. If within that time the owner does not appear to claim the dog it may be sold, euthanized or otherwise disposed of.

(c) If within the 72 hour impounding period, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of a fee of \$15 plus a pound fee of \$5 per day after the first day the dog is kept in the pound, and upon compliance with the registration provisions of this article.

(d) Any dog impounded may not be released without a current rabies vaccination.

(e) 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.

(Code 1983; Ord. 3638, Sec. 1)

2-210. BREAKING POUND. It shall be unlawful for any person not duly authorized to do so to break open or attempt to break open any enclosure in which any dog or dogs are confined or held pursuant to the provisions of this article, or to take or let out any dog placed therein by an officer of this city or in any manner interfere with or hinder any officer of this city in the enforcement of this article. (Code 1983)

2-21 1. TRESPASS. It shall be unlawful for any person to permit any dog to trespass upon, or do injury to public or private property of another. (Code 1983)

2-212. NOISY AND VICIOUS DOGS. It shall be unlawful for any person to keep within the city any dog which by loud, frequent or habitual barking, howling or yelping shall annoy or disturb any person or neighborhood within the city, or any vicious dog. Each day that any such dog is kept or harbored within the corporate limits of the city shall constitute a separate offense. (Ord. 3422, Sec. 2)

2-213. VICIOUS DOGS; COMPLAINT; DISPOSITION; PENALTY. Upon a written or signed complaint that any person has been attacked or bitten by a dog, the municipal judge shall hold a hearing to determine whether the dog is vicious. If the judge shall find the dog to be vicious, the judge shall order the dog destroyed or impounded for 10 days at the expense of the owner or forthwith removed from the corporate limits of the city, and the judge may impose a fine upon the owner of the dog in an amount not to exceed \$100. (Ord. 3422, Sec. 3)

2-214. RABIES SUSPECTS. (a) Any dog which is suspected of having rabies, or any dog which has bitten a human being and has thereby caused a laceration of the skin of such human being, shall be seized and confined in a veterinary hospital for a period of 10 days. The period of confinement may be shortened at the discretion of the veterinarian in charge of the hospital.

(b) Any dog bitten by a known rabid animal shall be seized and confined in a veterinary hospital, as provided in subsection (a) above.

(c) All expenses incurred during the period of confinement in a veterinary hospital for the purposes of this section shall be borne by the owner of the animal. If any animal so impounded is not claimed by the owner within the 10 day period, then the veterinarian shall transfer the animal to the city pound where such animal shall be disposed of according to the provisions of section

2-209.

(Ord. 3396, Sec. 1)

2-21 5. KENNELS; CONSENT; LICENSE. No person shall own, maintain or operate any kennel for the purpose of breeding or raising dogs except in accordance with this section. For purposes of this article a kennel is defined as the possessing or keeping of two or more dogs for breeding purposes, or the keeping of dogs in excess of four. A person keeping a kennel must obtain a kennel license from the city clerk for each calendar year and the license fee shall be \$25. A kennel license when issued shall be in lieu of the separate registration and licensing of individual dogs. Not more than 10 dogs of an age of over six months shall be kept in any licensed kennel at any one time. (Code 1 974, 2-204)

2-216. DOG FIGHTING. It shall be unlawful to by words, sign or otherwise, set any dog or dogs to fight, or cause any dog to attack any other dog or dogs, or aid or abet or encourage any dog fight; or for any owner, keeper or harbinger of any dog to knowingly permit such dog to fight without endeavoring to prevent the same; or for any person to by words, sign or otherwise set on or encourage any dog to attack or chase any human being, not engaged in malicious or criminal acts. (Code 1 983)

2-217. MUZZLING DOGS: MAYOR'S PROCLAMATION. The mayor is hereby authorized whenever, in his or her opinion, the danger to the public safety from rabid dogs, or dogs with hydrophobia, is imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog in the city to muzzle the same with a good and sufficient muzzle, or confine the same in a good and sufficient enclosure from which the dog cannot escape or fasten the dog by means of a chain on the premises where the owner, keeper or harbinger resides. (Code 1 974, 2-208)

2-218. PIT BULL DOGS; PROHIBITED. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city any pit bull dog, including:

- (a) The bull terrier breed of dog;
- (b) Staffordshire bull terrier breed of dog;
- (c) The American pit bull terrier breed of dog;
- (d) The American Staffordshire terrier breed of dog;
- (e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers.

(Ord. 3471, Sec. 1)

2-21 9. SAME; EXCEPTIONS. The provisions of section 2-218 are not applicable to owners, keepers or harborers of pit bull dogs that have been registered with the office of the city clerk of the city on May 23, 1 986, provided however, that the keeping of such dogs shall be subject to the following standards:

(a) Leash and Muzzle No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(b) Confinement All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the side of the pen or the sides of the pen must be embedded in the ground not less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) Signs All owners, keepers or harborers of registered pit bull dogs within the city shall within 10 days of May 23, 1986 display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(e) Insurance All owners, keepers or harborers of registered pit bull dogs must within 10 days of May 23, 1986 provide proof to the city clerk of the city of public liability insurance in a single incident amount of \$150,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the city clerk.

(f) Identification Photographs All owners, keepers or harborers of registered pit bull dogs must within 10 days of May 23, 1986 provide to the city clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements All owners, keepers or harborers of registered pit bull dogs must within 10 days of the incident, report the following information in writing to the city clerk as required hereinafter:

(1) The removal from the city or death of a registered pit bull dog;

(2) The birth of offspring of a registered pit bull dog;

(3) The new address of a registered pit bull dog owner should the owner move within the corporate limits of the city.

(h) Sale or Transfer of Ownership Prohibited No person shall sell, barter or in any other way dispose of a pit bull dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided, however, that the registered owner of a pit dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the city.

(i) Animals Born of Registered Dogs All offspring born of pit bull dogs registered with the city must be removed from the city within six weeks of the birth of such animal.

(j) Irrebuttable Presumptions There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited by section 2-218 is in fact a dog subject to the requirements of this section.

(Ord. 3471, 2-219)

2-220. SAME; VIOLATION. It shall be unlawful for the owner, keeper or harbinger of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in sections 2-218:221. Any dog found to be the subject of a violation of sections 2-218:221 shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city. (Ord. 3471, Sec. 3)

2-221. SAME; PENALTY. Any person violating or permitting the violation of any provision of sections 2-218:221 shall upon conviction in municipal court be fined a sum not less than \$500 and not more than \$1,000. In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period of time not to exceed 30 days. In addition, the court shall order the registration of the subject pit bull dog revoked and the dog removed from the city. Should the owner, keeper or harbinger refuse to remove the dog from the city the municipal court judge shall find the owner, keeper or harbinger in contempt of court and shall order the immediate confiscation and impoundment of the animal. Each day that a violation of sections 2-21 8:22 1 continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates sections 2-218:221 shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of these sections. (Ord. 3471, Sec. 4)

(Published in The Wellington Daily News, June 24 , 1998)

ORDINANCE NO. 3784

AN ORDINANCE RELATING TO ANIMALS AND FOWLS
IN THE CITY OF WELLINGTON, KANSAS; AMENDING
SECTION 2-201 OF THE CODE OF THE CITY OF WELLINGTON,
KANSAS AND REPEALING THE EXISTING SECTION

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WELLINGTON,
KANSAS:

SECTION I

That Section 2-201 of the Code of the City of Wellington, Kansas, 1996 is hereby amended to read as follows:

“2-201 LICENSE REQUIRED: FEES. Every person o keeping or harboring a dog within the city limits shall cause to be registered the name, description of the dog in a record to be kept by the city clerk for that purpose and shall pay each year to the city clerk, or to any veterinarian duly authorized by the clerk, before registering such mammalian pet, a fee of \$3 for each neutered male. or spayed female dog, or \$6 for each male dog not neutered. or each female doer, not spayed, so re A certificate of a duly licensed veterinarian shall be filed with the city clerk as proof of the fact the male dos’ has been neutered or the female dog has been spayet-L All dogs shall be registered annually, regardless of age. The tax herein specified shall be due and payable on January 1 of each year, and if the same is not paid on or before March l a penalty of \$1 shall be charged in addition to the license fee plus and additional penalty of 50 percent per month thereafter until the license fee is paid. Any person who shall become the keeper or harborer of a dog at any time after January 1 in any year shall pay the required license fee within 30 days after the person becomes the keeper or harborer of such dog. (Ord. 3091, Sec. 1)

SECTION II

That Section 2-201 of the Code of the City of Wellington, Kansas 1996 is hereby repealed

SECTION III

This Ordinance shall take effect and be in force from and after its passage and approval and after publication in the official city newspaper as provided by law.

Passed by the City Council this 16 day of June, 1998.

