

CHAPTER II. ANIMAL CONTROL AND REGULATION

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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 every living vertebrate except a human being.

(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 when any animal is off the premises of the owner, keeper or harbinger when not accompanied by its owner, keeper or harbinger.

(e) Bite means any actual or suspected abrasion, scratch, punctures, 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 all members of the genus *Felis domesticus*, male or female, domesticated or undomesticated.

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

(h) Dog means all members of the genus *Canis*, male or female, domesticated or undomesticated.

(i) Domestic Pet. means any domesticated animal which is kept for pleasure rather than utility.

(j) Farm Animal means any animal raised on a farm or ranch and used or intended for use as food or fiber.

(k) Fowl means any and all feathered vertebrate, domesticated or wild, male and female, single and plural.

(l) Keeping and Harboring means any person who shall allow any animal to habitually remain or lodge or to be fed within his home, store, yard, enclosure or place.

(m) 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.

(n) 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.

(o) Retailer means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

(p) Wild Animal means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.
(Ord. 2110; Code 2013)

2-102. ANIMAL NUISANCES. No animal may be kept in the city under any condition constituting a nuisance. The designated animal control officer shall be authorized to abate any animal nuisance as provided by law and ordinances of the city. 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 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 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 2-215, or any animal creating a nuisance as defined in Section 2-111, where such animal is impossible or impractical to catch.
(Ord. 2110; Code 2013)

2-103. TRESPASS ON PRIVATE PROPERTY. It shall be unlawful for any person to permit any dog or cat to trespass upon, or do injury to, public or private property of another.
(Ord. 2110; Code 2013)

2-104. CRUELTY TO ANIMALS. It shall be unlawful for any keeper or harbinger or an animal to:

(a) Fail to provide such sufficient and wholesome food; potable water; shade and protection from the weather, which shall be large enough to accommodate the animal; opportunity for exercise; veterinary care when needed to treat injury or illness, unless an animal is instead humanely euthanized; or other care as is needed for the health or well-being of such kind of animal; or

(b) Abandon or leave any animal in any place. For the purpose of this provision, "abandon" means to leave any animal without demonstrated or apparent intent to recover or to resume custody; leave any animal for more than twelve (12) hours without providing for adequate food, potable water and shelter for the duration of the absence; or turn out or release any animal for the purpose of causing it to be impounded; or

(c) Leave any animal unattended in a vehicle, when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal; or

(d) Cruelly beat, mutilate or cruelly kill any animal or cause the same within the city. (Ord. 2110; Code 2013)

2-105. SAME; TREATMENT. Any public officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly 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 to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care.
(Ord. 2110; Code 2013)

2-106. SAME; EXPENSES. Expenses incurred for the care, treatment, boarding of any animal taken into custody, or euthanasia, pending prosecution of the owner or harbinger of such animal for the crime of cruelty to animal(s), shall be assessed to the owner or custodian as a cost of the case if the owner or harbinger is adjudicated guilty of such crime.
(Ord. 2110; Code 2013)

2-107. SAME; CUSTODY. If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction over the crime is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. The animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposal.
(Ord. 2110; Code 2013)

2-108. DISPOSITION OF ANIMALS. An animal shall not be disposed of by an operator of an animal shelter until after expiration of a minimum of three (3) days of custody which the public has clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was a gift animal to an animal shelter, or euthanized by a licensed veterinarian if it appears to an officer of such animal shelter or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.
(Ord. 2110; Code 2013)

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 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:

(1) Any person licensed to practice veterinary medicine who operates a veterinary clinic within the city limits.

(2) Marshall County Fair Board operating on Marshall County Fairgrounds.

(3) Livestock sale barns located on Marshall County Fairgrounds.

(4) Circus or rodeos located on Marshall County Fairgrounds.

(5) 4-H Club activities located on Marshall County Fairgrounds.

(6) Pasture land in the city limits and land exclusively purchased as pasture land except hogs.

(7) For the purpose of this section pasture land shall mean an area of land not less than 43,000 square feet not to include residence and curtilage.

(8) Land and owners of the land under the grandfather clause. The land will not be transferable to another under this clause unless the new owner meets the requirements of this section.

(9) All the above must maintain all animals and animal quarters in a clean and sanitary condition and maintained so as to eliminate objectionable odors. Furthermore, all animals must be maintained in good health and a humane manner. (Ord. 1688, Sec. 1; Code 1988)

2-109A. SAME; COMPLAINTS. Upon receiving a complaint of a violation of section 2-109, the city marshal shall conduct an investigation and upon completion shall report his or her findings to the mayor. At the mayor's discretion the mayor may order a councilmember or veterinarian to do an independent investigation to determine if there is a violation of section 2-109(9) based upon either investigation the mayor may request a hearing to be held at the next council meeting to determine whether the owner is in violation. The council shall determine whether to give the violator a period of time, of which will be specified by the council, in order to correct the violation or if the violation requires court action but this section shall not limit the city marshal from issuing a citation and any court action resulting from this action. (Ord. 1688, Sec. 1:2; Code 1988)

2-110. 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. (Ord. 1640, Sec. 4; Code 1988)

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 1988)

2-112. NOISY ANIMALS; COMPLAINTS. (a) The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching 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.

(b) Complaints concerning noisy animals must be made in writing to the city clerk. (Code 1988)

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 animals' 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) 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. (Ord. 1945; Code 2013)

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 anti-coagulant 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 subject 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 1988)

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. (Ord. 1640, Sec. 3; Code 1988)

2-115. VICIOUS ANIMALS. (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 the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious 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 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) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section. (Ord. 1639, Sec. 3; Code 1988)

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs). (Code 1988)

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 \$7 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 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.

(d) The animal control officer shall each month submit a report to the governing body 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 1988)

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 1988)

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 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. 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.

(Ord. 1639, Sec. 4; Code 1988)

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; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Ord. 1639, Sec. 4; Code 1988)

2-121. EMERGENCY; PROCLAMATION. The mayor 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 wherever 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. (Code 1988)

2-122. KENNELS. (a) No kennel shall be operated by any person for the purpose of raising, keeping or maintaining dogs for sale within the city limits.

(b) This provision shall not apply to kennels which:

(1) Are 100 yards from any residence;

(2) Are kept clean and in a sanitary condition and so maintained as to eliminate any objectionable odors and all dogs must be maintained in good health and in a humane way;

(3) Have obtained an annual kennel license from the city clerk's office and paid \$100 per kennel license. All licenses will be renewed each January;

(4) Do not exceed five adult dogs at any one time;

(4a) for the purposes of this section an adult dog shall mean a dog over the age of six months;

(5) Allow the kennel to be inspected at any time for violations by the city marshal or his or her designated representative; and

(6) Have allowed the kennel to be inspected by a licensed veterinarian semi-annually in order to determine whether the animals are kept in compliance with section 2-122 (2). The inspection fee will be paid by the licensee. An inspection report shall be presented to the city clerk at the time of the purchase of a kennel license.

(c) A variance may be granted by the governing body upon a showing of good cause or undue hardship in the enforcement of this section. (Ord. 1687, Sec. 1:1a; Code 1988)

2-123. SAME; NON-TRANSFERABLE. Kennel licenses are issued to the person and property and are not transferable to another person or property and this includes persons under the grandfather clause. (Ord. 1687, Sec.16)

2-124. SAME; VETERINARIANS. Any person licensed to practice veterinary medicine or who operates a veterinary clinic within the city limits will be allowed to board dogs at the veterinary clinic in conjunction with his or her veterinary practice. (Ord. 1687, Sec.2)

2-125. SAME; COMPLAINTS. Upon receiving a complaint of violation of any part of sections 2-122:124 the city marshal shall, upon receiving the complaint, perform an investigation and upon completion shall report his or her findings to the mayor. Upon the mayor's discretion the mayor may order a councilmember or veterinarian to do an independent investigation to determine if there is a violation of section 2-122(2) and section 2-122(5) and based upon either investigation the mayor may request a hearing to be held at the next council meeting to determine whether the kennel license shall be suspended or revoked or whether the licensee shall be given a period of time specified by the council in order to correct the violation and/or if court action is required. (Ord. 1687, Sec.3)

2-126. SAME; PENALTY. (a) Any person in violation of any part of sections 2-122 through 2-125 shall, upon conviction thereof, be fined in an amount not to exceed \$500 and/or imprisoned for not more than 30 days, and/or have their kennel license suspended.

(b) Upon suspension of the kennel license there will be no refund of the kennel license fee. Any person who has had their kennel license suspended shall have 15 days to appeal the suspension in writing to the city clerk. (Ord. 1687, Sec. 4:5)

ARTICLE 2. DOGS

- 2-201. LICENSE REQUIRED; GENERAL. It shall be unlawful for any person to keep or harbor any dog or cat over six (6) months of age, unless such dog or cat is vaccinated and licensed as provided herein. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter. (Ord. 2110; Code 2013)
- 2-202. SAME; DOGS. Application for a dog license shall be made annually at the city clerk's office between January 1 through December 31. The owner, keeper or harbinger of any dog born or brought into the city must file with the city clerk an affidavit showing the date on which such dog was born or brought into the city and must obtain a license for the dog within thirty (30) days from such date. (Ord. 2110; Code 2013)
- 2-203. SAME; CATS. Application for a cat license shall be made annually at the city clerk's office between January 1 through December 31. The owner, keeper or harbinger of any cat born or brought into the city must file with the city clerk an affidavit showing the date on which such cat was born or brought into the city and must obtain a license for the cat within thirty (30) days from such date. (Ord. 2110; Code 2013)
- 2-204. ANTI-RABIES VACCINATION REQUIRED. Any person applying for a license for a dog or cat shall be required to present, at the time of making such application, a certificate issued by a licensed veterinarian showing that such dog or cat has been vaccinated or inoculated with an approved anti-rabies vaccine, effective as of the date of the license application. (Ord. 2110, 2118; Code 2013)
- 2-205. LICENSE FEE. (a) The city clerk shall collect an annual registration fee for each neutered male dog or cat and for each spayed female dog or cat, and for each unneutered male dog or cat and for each unspayed female dog or cat. The fee shall be payable by March 31 of each year.
- (b) Every owner or harbinger of dog or dogs or cat or cats who shall fail to register the same prior to the 1st day of April of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration.
- (c) License fees shall be waived for dogs serving the blind or deaf or handicapped, or for government-owned dogs used for law enforcement. All other licensing provisions shall apply to such animals. (Ord. 2110; Code 2013)
- 2-206. TAGS. The city clerk shall issue a tag of metal or other durable material, having stamped or engraved thereon the registration number and the year of registration. The license tag issued under the provisions of this section shall be attached to a suitable collar and kept on the dog or cat for which issued at all times. Such tags are not transferable. The city clerk shall keep a record of the person to whom the tag is issued and a description of the dog or cat for which the tag is issued. (Ord. 2110; Code 2013)
- 2-207. VISITING DOGS OR CATS. The provisions of this article shall not apply to a dog or cat not kept or harbored within city limits, nor to a dog or cat belonging to any

person or persons, firm or corporation on a sojourn or brought into the city for bench or show purposes or other temporary purposes, provided the dog or cat is not permitted to run at large. However, if a dog or cat belonging to such person remains in the city for thirty (30) days or longer, the dog or cat shall be subject to the provisions of this article, including licensing and vaccination.
(Ord. 2110; Code 2013)

- 2-208. KEEPING ANIMALS. (a) It shall be unlawful for the owner, occupant, lessee 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, chickens, ducks, geese or any other undomesticated animals are kept. This provision shall not apply to:
- (1) The maintaining of horses and cows located on one or more contiguous acres of land;
 - (2) The maintaining of dogs or cats which are regulated by Article 2 of this chapter;
 - (3) The maintaining of nonpoisonous and non-vicious animals and fowl 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 2-210 of this chapter;
 - (4) The transporting of animals through the city by ordinary and customary means.
 - (5) The raising of stock and poultry as regulated by zoning regulations in the A-1 Agricultural District;
 - (6) Any person licensed to practice veterinary medicine that operates a veterinary clinic within the city limits;
 - (7) Marshall County Fair Board operating on Marshall County Fairgrounds;
 - (8) Circuses or rodeos located on Marshall County Fairgrounds;
 - (9) 4-H Club activities located on Marshall County Fairgrounds.
 - (10) Poultry for 4-H Club and Future Farmers of America activities may be raised maintained and harbored inside the city limits notwithstanding any zoning classification or restriction to the contrary.
- (b) No kennel shall be operated by any person for the purpose of raising, keeping or maintaining dogs for sale within the city limits.
(Ord. 2110, 2206; Code 2013)

- 2-209. ENCLOSURES. It shall be unlawful and made a misdemeanor for any owner, keeper or harbinger of any dog or cat to permit such dog or cat to be tied, kenneled, housed (other than the domicile of the owner, keeper or harbinger of the dog or cat) or otherwise maintained within six (6) feet of any property line or within six (6) feet of any adjacent residence, whichever is the lesser distance. If at least twenty (20) percent of the yard is fenced, the dog or cat may be at large within such enclosure.
(Ord. 2110; Code 2013)

- 2-210. 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. All such stored or accumulated waste shall be disposed of at least once each week in adequate fly-tight containers.

(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 animals confines.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public 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 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. (Ord. 2110; Code 2013)

2-211. POISON FOOD. It shall be unlawful for any person to willfully and maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or willfully and maliciously place any poison or poisoned food where the same is accessible to any such animal. (Ord. 2110; Code 2013)

2-212. BREAKING POUND. It shall be unlawful for any person or persons to obstruct hinder or prevent the impounding of any dog or cat running at large contrary to the provisions of this ordinance; or to break open, destroy or injure the animal shelter door, gate or enclosure thereof; or to take or attempt to take therefrom a dog or cat therein impounded without first paying the fee and costs as provided in this ordinance. (Ord. 2110; Code 2013)

2-213. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy an animal trap above ground which makes use of spring gun, spring jaw, clamping device, cutting or stabbing mechanism, or any other device 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. (Ord. 2110; Code 2013)

2-214. VICIOUS ANIMALS. (a) The owning or keeping of a vicious animal or animals within the city is prohibited. For the purpose of this section, "vicious" is defined as an animal which:

- (1) Attacks, injures or bites any person or other domestic animal;
- (2) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

(b) Upon submission of a written complaint by a complainant with the Blue Rapids police department, the municipal court may make a determination at the time of trial as to whether or not an animal is vicious. In making such determination, the municipal court may consider the following:

(1) The seriousness of any injury or damage to persons or property that may have been inflicted;

(2) The past history of the animal with respect to injury or damage to person or property;

(3) The potential propensity of the animal to injure or damage person or property;

(4) The conditions existing when the animal may have inflicted injury to person or property;

(5) Whether or not a person or property has been threatened by the animal;

(6) The conditions under which the animals has been kept or maintained;

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

(d) If the municipal court determines that an animal is vicious, the court may cause the animal to be picked up and destroyed or order the removal of the animal from the corporate limits of the city.

(e) In lieu of making a finding that the animal is vicious, the court may make a finding that the animal has a propensity to be vicious and, in such case, may allow the owner or keeper of the animal to continue the keeping of the animal under such terms and conditions as the court may specify.

(f) Any person found guilty of violating the provisions of this section shall be punished by a fine not less than \$100 nor more than \$500 or by imprisonment not to exceed six (6) months, or both fine and imprisonment.

(Ord. 2110; Code 2013)

2-215. CONFINEMENT OF RABIES SUSPECTS. (a) Any animal which is suspected of having rabies, or any animal 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 ten (10) days; provided however the period of confinement may be shortened at eh discretion of the veterinarian in charge of the hospital;

(b) Any animal bitten by a known rabid animal shall be seized and confined in a veterinary hospital, as provided in sub-part (a) of this section.

(c) All expenses incurred during the period of confinement in a veterinary hospital for the purposes this section shall be paid by the owner of the animal. If any animal so impounded cannot be identified as to ownership with the ten-day period, than the veterinarian shall dispose of the animal and the city incur the costs thereof.

(d) In lieu of this, the owner may elect to begin immediately a series of protective treatments for the rabies suspect. It shall be the duty of such owner to furnish satisfactory evidence of the completion of such treatment to the Blue Rapids Police Department. In case such satisfactory evidence is not furnished, the chief of police or licensed veterinarian has the duty to kill the affected animal.

(Ord. 2110; Code 2013)

- 2-216. SAME; STATE OF EMERGENCY. When there exists sufficient evidence to believe that rabies exists in or near the city, the governing body may, by resolution, require all dog and cat owners within the corporate limits of the city to confine their dogs or cats or securely muzzle dogs with a wire or leather muzzle for such length of time as may be designated in the resolution or until otherwise ordered; and it shall be unlawful for any person to permit a cat or dog to run at large in violation of the terms the resolution. Such resolution shall not become effective unless and until the same is published one time in the official city newspaper and posted in at least four conspicuous places within 24 hours.
(Ord. 2110; Code 2013)
- 2-217. RUNNING AT LARGE PROHIBITED. It shall be unlawful for the owner, keeper or harbinger of any dog or cat to permit such dog or cat to run at large in the city at any time. Any dog or cat shall be presumed to be running at large, and the owner shall be presumed to have permitted it to be at large, when found off the premises of the owner, keeper or harbinger of such dog or cat. Provided, that it shall be a defense for a person charged under this section that such dog or cat was merely passing along the streets, sidewalks, avenues or parks of the city, or upon private property, with the consent of the owner of said property, while such dog or cat was held upon a leash, chain, rope or harness by its master or keeper, or was in the immediate voice control of the owner, keeper or harbinger within a 50-foot radius.
- 2-218. NUISANCES. (a) Any person who keeps or harbors any dog or cat shall prevent such dog or cat from being a nuisance. A dog or cat shall be considered a nuisance if it: damages, soils, defiles or defecates on private property other than its keeper's or harbinger's, or on public rights-of-way or recreation areas, unless such waste is immediately removed and properly disposed of by its keeper or harbinger; causes unsanitary, dangerous or offensive conditions; or chases vehicles, or molest, attacks or interferes with persons or domestic animals on property other than property of its harbinger or keeper.
- (b) The keeping or harboring of any animal which by frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such 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. Any complaint filed with the city clerk or police department under this sub-paragraph must be signed by at least one landowner or occupant who resides within 300 feet of the property whereon such noisy animal is located.
- (c) There shall be a rebuttable presumption that a nuisance is created if any person keeps or harbors more than three (3) dogs or cats, or any combination of such animals exceeding five (5) in number, over the age of six months, upon any premises within the city of Blue Rapids. (Ord. 2110; Code 2013)
- 2-219. HANDLING OF COMPLAINTS. (a) When a complaint is filed that an offense has been committed in violation of this article, the municipal judge may issue a summons instead of a warrant at the request of the city attorney. If a defendant fails to appear in response to the summons, a warrant shall be issued. The summons shall be served upon a defendant by delivering a copy to him personally or by leaving it at his dwelling house or usual abode with some person of suitable age and

discretion then residing therein, or by mailing it to the defendant's last known address.

(b) Upon submission of a written complaint by a complainant with the city of Blue Rapids police department or the city clerk, and after investigation of same by the police department or designated animal control officer, such officers, for the health, safety and welfare of the residents of the city, may:

(1) Place humane traps on public or private property upon request from property owners for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city.

(2) Catch pole, traps, tranquilizer guns, firearms or other suitable devices may be used with the animal control officer or law enforcement officer in the performance of his or her duties.

(Ord. 2110; Code 2013)

2-220. IMPOUNDMENT. (a) All dogs or cats found upon the streets, alleys, public ground, or upon the premises of another person not the owner of the dog or cat shall be seized and impounded by a police officer, animal control officer, or other person appointed for such purpose and held for three (3) business days. The owner, keeper, or harbinger of such dog or cat who desires to reclaim the same may do so by paying an impounding fee. Under extenuating circumstances, and as authorized by the chief of police, a dog or cat may be impounded to maximum of seven (7) days.

(b) An impounded dog or cat that is not claimed by the owner, keeper or harbinger of such dog or cat within three (3) business days may be released to a non-owner wishing to adopt the dog or cat with the following conditions:

(1) No impoundment fee will be collected;

(2) The dog or cat must be inoculated with anti-rabies vaccine and a current dog or cat license purchased if the dog or cat is to be kept within city limits;

(3) Such dog or cat must first be surgically spayed or neutered. The adopting party must sign an agreement to have the dog or cat spayed and neutered and will deposit with the city clerk funds sufficient to insure the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered. No person shall spay or neuter any dog or cat unless such person is a licensed veterinarian.

(4) This section shall not be construed to require sterilization of a dog or cat which is being held by the Blue Rapids animal shelter and which is claimed by its rightful owner, keeper or harbinger. (Ord. 2110; Code 2013)

2-221. DISPOSITION OF DOGS OR CATS. If any dog or cat so impounded is not claimed within the time frame as provided in section 2-220, it shall be the duty of the animal control officer, chief of police, or any person or persons working under the direction of the chief of police to convey the dog or cat to dispose of the same. Euthanasia will be in accordance with K.S.A. 47-1718. (Ord. 2110; Code 2013)

2-222. PENALTIES. Any person violating or permitting the violation of any provision of this article shall, upon conviction in municipal court, be fined a sum of \$25 for the first offense, \$50 for the second offense, and \$100 for the third offense in any one-year period. (Ord. 2110; Code 2013)

ARTICLE 3. OTHER ANIMALS

2-301. EXOTIC ANIMALS. (a) 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 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.
- (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) Piranha fish.
- (30) Any pit bull dog. Pit bull dog is defined to mean:
 - (a) The Bull Terrier breed of dogs;
 - (b) The Staffordshire bull terrier breed of dogs;
 - (c) The American Pit Bull terrier breed of dogs;
 - (d) The American Staffordshire terrier breed of dogs;
 - (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;
 - (f) Any dog which has the appearance and characteristics of being predominately 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.

(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.

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

(Ord. 1640, Sec. 1; Ord. 1643, Sec. 1; Code 1988)

ARTICLE 4. REGULATING FOWL

2-401. KEEPING OF FOWL. The governing body of the city declares that it is unlawful for any owner, lessee, occupant or person in charge of the premises in the city to possess and maintain any domestic, wild, or exotic fowl within the city limits. This provision shall not apply to:

(1) Any person licensed to practice veterinary medicine and operate a veterinary clinic within the city limits.

(2) Marshall County Fair Board operating on Marshall County Fairgrounds.

(a) Livestock sales.

(b) Circus.

(c) Rodeos.

(d) 4-H Club activities.

(3) Any 4-H or school project if any person who is involved in 4-H or a school project applies for and is granted a permit from the city clerk. This permit may be revoked at any time by the governing body.

(Code 1999)