

ORDINANCE NO. 427

AN ORDINANCE REPEALING ORDINANCE NO. 426 AND ENACTING AN ORDINANCE PROVIDING FOR THE ENFORCEMENT OF REGULATIONS RELATING TO THE CONTROL AND REGISTRATION OF ANIMALS AND DOGS.

Be it Ordained by the governing Body of the city of Carlton, Kansas, that:

Section 1. DEFINITIONS. For the purpose of this chapter, the following words and phrases shall mean:

(a) *Abandon* means 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) *Animal Shelter* means the facility or facilities operated by the city or its authorized agents for the purpose of impoundment or caring for animals under the authority of this chapter or state law.

(c) *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."

(d) *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.

(e) *Dog* means any member of the species *canis familiaris*, regard less of sex.

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

(g) *Own* means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any dog. 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.

(h) *Pit Bull Dog* means:

- (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) Dogs of mixed breed or of other breeds than listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers
- (6) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, 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

(i) *Owner* means the one who owns, an employee, agent, or other competent person into whose charge the actual owner has placed an animal described in Subsection (p) above.

U) *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.

(k) *Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.

(l) *Vicious animal* means:

(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

(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 or Animal Control Officer while such officer is engaged in the performance of official duty.

Section 2. ANIMAL CONTROL.

ENFORCEMENT. The Public Officer shall be charged with the enforcement of this chapter. Any person employed by the city and commissioned by the Mayor as an Animal Control Officer shall have such powers and authority as allowed by law in the enforcement of this chapter.

CAPTURE OF ANIMALS. An Animal Control Officer is authorized to employ the following means to capture an animal:

(a) When deemed necessary for the health, safety and welfare of the residents of the city, such officers and/or their agents may place a humane trap on the property, if the resident requests such a trap, for the purpose of capturing any animal creating a nuisance in the city.

(b) When deemed necessary for the health, safety and welfare of the residents of the city, such officers and/or their agents may use any tranquilizer guns, firearms, humane traps, or other suitable devices to capture, subdue or destroy any animal that is deemed by the officer, in the discretion of the officer, to be of a danger to itself or to the public health and safety.

RIGHT OF ENTRY. An Animal Control 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. It shall be unlawful for any person to interfere with such officer in the exercise of this right.

IMPOUNDMENT. An Animal Control Officer shall impound animals at an animal shelter or a veterinarian clinic having the following facilities:

(a) Adequate impoundment 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 all unwanted and wanted animals

CRUELTY TO ANIMALS. It shall be unlawful for any person to :

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

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done.

(c) Have, keep or harbor any animal which is infected with any dangerous, incurable and/or painfully crippling condition, except as hereinafter provided. The Municipal Court may order a person convicted of violation under this subsection to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be destroyed humanely as soon thereafter as *is* possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.

(d) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one (1) or more animal's are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animals.

(e) Abandon, or otherwise neglect or refuse to supply such animals with necessary and adequate care, food, drink, air, light, space, shelter and protection from the elements as necessary for health and well-being of such kind of animal.

(f) To set or cause to be set within the city, any steel-jaw let hold strap, snare, or any trap, other than a humane trap, as defined, for the purpose of capturing any animal, whether wild or domestic.

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.

PROHIBITED ANIMAL ACTIVITIES.

(a) The owner or person in possession of any dog shall take all reasonable measures to keep such animal from becoming a nuisance. It shall be unlawful for the owner or person in possession of any animal to cause, permit or fail to exercise proper care and control to prevent such animal from performing, creating or engaging in an animal nuisance activity. For the purpose of this provision, "animal nuisance activity" is defined as any animal which:

(1) When unprovoked, chases or approaches a person or domestic animal in a menacing fashion or apparent attitude of attack upon public property, public rights-of-way, or private property owned by any person other than the owner or possessor of the animal, or on the owner or possessor's property if the person is lawfully on the property in the performance of public duties, including public utility, mail delivery, or law enforcement purposes. Menacing shall mean the display by an animal of a disposition, determination or intent to attack or inflict injury or harm to a human being or other domestic animal, including displays of growling, charging, lunging, snapping or biting;

(2) When unprovoked, engages in a menacing behavior causing a person lawfully on abutting or adjoining private or public property or rights of way to reasonably believe the safety of the person is threatened. Particular attention shall be paid to threatened safety of children. Such menacing behavior may include displays of growling, snapping or biting, or behaviors such as charging or lunging at or against a fence or other barrier separating the animal owner or possessor's premises from other public or private property. Attempts by an animal to cross outside the owner or possessor's premises through, over or under a fence or barrier may constitute menacing behavior;

(3) Attacks or injures a person or other domestic animal;

(4) Damages public or private property by its activities;

(5) Scatters refuse that is bagged or otherwise contained; or

(6) Causes any condition which threatens or endangers the health or wellbeing of a person or other animal;

(7) Is repeatedly running at large.

(b) If a summons is issued charging violation of this section, a subpoena may also be issued to a complainant, witness or other person to testify under oath as to the animal nuisance activity.

NOISY DOGS. The keeping, or harboring of any dog which by loud, frequent and habitual barking, howling, or yelping shall disturb the peace of any neighborhood is hereby prohibited and declared to be a public nuisance and unlawful under this chapter.

CONFINES. It shall be unlawful for any person to keep or maintain any dog 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.

INSPECTION. All premises on which animals are kept shall be subject to inspection by an Animal Control Officer. If an Animal Control Officer determines from such inspection that the premises are not being maintained in a clean and sanitary manner, the owner of the animals shall be notified in writing to correct the sanitation deficiencies within twenty-four (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.

DEATH OF ANIMALS. All animals which die shall be disposed of by the owner or keepers within twenty-four (24) hours 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. Dead animals the ownership of which cannot be determined and which are found on public property shall be removed by the city.

IMPOUNDMENT OF RABIES SUSPECTS. Any Animal Control Officer may take, 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 thirty (30) days during which time the Animal Control Officer shall determine whether or not such animal is suffering from a disease and, if not, the Animal Control Officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The Animal Control 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.

VICIOUS ANIMALS. It shall be unlawful to keep, harbor, own or in any way possess a vicious animal. The following provisions shall be applicable to vicious animals:

(a) The impoundment of any animal whose owner has been cited for violation of this section shall be in the discretion of the Animal Control Officer.

(b) Any animal whose owner has been cited for violation of this section, which has not been impounded, shall be muzzled and secured in such a manner as to prevent such animal from biting any person or other animal until such time as a determination has been made by the municipal court as to whether such animal is vicious, as defined by this chapter.

(c) Nothing in this chapter shall be construed to prevent an Animal Control Officer from taking such action deemed reasonably necessary to protect such person or members of the public from injury or danger, including the immediate destruction of any vicious animal without notice to the owner.

(d) Upon a finding that an animal is a vicious animal as defined by this chapter, the Municipal Court may order such animal to be destroyed in a humane manner.

(e) Surrender of an animal by the owner to an Animal Control Officer shall not relieve the owner from responsibility for fees and fines which may result from the violation of this section.

PROHIBITED ANIMALS. It shall be unlawful to keep, harbor, own or in any way possess:

(a) Any domestic livestock or fowl, including but not limited to cattle, swine, horses, mules, sheep, goats, chickens, ducks, geese, turkeys, with the exception of no more than two (2) rabbits.

(b) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including, but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats, but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes).

(c) Any animal having poisonous bites.

(d) Any pit bull dog. **EXCEPTIONS:** The provisions of this article are not applicable to owners, keepers or harborers of pit bull dogs registered with the city on the effective date of this article. The keeping of such dogs, however, shall be subject to the following standards:

(1) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely controlled with a leash no longer than four (4) 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 secured by leash 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.

(2) **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 sides of the pen or the sides of the pen must be embedded in the ground no less than two

(2) 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.

(3) 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.

(4) Signs. All owners, keepers or harborers of registered pit bull dogs within the city shall within ten (10) days of the effective date of this article 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 an animal.

(5) Insurance. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this article provide proof to the City Clerk of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) 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 ten (10) days' written notice is first given to the City Clerk.

(6) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this article provide to

the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report in writing to the City Clerk the removal from the city or death of a registered pit bull dog; the birth of offspring of a registered pit bull dog; or the new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(8) 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, unless the recipient person resides permanently within the same household and on the same premises as the registered owner of such dog, provided that the registered owner of a pit bull 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.

(9) Animals Born of Registered Dogs. All offspring born of pit bull dogs registered with the city must be removed from the city within six (6) weeks of the birth of such animal.

(10) Irrebuttable Presumption. 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 this section is in fact a dog subject to the requirements of this section.

(11) Failure to Comply. 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 this article. Any dog found to be the subject of a violation of this article 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.

IMPOUNDMENT. Any animal found in violation of the provisions of this article shall be subject to impoundment by the city. A record of all animals impounded shall be kept by the city containing the species, color, sex, weight, height, identifying marks, and the date of impoundment.

PROCEDURE UPON IMPOUNDMENT. The City Clerk shall notify the owner of the impoundment of such animal as soon as possible. If at the end of seventy-two (72) hours, the City Clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said animal, then the animal, may be sold, euthanized or otherwise disposed of.

RELEASE FROM IMPOUNDMENT. If during the impoundment period, the owner of an impounded animal claims the animal, it shall be released to the person claiming it upon payment of the actual costs of impoundment, and upon compliance with all other applicable provisions of this article. Release from impoundment and the payment of impoundment fees shall not preclude the Municipal Court from imposing any fine which might otherwise be levied under this article for violation of any of the provisions thereof.

PENALTY. Any person violating or permitting the violation of any provision of this article shall upon conviction in Municipal Court be fined a sum not more than five hundred dollars (\$500.00). Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

Section 3. DOGS.

REGISTRATION. The owner of any dog over six (6) months of age shall register under the name of the owner the name, sex, and description of each dog so owned with the City Clerk.

VACCINATION. Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No dog shall be registered without evidence of this document.

EVIDENCE OF NEUTERING OR SPAYING. The owner of any dog shall, at the time of applying for a license, present to the City Clerk a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed.

REGISTRATION FEE. The City Clerk shall collect an annual registration fee of ten dollars (\$ 10.00) for each neutered male dog or spayed female dog, and fifteen dollars (\$ 15.00) for each unneutered male dog or unspayed female dog, without regard to the time of ownership or acquisition of such dog. The registration year shall be from January 1 through December 31 of each year. The fee shall be due on January 1 and payable before May 1st of each year without penalty. Every owner of a dog who shall fail to register and license the same prior to May 1st of each licensing year or within thirty (30) days of the acquisition of a dog, whichever is later, shall pay in addition to the license fee hereinabove provided a penalty fee for late registration of two dollars (\$2.00).

DOG TAGS. It shall be the duty of the City Clerk or designated agent, upon receipt of the registration fee, to keep a suitable record of the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor.

The City Clerk shall deliver to the owner or keeper of a dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the licensed year thereon, which shall be attached to the collar to be used on the dog so registered by the owner or keeper. Whenever the City Clerk is notified that any tag has been lost, upon presentation of the certificate, a duplicate of such tag shall be issued. It shall be unlawful for any person to remove the city license tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

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 in the city for less than thirty (30) days. However, such dogs shall be kept under restraint by the owner thereof at all times.

RUNNING AT LARGE. It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time.

IMPOUNDMENT. 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 color, sex, weight, height, identifying marks, registration number, if any, and the date of impoundment.

PROCEDURE UPON IMPOUNDMENT. 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. If at the end of seventy-two (72) hours, the City Clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized or otherwise disposed of. If the dog impounded has no current registration tag, it shall be kept for seventy-two (72) hours. If within that time the owner does not appear to claim the dog, it may be sold, euthanized or otherwise disposed of.

RELEASE FROM IMPOUNDMENT. If during the impoundment period, the owner of an impounded dog claims the dog, it shall be released to the person claiming it upon payment of the actual costs of impoundment, and upon compliance with the registration and vaccination provisions of this article. Release from impoundment and the payment of impoundment fees shall not preclude the Municipal Court from imposing any fine which might otherwise be levied under this article for violation of any of the provisions thereof.

CONFINEMENT OF DOGS IN HEAT. Any unspayed female dog 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 dogs may gain voluntary access to the confined animal except for the purpose 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 neighborhood nuisances, shall be removed to a boarding kennel, veterinary hospital, or 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. Failure to comply with the order of the Animal Control Officer shall be a violation of this article, and the animal

will then be impounded.

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

PENALTY. Any person violating or permitting the violation of any provision of this article shall upon conviction in Municipal Court be fined a sum not more than five hundred dollars (\$500.00). Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

Section 4. Ordinance No. 426 is repealed in its entirety.

Section 5. EFFECTIVE DATE. This ordinance shall be effective upon its publication in the official city newspaper.

PASSED this 16th day of August, 2016.



Darren Rader, Mayor

ATTEST:



City Clerk