

(Summary Published in the Leavenworth Times on February 17, 2024)

ORDINANCE NO. 8234

AN ORDINANCE AMENDING CHAPTER 8 (ANIMAL CONTROL AND REGULATION), ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS CHAPTER AND SECTIONS SO AMENDED.

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

Section 1. Chapter 8 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

CHAPTER 8. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions Concerning Animals

Article 2. Care for Animals

Article 3. Offenses Generally

Article 4. Animal Attacks and Dangerous Animals

Article 5. Permits and Licensing

Article 6. Wildlife

Article 7. Livestock

Article 8. Shelter, Impoundment and Disposition

Article 9. Administration and Enforcement

ARTICLE 1. GENERAL PROVISIONS CONCERNING ANIMALS

8-101 FINDINGS OF THE GOVERNING BODY

The Governing Body of the City of Leavenworth, Kansas hereby finds that to protect and preserve the public health, safety, and welfare it is necessary to prohibit the ownership of certain animals within the City and to establish regulations governing the ownership of animals allowed within the City.

8-102 DEFINITIONS

As used in this Chapter:

- A. “Abandon” shall mean to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than 24 hours without providing adequate food and shelter for the duration of the absence; failure to pick an animal up within 4 business days from the animal shelter; or to turn out or release an animal for the purpose of causing it to be impounded. (See also K.S.A. 47-1710)
- B. “Animal Shelter”, “animal control”, or “pound” means a facility which is used or designed for use to house, contain, impound, or harbor any seized stray, homeless, relinquished, or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. This includes any facility operated by

the city or its authorized agent meeting the above definition. Animal shelter, control, or pound also includes a facility of an individual or organization, profit or nonprofit, maintaining 20 or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing, or maintaining the animals or offering the animals for adoption.

- C.
 - 1. “Cat” shall mean any member of the zoological class, *Felis domesticus*, unless otherwise described herein.
 - 2. “Feral cat” shall mean a non-domesticated feline or cat.
- D. “Dangerous animal” shall mean and include:
 - 1. Any mammal, amphibian, fish, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length.
 - 2. Any animal having a disposition or propensity to attack or bite any person or animal without provocation. For the purposes of this chapter, where the official records of the Chief Animal Control Officer indicate an animal has aggressively bitten any person or persons, it shall be prima facie evidence that said animal is a dangerous animal.
 - a. A dangerous animal may also be designated as such by the court.
 - b. Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime, or if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as wolf-hybrids or wolf-

mix breeds or the breed known as Tundra Shepherd. The registration of an animal at any time in any jurisdiction as a wolf-hybrid, wolf mix or Tundra Shepherd shall constitute prima facie evidence the animal is a dangerous animal. For the purposes of this section all references to animals described herein shall be to wolf-hybrids. (See also 8-403)

- E. "Dog" shall mean all animals of the canine species, unless otherwise specifically described herein.
- F. "Domesticated" shall mean bred for and adapted to living dependently in an urban household setting.
- G. "Humane" shall mean a manner of care including, but not limited to, protection from harm, providing of shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal's species, type, size, age, and condition.
- H. "Kennel" shall mean a place of business where four or more animals are brought, sold, bred, raised, or kept for the purpose of boarding, sale, resale, training or teaching, and which business is done commercially and for profit.
- I. "Livestock" shall mean cattle, horses, mules, donkeys, goats, swine, Llamas, Alpaca, sheep, or other herd animals.
- J. "Officer" shall mean City Animal Control Officer or City Police Officer.
- K. "Own" or "Owning" shall mean to keep, maintain, harbor, shelter, manage, possess, control, sell, trade, buy or have a part interest.
- L. "Owner" shall mean the person who owns, keeps, harbors, shelters, manages, controls, or possesses an animal or specified animal. A parent or legal guardian shall be deemed to be an owner of an animal or specified animal owned or maintained by a minor in the parent's or guardian's charge. Owner shall include a person who has lawful title, is named on the microchip of the animal, has registered the animal, or has picked the animal up from the shelter or custody of the police department.
- M. "Person" shall mean and include any natural person, association, partnership, organization, or corporation.
- N. "Spay", "neuter", or "sterilize" shall mean to render permanently incapable of producing offspring.

8-103

OWNING CERTAIN ANIMALS PROHIBITED

It shall be unlawful for any person(s) to own, within the City limits, any animal except as excluded in Section 8-104.

8-104

ANIMALS EXCLUDED FROM PROHIBITION

The following list of animals excluded from prohibition under Section 8-103 are also subject to any city zoning requirements.

Animals excluded from the prohibition under Section 8-103, include the following:

- A. Domestic dogs, except:
 - 1. Those hybridized with wild canines; or
 - 2. Those that are “dangerous animals”, as defined in Section 8-102(D), unless the owner has complied with all requirements set forth in Section 8-404 Dangerous Animal Permit of this Chapter.
- B. Domestic cats, except:
 - 1. Those hybridized with wild felines; or
 - 2. Those that are “dangerous animals”, as defined in Section 8-102(C), unless the owner has complied with all requirements set forth in Section 8-404 Dangerous Animal Permit of this Chapter.
- C. Domesticated rodents.
- D. Domesticated European ferrets.
- E. Rabbits.
- F. Birds and fowl including chickens, ducks, geese, turkey, guineas, and pigeons, except for species protected by state or federal law. Must be fewer than 15, none maybe roosters, and kept at least 75 feet from any dwelling, other than the owner or tenant thereof.
- G. Nonvenomous snakes less than six (6) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.
- H. Nonvenomous lizards.
- I. Turtles, except for species protected by state or federal law.
- J. Amphibians.
- K. Fish.
- L. Invertebrates including bees, restrictions and other zoning requirements apply.
- M. Potbellied pigs, restrictions and other zoning requirements apply.
- N. Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian, provided that the animal is properly restrained.

- O. Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department, provided that the animal is properly restrained.
- P. Any animal in the ownership of a person temporarily transporting such animal through the city, provided that the animal is properly restrained.
- Q. Any animal in the ownership of a bona fide medical institution or accredited educational institution, provided that the animal is properly restrained.
- R. Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals, provided that the animal is properly restrained.

8-105

ANIMALS PROHIBITED IN RESIDENTIALLY ZONED AREAS

- A. Unless regulated elsewhere in the city zoning requirements, a person wanting to own, keep, harbor or shelter any of the following in a residentially zoned area shall be required to apply for and obtain a permit as stated in Article 5 of this Chapter:
 - 1. Livestock, including but not limited to cattle, horses, mules, donkeys, goats, swine, Llamas, Alpaca, sheep, and/or other herd animals.
 - 2. Bees, unless being owned, kept, harbored, or maintained in an area zoned agricultural and more than 100 yards from a residentially zoned area.

8-106

LIMIT ON NUMBER OF ANIMALS

- A. Except for domesticated rodents, fish, and invertebrates, it shall be unlawful for any person(s) to own, keep or harbor any combination of more than six (6) non-prohibited animals at the same address or on the same premises within the City limits. Of the six (6) animals, no more than four (4) dogs or four (4) cats will be allowed in combination under this limit. This does not include dogs or cats under four (4) months of age.
- B. No more than 15 domestic fowl shall be allowed at one time, none of which may be roosters. It is unlawful to keep domestic fowl within 75 feet of any dwelling other than that of the owner or tenant thereof.

8-107

CONFISCATION OF PROHIBITED ANIMAL

An Animal Control Officer, Police Officer, or designee of the Police Chief may take any animal being kept in violation of this chapter into custody and then file a notice to appear and complaint pursuant to 8-906. The Municipal Judge may order the confiscation of any animals being kept in violation of the prohibitions of this chapter. Upon the conviction of a person for owning an animal as prohibited by this chapter, the Municipal Court Judge may order the animal confiscated and transferred to an appropriate licensed animal shelter or care facility. The Municipal Court Judge may order the release of the animal to the owner provided

that the animal will not be kept within the city limits, or under any other restrictions or mandates the Court feels is appropriate considering the circumstances of the case.

8-108

PENALTY

Violation of this article shall be a municipal offense for which a mandatory court appearance is required, and upon conviction, the defendant shall be fined no less than \$90.00 nor more than \$500.00 per offense and/or animal plus applicable court costs and/or up to 30 days jail.

In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

ARTICLE 2. CARE FOR ANIMALS

8-201

CARE FOR ANIMALS (see 11.11 of the UPOC also)

A. Cruel acts and conditions enumerated:

1. It shall be unlawful for any person:

- a. To willfully or maliciously kill, maim, disfigure, or torture, strike, hit or beat with a stick, board, chain, club, or other object; mutilate, burn, or scald with any substance; or drive over any domesticated animal, or cruelly set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals; or
- b. By any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances (it is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health); or
- c. To fail, refuse or neglect to provide any animal in said person's charge or custody as owner or otherwise, with proper food, drink, shade, care, or structurally-sound weatherproof shelter appropriate for the type, age and/or size of the animal; or
- d. To drive or work any animal cruelly; or
- e. To leave any animal confined in a vehicle for more than thirty (30) minutes in extreme weather conditions, defined as less than thirty (30) degrees Fahrenheit; or more than five (5) minutes when its more than eighty (80) degrees Fahrenheit; or
- f. To transport an animal in the trunk of a vehicle; or
- g. To cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human; or
- h. To give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade; or

- i. To attach chains or other tethers, restraints or implements directly to an animal without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal; or
 - j. To continuously picket, tether or stake an animal (excluding those used by businesses for security during non-business hours) for more than four (4) continuous hours, except that tethering or staking of the same animal may resume after a hiatus of one (1) continuous hour, for up to eight (8) hours total time on a tether or stake per day; provided that for the purpose of tethering or staking an animal, a chain, leash, rope or tether shall be at least 10 feet in length; or
 - k. To use a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto to picket an animal that shall weigh more than one-eighth ($1/8$) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed; or
 - l. No animal shall be tethered or staked in such manner as to permit it within 10 ft of a public sidewalk or street; or
 - m. To picket an animal in such a manner as to cause injury, strangulation, or entanglement of the animal on fences, trees, or other man-made or natural obstacles.
2. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report any injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or animal control agency.

B. Exceptions

Nothing in Subsection (A) of this Section shall:

- 1. Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by a law enforcement officer pursuant to the interests of public health and safety; or
- 2. Be interpreted as prohibiting any act done in self-defense or done

to defend another person; or

3. Bona fide experiments carried out by recognized research facilities; or
4. Rodeo practices accepted by the rodeo cowboys' association and approved by the city animal control supervisor; or
5. Killing, attempting to kill, trapping, catching, or taking of any animal or fowl in accordance with the provisions of K.S.A. Chapter 32 and 47; or
6. The humane killing of an animal or fowl diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of the city, or the owner thereof within the city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an animal control agency, or by the operator of an animal shelter or pound, or by a local or state health officer, or by a licensed veterinarian four business days following the receipt of any such animal at such society, shelter, or pound.
7. With respect to farm animals or fowl, normal or accepted practices of animal husbandry; or
8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal or fowl is vicious or could not be captured after reasonable attempts using other methods.

8-202

PROCEDURES FOR CARE FOR ANIMALS; FINES

- A. Any public health officer, animal control officer, law enforcement officer, code enforcement officer, or licensed veterinarian may take into custody any animal, upon either private or public property, which clearly shows evidence of violations of care for animals as defined in Section 8-201; provided that entry upon private property shall only be accomplished with the assistance of a law enforcement officer. Such officer, agent or veterinarian may inspect, care for, or treat such animal or place such animal in the care of any facility with which the City has contracted for animal sheltering services or a licensed veterinarian for treatment, boarding or other care or, if an officer of such animal sheltering facility or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane destruction.
- B. The owner or keeper of an animal destroyed pursuant to subsection (A) shall not be entitled to recover damages for the destruction of such animal unless the owner proves that such destruction was unreasonable

and unwarranted.

- C. Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (A) pending prosecution of the owner or keeper of such animal for the violations of care for animals as defined in Section 8-201 shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.
- D. If a person is adjudicated guilty of violations of care for animals as defined in Section 8-201 and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society, animal shelter or control or licensed veterinarian for sale, adoption, or other disposition.
- E. Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution or other order of the court, the owner or keeper of the animal shall have a maximum of four (4) business days after the animal is taken into custody to obtain the animal from the veterinarian or the animal sheltering facility having custody of the animal. The veterinarian or the animal sheltering facility shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the Municipal Judge authority to declare that the animal be disposed of, by the veterinarian or the animal sheltering facility, through either adoption or destruction. (See also K.S.A. 47-1710)
- F. **PENALTY.** Violation of this article, unless stated elsewhere, shall be a municipal offense for which a mandatory court appearance is required, and upon conviction, the defendant shall be fined not less than \$90.00 nor more than \$1,000.00, plus applicable court costs, per offense. In addition, the defendant may also be sentenced up to a maximum six (6) months in jail or both fine and jail. The court also has authority to confiscate the animal and other animals within the home, prevent the owner from owning or harboring other animals in the city limits, pay all associated costs of care, and any other penalty or restriction as allowed by law.

In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits;

designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

ARTICLE 3. OFFENSES GENERALLY

8-301 ANIMAL NUISANCES

A. It shall be unlawful for any person to:

1. Own any animal, including a dog or cat, which by frequent or long continued noise shall disturb the comfort or repose of any person within the vicinity of such animal; or
2. Own any animal, including a dog or cat, which shall by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to surrounding residences; or
3. Own any dog or cat, which is in heat, unless such animal is confined in a secure and sufficiently enclosed area; or
4. Own a deceased animal and fail to remove and dispose of the carcass within 24 hours of death.

Violation of this Section shall be a municipal offense and upon conviction shall be punishable by a fine of at least \$90.00 up to \$500, plus applicable court costs, per offense and/or animal. See 8-311 for additional penalties and requirements as may be ordered by the court.

8-302 ABANDON OR SURRENDER ANIMAL

A. It shall be unlawful for any person to:

1. Abandon any animal within the city limits or fail to retrieve an animal after four (4) days at animal control. (See also K.S.A. 47-1710)
2. Surrender an animal to animal control, animal control officer, or a police officer under false pretenses.

8-303 RESPONSIBILITY FOR REMOVAL OF ANIMAL EXCREMENT

- A. It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal.
- B. It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal.
- C. The provisions of this Section shall not apply to persons who have a physical disability or visual impairment, who are using a service animal.

Violation of this Section shall constitute a municipal offense and upon conviction

shall be punishable by a fine at least \$90.00 up to \$500, plus applicable court costs, per offense. See 8-311 for additional penalties and requirements as may be ordered by the court.

8-304 ANIMALS RUNNING AT LARGE; FINES

- A. It shall be unlawful for any person to own or keep a dog or other animal which runs at large in the City. Knowledge or acquiescence by the owner or keeper is not an element of the offense.
- B. An animal shall not be deemed to be running at large if:
 - 1. The animal is firmly attached to a leash or chain under the physical control of its owner or keeper; or
 - 2. The animal is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure; or
- C. Any animal on property without the permission of the property owner shall be deemed to be an animal at large and the owner of such animal shall be in violation of this section.
- D. Cats, domestic or feral, are excluded from this section.
- E. Any person found guilty of a violation of this Section shall be fined as follows: \$50.00 for the first offense; \$100.00 for the second offense; \$150.00 for the third offense; and \$200.00 for the fourth and subsequent offense(s). The fine shall be in addition to any applicable court costs and/or impoundment fees. See 8-311 for additional penalties and requirements as may be ordered by the court.

8-305 HABITUAL VIOLATOR; ANIMAL AT-LARGE

- A. It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 8-304 within a twenty-four (24) month consecutive period. Such person may then be cited as a habitual violator.
- B. Violation of this Section shall be a municipal offense for which a mandatory court appearance is required. Any person found guilty of a violation of this Section shall be fined not less than \$200.00 nor more than \$500.00, plus applicable court costs and or/impoundment fees, for each habitual violator citation. In addition, the Municipal Judge shall have the authority to sentence the individual to up to thirty (30) days in jail, or both fine and jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed, for a specific citation issued under Section 8-303.

In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into

quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

8-306 PURSUIT ONTO PRIVATE PROPERTY

A law enforcement officer or animal control officer shall have the right of entry upon any private unenclosed lots or lands to pursue and capture any animal, including a dog or cat, found to be running at large or whose presence is in violation of any article of this chapter.

8-307 IMPOUNDING, REDEMPTION AND DISPOSITION

A dog or other animal found running at large or in violation of the articles within this chapter, situated within the corporate limits of the City, may be taken up by the officer or brought in by a member of the public and may be impounded at any facility with which the City manages or has contracted for animal sheltering services. The officer shall make a record of all dogs or other animals so impounded with their description, date of impoundment and rabies vaccination number if available. If, within four (4) business days from the date any dog or other animal is impounded and the owner of such dog or animal shall appear and claim his or her dog or animal, said dog or animal may be released upon payment of the applicable impoundment fees as set forth by the City and/or the facility providing the sheltering services. All fees required by this Section shall be payable to the City, and no animal shall be released until the animal's owner proves that the animal, if a dog or other animal, is currently immunized against rabies, is properly licensed pursuant to Article 5 of this Chapter, and all impoundment and board fees have been paid in full to the City, unless some other arrangement is agreed to between the parties to accomplish this goal, such as a payment plan or a scheduled veterinarian appointment.

Rabies immunization and licensing are not required until the animal is over four (4) months of age. If said animal is over four (4) months of age and is not currently immunized against rabies and licensed as required, then the owner shall be issued citations for failure to license an animal and for failure to provide

proof of rabies immunization. In addition, the owner shall pay for the purchase of a City license tag for the animal, in accordance with the provisions of Article 5 of this Chapter.

Any owner or keeper of a dog or other animal who resides within the city limits of Leavenworth, Kansas and wishes to forfeit or otherwise terminate their ownership of said animal may bring the animal to the Leavenworth City Animal Control for surrender. At such time, the owner shall complete a written statement (including the animal's behavioral history and medical records, if available) irrevocably surrendering ownership of the animal and shall at that time pay a \$ 100.00 surrender fee to the City. The City expressly reserves the right to refuse to accept custody of any animal offered for surrender.

Any administrative, kennel, boarding, pickup, care, or surrender fees shall be set by the board of commissioners of the city and shall be assessed and collected from the owner of the animal.

8-308 FILING COMPLAINT; ENFORCEMENT

It is hereby made the duty of the animal control officer, or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this chapter. Pursuant to Charter Ordinance No. 61, and other lawful authority, the animal control officer is authorized to issue citations to the owner of and/or impound any dog or other animal found in violation of the terms of this Chapter. The Chief of Police may appoint persons to be known as animal control officers, whose duties it shall be to assist in the enforcement of this Article as defined by K.S.A. 12-4113(j) and to work under the immediate supervision and direction of the Police Department. (See also Chapter 8, Article 9)

8-309 TRANQUILIZER/STUN GUN/LETHAL FORCE

The Chief of Police or his/her designate shall be authorized to use a tranquilizer gun, Taser, pepper spray, baton, or other lethal force in the enforcement of this chapter. He/she shall be authorized to tranquilize/stun an animal which is impractical or impossible to catch or capture. In circumstances where the officer or another human being is in threat of great bodily harm from an animal, or an animal has been critically injured, lethal force maybe employed against the animal.

8-310 ANIMAL BITES, COMMUNICABLE DISEASE; QUARANTINE

- A. Any animal bite which results in medical treatment of that person by a medical professional shall be reported within 24 hours of the incident to the Leavenworth Police department or animal control office by the treating physician or medical personnel.
- B. OWNER KNOWN: Upon receipt of notification from a duly licensed practitioner of medicine or registered nurse that an animal bite incident has occurred, or upon the receipt of reliable and verifiable information that an animal is believed to have rabies or some other serious communicable disease, an officer shall make reasonable efforts to contact the owner of the animal involved in the incident. The owner shall be advised, in

conjunction with investigation of the exposure to rabies or other communicable disease of a human or other mammal by another nonhuman mammal, the isolation of the mammal causing exposure shall be as follows:

1. An owned or wanted dog, cat or ferret shall be isolated for ten (10) days at one of the following locations, as determined by the Chief of Police or his/her designee:
 - a. The residence of the owner of the dog, cat or mammal;
 - b. In a veterinary hospital or clinic; or
 - c. At a facility holding a current state pound and shelter license.

At the conclusion of the isolation period, if no symptoms of rabies appear, the Chief of Police or his/her designee shall authorize the release of the dog, cat, or mammal upon payment by the owner of the boarding fee.

If the dog, cat, or mammal is isolated at the residence of the owner, the owner shall allow the Chief of Police or his/her designee access to animal during the isolation period to verify the isolation.

If the dog, cat, or ferret is isolated in a veterinary hospital, upon isolation the owner shall notify the Chief of Police or his/her designee of the name, address, and phone number of the veterinary hospital.

- B. **FAILURE TO COMPLY:** Any owner who shall fail to comply with the provisions of this Section, within twenty-four (24) hours or one (1) business day of notification, shall be deemed in violation of this Article and the Chief of Police or his/her designee shall take such animal into custody and commit it for the above-described confinement period.
- C. **DISCOVERED OWNER:** If an unknown owner of a suspected dog, cat, or mammal becomes known during the isolation period and seeks to claim the animal, the provisions of subsection (A) shall govern the isolation of the animal.
- D. **STRAY, UNCLAIMED, OR UNWANTED:** Dogs, cats, or other mammal may be sacrificed immediately, and the head may be submitted for laboratory examination for evidence of rabies or other communicable infection.
- E. The management of horses, cattle, and sheep shall be determined by the Chief of Police.
- F. Mammals, other than dogs, cats, ferrets, horses, cattle, or sheep, including the offspring of wild species cross-bred with domestic dogs and cats, skunks, foxes, raccoons, coyotes, bats, and other species known to be involved in the transmission of rabies, whether owned or unowned,

shall be sacrificed immediately and the mammals head submitted for laboratory examination for evidence of rabies or other communicable infection. Any mammal that has been vaccinated may be sacrificed and tested if the period of virus shedding is unknown for that species.

- G. Mammals, including rabbits, hares, gerbils, guinea pigs, hamsters, mice, rats, squirrels, chipmunks, and other species not known to be involved in the transmission of rabies, need not be sacrificed and submitted for laboratory examination for evidence of rabies infection, unless the circumstances of the potential exposure to rabies incident, in the judgment of the Chief of Police or his/her designee, indicate otherwise.
- H. The disposition of mammals that are not known to be involved in the transmission of rabies and that are maintained in zoological parks, shall be in accordance with the judgment of the Chief of Police or his/her designee.
- I. Quarantine of mammals exposed to rabies by a known or suspected rabid mammal shall be as follows:
 - 1. Stray, unclaimed, or unwanted dogs, cats, or ferrets may be sacrificed immediately.
 - 2. Dogs, cats, or ferrets that have an owner, are wanted by that owner, and are not immunized against rabies shall be quarantined for six (6) months at one of the following locations, as determined by the Chief of Police or his/her designee:
 - a) in a veterinary hospital; or
 - b) at a facility holding a current state pound and shelter license. These dogs, cats, or ferrets shall be immunized against rabies one month before release from quarantine. All fees for the boarding of the animal must be prepaid.
 - 3. Dogs, cats, ferrets, horses, cattle, and sheep that have an owner and are wanted by that owner, and for which the owner produces rabies vaccination certificates that contain the following information shall be immediately revaccinated and kept under the owner's control and observed for 45 days:
 - a) the expiration date of the rabies vaccination; and
 - b) positive identification for each of these mammals showing that the mammals are currently vaccinated by a licensed veterinarian with an approved vaccine for that species.
 - 4. Horses, cattle, and sheep not vaccinated with an approved vaccine for that species may be sacrificed immediately or quarantined for six months under conditions satisfactory to the Chief of Police or his/her designee.

5. Other mammals may be sacrificed immediately, except for those mammals currently vaccinated with an approved vaccine for that species. Mammals that have been appropriately vaccinated may be immediately re-vaccinated and quarantined for at least 90 days under conditions satisfactory to the Chief of Police or his/her designee.

8-311

PENALTY

Unless otherwise specified herein, upon a conviction for a violation of any section of this Article, a defendant shall be fined at least \$90.00 up to \$500, plus applicable court costs and fees, and/or imprisonment for not more than thirty (30) days. Each consecutive day's violation shall constitute a separate punishable offense.

In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

ARTICLE 4. ANIMAL ATTACKS and DANGEROUS ANIMALS

8-401

PROHIBITIONS

It shall be unlawful for an animal to attack a domestic animal or human in any of the following ways:

- A. Aggressive animal attack without contact shall mean when an animal, without provocation, exhibits aggression or combativeness toward a person or another domestic animal.
- B. Aggressive animal attack with contact shall mean when an animal, without provocation, exhibits aggression or combativeness that results in scratches, nips, or minor bites to another domestic animal or person that may require medical treatment, but does not meet the definition of a dangerous attack.
- C. Dangerous animal attack shall mean when an animal, without provocation, attacks any human or domestic animal and causes great bodily harm, disfigurement, or death.

8-402

PENALTIES

A violation of Section 8-401 shall be a municipal offense for which a mandatory court appearance is required.

- A. Any person found guilty of a violation of section 8-401(A) shall be fined not less than \$50 nor more than \$200.
- B. Any person found guilty of a violation of section 8-401(B) shall be fined not less than \$100 nor more than \$500.
- C. Any person found guilty of a violation of section 8-401(C) shall be fined not less than \$200 nor more than \$1,000. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days, or such fine and imprisonment.

Under Section 8-401, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

Failure to produce the animal for quarantine in accord with article 8-310 shall result in additional fines and penalties being levied by the court.

DESIGNATION AS DANGEROUS. The court may designate an animal as dangerous pursuant to an attack under 8-401 when it considers the following: the seriousness of any attack or wound; the past history of attacks by the animal; the potential propensity of the animal to attack or inflict wounds in the future; the conditions existing when the animal attacked (such as a trespass or assault by the victim); and the conditions under which the animal is kept and maintained.

If the animal is designated as dangerous, it shall not be returned to the owner unless the court allows its return and orders the owner to comply with 8-404. Failure to comply with section 8-404 within the time frame ordered by the court shall result in the immediate removal of the animal and forfeiture of all rights in the animal.

8-403 DANGEROUS ANIMAL. Except as provided elsewhere in this article, no person shall own, keep, or harbor any Dangerous Animal, as defined in Section 8-102(D) of this Chapter, in the City of Leavenworth.

8-404 EXCEPTIONS; PERMIT AND REGISTRATION REQUIREMENTS

The prohibition on Dangerous Animals in Section 8-403 of this Article shall NOT extend to the following situations, provided that any person or organization desiring to own, harbor or have charge, custody, control, or possession of a Dangerous Animal pursuant to the following subsections has first secured a permit pursuant to Article 5 of this Chapter:

- A. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
- B. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
- C. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;
- D. Commercial establishments possessing such animals for the purpose of sale or display;
- E. The keeping of a Dangerous Animal as defined in Section 8-102 (D)(2) and (D)(3) herein, provided that the following additional requirements are met for each such animal to be kept pursuant to this subsection, and said permit may only be re-issued on an annual basis, but only after reinspection and confirmation of the following:
 - 1. Each animal shall at all times be securely confined in one of the following manners:
 - a. Indoors, inside a residence or structure equipped with windows and doors that prevent the animal from exiting the

structure on its own volition; or

- b. Outdoors, in a securely enclosed and locked pen or kennel having: six (6) secure sides, which are either anchored to a secure floor or embedded at least two (2) feet into the ground; a secure top attached to the sides; and access controlled by a keyed or combination lock. Said structure must comply with all City building and zoning regulations and must be adequately lighted and ventilated and kept in a clean and sanitary condition;

- c. If a dog owner uses a dog run to confine an animal, the following minimum requirements apply:

1 dog = 80 sq ft
2 dogs = 96 sq ft
3 dogs = 140 sq ft
4 dogs = 192 sq ft

- d. Outdoors, outside its kennel or pen but securely restrained with 1) a muzzling device sufficient to prevent the animal from biting persons or other animals, and 2) a leash no longer than four (4) feet in length. Said leash must at all times be under the physical control of a person and shall not be attached to inanimate objects such as trees, posts, buildings, etc.

- e. Animal must be sterilized.

- 2. The owner, keeper or harbinger of an animal under this subsection shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog," or "Beware of _____ (indicate animal)." In addition, a similar sign shall be posted on the kennel or pen of such animal.
- 3. Each animal owned, kept, or harbored pursuant to this subsection shall be registered with the City according to the requirements of Article 5 of this Chapter.
- 4. Each animal owned, kept, or harbored pursuant to this subsection shall be micro-chipped indicating the owner of the animal.
- 5. The owner, keeper, or harbinger of an animal under this subsection shall, within ten (10) business days of receiving approval from the City for ownership of such animal, provide proof to the Chief of Police, or designee, of public liability insurance in a single incident amount of \$300,000.00 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. This shall require a special insurance rider. At the time of application for permit renewal, the owner, keeper, or harbinger

must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year.

- a. In the event said liability insurance is canceled, lapsed, or for any other reason becomes non-enforceable, said owner, keeper, or harborer shall be in violation of the provisions of this ordinance and subject to the penalties provided herein.
6. The owner, keeper, or harborer of an animal pursuant to this subsection shall, within ten (10) business days of receiving approval from the City for ownership of such animal, provide to the Chief of Police, or designee, two color photographs of the registered animal clearly showing the color and approximate size of the animal and shall have the animal microchipped.
 7. The owner, keeper, or harborer of an animal pursuant to this subsection shall, within ten (10) days of the occurrence of any of the following events, report such event to the Chief of Police, or designee, in writing:
 - a. Death of the animal;
 - b. Birth of offspring of the animal; or
 - c. The new address of the animal owner should the owner move within the corporate City limits.

Any animal found to be the subject of a violation of any of the provisions of this subsection shall be subject to immediate seizure and impoundment and shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep, or harbor such animals. In addition, failure to comply will result in the revocation of the license for such animal and the permit providing for the keeping of such animal resulting in the immediate removal of the animal from the City, or euthanasia of the animal, and may result in criminal penalties against the owner of such animal as provided for elsewhere in this Chapter.

8-405 FAILURE TO COMPLY

It shall be unlawful to fail to comply with the permit requirements in 8-404.

8-406 EXEMPTIONS

The provisions of this Article shall not apply to the transportation of such animals through this City, when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof and shall not apply to dogs kept by law enforcement agencies.

8-407 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof.

8-408

VIOLATIONS AND PENALTIES

Unless otherwise stated herein, a violation of any provision of this Article shall be a municipal violation for which a mandatory court appearance shall be required. Upon conviction in the Municipal Court, a defendant shall be fined not less than \$ 50.00 nor more than \$1,000.00, plus applicable court costs and fees, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days, or such fine and imprisonment. In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

8-409

COSTS TO BE PAID BY RESPONSIBLE PARTIES

Any reasonable costs incurred by the Chief of Police or his/her designated representative in seizing, impounding, confining, or disposing of any dangerous or wild animal, pursuant to the provisions of this Article shall be charged against the owner, keeper, or harbinger of such animal.

ARTICLE 5. PERMITS AND LICENSING

8-501

PERMIT REQUIRED FOR MORE THAN SIX ANIMALS

Any person or organization wishing to own, keep or harbor more than six (6) animals, specifically more than four (4) dogs or cats or other non-prohibited animals or combination of non-prohibited animals at the same address or on the same premises shall be required to obtain a City permit for said ownership.

- A. An application for any permit required pursuant to this Section shall be made to the City Clerk in writing and upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain, or have in his/her possession or under his/her control, in the City, the animals for which a permit is required, and shall set forth the following:
1. Name, address, and telephone number of the applicant.
 2. The applicant's interest in such animals and justification why such number of animals should be allowed in the City.
 3. The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.
 4. The number and general description of all animals for which the permit is sought.
 5. Any information known to the applicant concerning aggressive or dangerous propensities of all such animals.
 6. The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing, etc.
 7. Safety precautions proposed to be taken.
 8. Noises or odors anticipated in the keeping of such animals.
 9. Prior history of incidents involving the public health or safety involving any of said animals.
 10. Proof of insurance to cover those who may be injured or killed by said animal.
 11. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from said animal.
 12. Any additional information required by the Chief of Police or his/her designated representative at the time of filing such application or thereafter.

In addition, the applicant shall allow the Chief of Police or his designated

representative the ability to inspect the animals and/or property where the animals are to be kept.

- B. The fee for a permit application shall be \$25.00 per permit. The fee is nonrefundable. Said fee shall be payable to the City Clerk at the time of filing the permit application.
- C. Upon the submission of a fully and properly completed application for permit and fees, the City Clerk shall forward the permit application to the Chief of Police or his/her designee. The matter shall be set for hearing not later than 45 days after submission and acceptance of a fully and properly completed application for permit and the appropriate fees.
- D. No permit shall be granted except upon an explicit finding by the Chief of Police or his/her designee, that the issuance of a permit will not be contrary to the public health, safety, and general welfare. The Chief of Police or his/her designee may consider, but is not limited to the following factors in making his/her determination: the possible impact on neighbors and the surrounding area; the possibility of harm to the general public; detriment to the health of the animal(s) or neighboring animals; public nuisance, sanitary or offensive conditions; the noises from the animals and possible odors; the number of animals; planning and zoning requirements; etc. The Chief of Police or his/her designee may attach requirements and conditions to the issuance of the permit which the applicant will be required to comply with.

8-502

PERMITS; OTHER

Any permit which is required under the provisions of this Chapter and not specified elsewhere, shall be subject to the following provisions:

- A. An application for such permit shall be made to the Chief of Police in writing and upon a form furnished by the Chief of Police. Said application shall be verified by the person who desires to have, keep, maintain, or have in his/her possession or under his/her control, in the City, the animal for which a permit is required, and shall set forth the following:
 - 1. Name, address, email, and telephone number of the applicant.
 - 2. The applicant's interest in such animal and justification why such prohibited animal should be allowed in the City.
 - 3. The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.
 - 4. The number and general description of all animals for which the permit is sought.
 - 5. Proof the animal has been micro-chipped.
 - 6. Proof of compliance with keeping a dangerous dog, if applicable, under 8-404.

7. Any information known to the applicant concerning aggressive or dangerous propensities of all such animals.
8. The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing, etc.
9. Safety precautions proposed to be taken.
10. Noises or odors anticipated in the keeping of such animals.
11. Prior history of incidents involving the public health or safety involving any of said animals.
12. Proof of insurance to cover those who may be injured or killed by said animal. Dangerous dog requires a \$300,000 rider policy.
13. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from said animal.
14. Any additional information required by the Chief of Police or his/her designated representative at the time of filing such application or thereafter.

In addition, the applicant shall allow the Chief of Police, or his/her designated representative, the ability to inspect the animal and/or property where the animal is to be kept.

- B. The fee for a permit application shall be \$25.00 per permit. The fee is nonrefundable. Said fee shall be payable to the Chief of Police at the time of filing the permit application.
- C. Upon the submission of a fully and properly completed application for permit and fees, the Chief of Police or his/her designated representative shall begin an investigation to determine whether or not the permit should be issued.
- D. No permit shall be granted except upon an explicit finding by the Chief of Police that the issuance of a permit will not be contrary to the public health, safety, and general welfare. The Chief of Police may consider, but is not limited to the following factors in making his/her determination: the possible impact on neighbors and the surrounding area; the possibility of harm to the general public; detriment to the health of the animal(s) or neighboring animals; public nuisance; sanitary or offensive conditions; the noises from the animals and possible odors; the number of animals; planning and zoning requirements; etc. The Chief of Police, or designee, may attach requirements and conditions to the issuance of the permit which the applicant will be required to comply with.

8-503

PERMIT, TERM AND RENEWAL

No permit required by this chapter shall be granted for a period in excess of one

year. An application for renewal of any permit shall be made not less than 45 days prior to the expiration thereof and shall be accompanied by a \$25.00 renewal fee. To receive a permit, the owner must agree to provide ongoing authority to the city during the term of the permit and application process to inspect the animal and enclosures.

8-504

PERMIT; INSPECTIONS, INVESTIGATIONS, AND ISSUANCE OF RENEWAL

Prior to the annual renewal of any permit issued hereunder and at least once, the Chief of Police, animal control officer or a designated representative shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is complying or continuing to comply with all of the conditions specified in this Article. In addition, the officer or representative shall investigate the past history of the permit holder to determine whether during the past permit period the permit holder was in compliance with all of the conditions specified in this Article. The investigation may include a review of department records and interviews with the permit holder and neighbors. If the officer or representative determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted during the past permit period, he/she shall recommend denial of a renewal of any such permit, and/or he/she shall recommend revocation of such permit in the event that such violation is not corrected within such period of time as she/he shall direct. Upon completion of the investigation and review process provided herein, the Chief of Police or his/her designated representative shall, in the case of a multiple animal permit, recommend to the City Clerk that the permit be renewed or that the renewal application be denied, and in the case of any other permit required pursuant to this Chapter, either renew or deny the permit.

8-505

PERMIT; REVOCATION AND SUSPENSION

The Chief of Police may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing. Failure to comply with any of the provisions of this chapter shall be considered good cause for revocation or suspension of a permit.

8-506

APPEALS; FEE

- A. Any person aggrieved by or dissatisfied with any of the decisions, rulings, actions or findings by the Chief of Police or his designated representative in regard to a denial, revocation or suspension of a permit may, within ten (10) days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Leavenworth City Manager, or other designee of the Governing Body.
- B. An administrative fee of \$75.00 shall be paid to the City Clerk and is required for each appeal to the Leavenworth City Manager, or other designee of the Governing Body, and no appeal shall be set for hearing until such fee has been paid. No appeal shall be set for hearing if it is filed more than ten (10) days after said action, decision, ruling or findings of the Chief of Police or his designated representative from which the

party is appealing.

- C. An appeal shall be scheduled for hearing within forty-five (45) days after the request and fees are received by the City Clerk.
- D. The filing of an appeal under this subsection shall not stay any action taken pursuant to this chapter.
- E. The decision of the Leavenworth City Manager, or other designee of the Governing Body, to either affirm or reverse the determination previously made by the Chief of Police regarding the issuance of a permit shall be final.

8-507

VIOLATIONS AND PENALTIES

Unless otherwise stated herein, the failure to obtain any permit required pursuant to this Article shall be a municipal violation for which a mandatory court appearance may be required. Upon conviction in the Municipal Court, a defendant shall be fined up to \$1,000.00, plus applicable court costs and fees, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days, or both such fine and imprisonment. In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this ordinance.

8-508

LICENSING; VACCINATION

No person shall own or have custody of any dog over four (4) months of age unless such dog is licensed as herein provided.

- A. Before a license will be issued, the animal owner must produce satisfactory evidence from a licensed veterinarian, that the dog has been vaccinated against rabies with either of the following:
 - 1. Killed tissue vaccine (also known as “one-year” vaccine) within the 12 months previous to the date of the issuance of the license.
 - 2. Modified live virus vaccine (also known as “three-year” vaccine)

within the 36 months previous to the date of the issuance of the license.

- B. The license fee shall be \$20.00 for each dog; however, if spayed or neutered the license fee shall be \$10.00 for each. If the dog is spayed or neutered and microchipped, then the fee shall be \$8.00.
- C. All licenses shall be valid from the date of issuance through March 30th of each year. A late fee of \$10 will be charged for re-issued licenses requested after March 30th, this excludes new animal license requests. The office of the Chief of Police, or designee, city clerk, animal control, or area veterinarian is authorized to issue dog licenses.
- D. Each person shall, upon purchase of the required license, cause such animal to wear a durable tag furnished by the city for the particular animal for which the license is issued, and bearing the animal's assigned number. In case of the loss of any tag, the police department shall, upon presentation of the original receipt, issue a duplicate tag for a nominal fee. No person shall place upon any animal a City-issued tag other than the one given for the particular animal for which it is issued. Animal tags are non-transferrable to other animals or owners.
- E. It shall be unlawful for an owner or keeper of a dog to fail to:
 - 1. Procure and maintain current rabies vaccination(s) on said animal; and/or
 - 2. Purchase the annual City license for said animal,

Penalty. 8-508 E(1) and E(2) shall be considered separate offenses and, upon conviction, shall be punishable by a fine of at least \$50 up to \$200, plus applicable court costs and fees. Ongoing non-compliance may result in the court ordering additional penalties that may include: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and kenneling of the animal; order repayment of kennel fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this

ordinance.

ARTICLE 6. WILDLIFE

8-601 FEEDING WILDLIFE PROHIBITED.

It is unlawful for any person to feed a wild animal unless licensed to do so, with the exception of small seed eating birds, squirrels, and chipmunks. It is unlawful to place out mineral blocks or salt licks unless they are intended for authorized domestic livestock or part of the Urban Deer Management Program.

Penalty. Any person, firm or corporation violating any of the provisions of this title shall upon conviction thereof be fined a sum not to exceed \$1,000.00.

8-602 CONTROL OF PIGEONS AND OTHER BIRDS.

(a) Pigeons and other birds roosting or lingering on property or buildings pose a health hazard in addition to the offending of aesthetic senses by pigeon and other bird contamination. Such roosting or lingering is declared to be a public nuisance.

(b) Whenever a written complaint is received by the police department alleging pigeons or other birds lingering or roosting upon the property of the complainant, the police department shall refer such complaint to the health authority. The health officer or his designee shall investigate and, if it is determined that a public nuisance exists, may undertake eradication of the nuisance or authorize the complainant to proceed in a manner to be prescribed in writing by the health officer or his designee to eradicate the problem.

(c) The health officer or other designee may cause a nuisance under this section to be abated as provided in Chapter 28.

Penalty. Any person, firm or corporation violating any of the provisions of this title shall upon conviction thereof be fined a sum not to exceed \$1,000.00.

8-603 URBAN DEER MANAGEMENT; BOW AND ARROW HUNTING AUTHORIZED.

It is unlawful to hunt deer in the city with a bow and arrow except in compliance with the provisions of this article.

8-604 PERMIT REQUIRED; POLICE DEPARTMENT TO ISSUE; NO PERMIT ISSUED TO PERSON UNDER 18 YEARS OF AGE.

(a) Only the owner of a designated private property or persons with the owner's written permission shall be eligible to receive a city permit to bow hunt. The city police department is authorized to issue city deer hunting permits; provided, however, that no permit for hunting shall be issued for hunting on parcels under three acres or for hunting on city property shall be issued without a waiver approved by the city commission.

(b) Application for a permit under this section shall be made to the city police department, on forms provided by the department and shall be accompanied by a valid state deer hunting license and deer tag issued to the applicant and by a permit fee in the amount provided in the city fee schedule. Issuance of the city permit may be limited to a time and area more restrictive than the state license allows.

(c) No city permit will be issued to any person under the age of 18.

8-605 TRANSFER; DENIAL FOR FAILURE TO COMPLY; REVOCATION.

City permits under this division are not transferable. Failing to comply with the requirements of this division may result in the denial of future permits. The police department may revoke the city hunting permit if a hunter violates this division. Revocations may be appealed to the city manager.

8-606 RESTRICTIONS ON USE OF PERMIT.

(a) *Only permit holder may use permit.* Hunting shall only be by the person listed on the city permit. No person shall make any payment to any person for the right to hunt or be listed on the state license and city permit.

(b) *Hunting after consumption of alcoholic beverages prohibited.* No bow hunting will be allowed by license holder that has consumed cereal malt beverages, alcoholic liquor or any controlled substances two hours prior to hunting or during hunting activities.

(c) *Permit and valid photo identification to be carried when hunting.* Persons shall at all times when hunting, pursuant to the city permit, carry valid photo identification and a copy of the city permit and the state license.

(d) *Location restrictions.* No arrow or other object used to hunt deer pursuant to the city permit may be discharged or projected at such an angle or distance as to land on public or private property not described in the permit. No hunting shall be allowed closer than 500 feet to the property boundary of school property which contains a public school or an accredited non-public school during periods when students are in attendance or participating in school activities.

(e) *Use of tree stands required.* All hunting shall be conducted from an elevated tree stand that is at least ten feet in height and faces the interior of the property. The tree stands and shooting lanes will be located in such a way as to direct arrows to the interior of the property and to prevent any arrow from landing closer than 50 yards to any property line. The deer management committee may waive the elevation requirement for a hunter that is unable to climb into an elevated tree stand due to a disability. The urban deer management committee shall take public safety into consideration before granting such a waiver.

(f) *Transport of carcasses.* The transportation of a carcass along any public right-of-way, is prohibited, unless it is covered or hidden from public view.

(g) *Field dressing.* Any activity performed in conjunction with the issuance of the permit, including, but not limited to, field dressing or other handling of the carcass, must occur on the property specified in the city permit. Entrails shall not be left on the property where the deer is killed.

(h) *Time of hunting.* Bow hunting will be allowed one half-hour before sunrise to one half-hour after sunset.

(i) *Type of deer.* An antlerless deer must be harvested before an antlered deer can be harvested.

(j) *Wounded animals.* It shall be the responsibility of a bow hunter to inform the police department by telephone that a wounded deer has left the property and to inform the police department of the deer's probable location. The hunter shall make an attempt to contact the property owner of any adjacent properties prior to entering that property to search for a wounded deer. It shall ultimately be the responsibility of the hunter to find and remove any deer who leave the property.

(k) *Report of harvesting.* Each hunter who successfully harvests a deer will report the hunter's name, the gender of the animal and the location where harvested to animal control in person at the designated city office or by telephone to city animal control during normal business hours.

8-607 PENALTIES.

Violation of this section shall be a Class C public offense.

ARTICLE 7. LIVESTOCK

8-701 RUNNING AT LARGE PROHIBITED; IMPOUNDMENT.

No person shall permit any livestock or domestic fowl to run at large within the city limits, and the animal control office shall take up any livestock or domestic fowl found running at large upon any of the streets, avenues, alleys, sidewalks, parks, or other public grounds in the city for confinement in a pen, building or enclosure designated by the Chief of Police or designee. (See also 8-304)

8-702 KEEPING OF SWINE; POTBELLIED PIGS.

(a) *Prohibited.* It is unlawful for any person to raise or keep any swine in the city except as provided in this section.

(b) *Exception for special events.* Exhibitions of a temporary duration, such as a county fair or at locations provided by the city, may be permitted by the city commission if the swine are being kept by a participant in an educational project of a farm youth program such as 4-H or Future Farmers of America. Such approval shall designate the number of swine which may be kept and shall terminate when the educational program is completed. Approval may be denied by the city if such keeping of swine at the particular location would cause problems of sanitation or would affect the neighbors' enjoyment of their property. The decision of the animal control supervisor shall be final and conclusive.

(c) *Exception for potbellied pig.* It is lawful for a person to own, keep, or harbor in the city not more than one potbellied pig per residential or dwelling unit within the city limits, subject to the following restrictions:

(1) *Spaying or neutering required.* It is unlawful for any person to own, keep, or harbor a potbellied pig within the city limits that is not spayed or neutered within 30 days after attaining the age of three months.

(2) *Registration required.* Potbellied pigs must be registered with the city on or before March 31 of each year. Application for registration shall be made to the city clerk on a form provided by the clerk. The application shall be accompanied by a statement from a licensed veterinarian certifying that the animal is a potbellied pig and that the pig has been spayed or neutered and is in acceptable health, free from diseases.

(3) *Fee.* The application shall also be accompanied by a registration fee in the amount provided in the city fee schedule. An additional fee as provided in the city fee schedule will be charged for late registration after March 31. All fees shall be paid either to a local licensed veterinarian or the animal control facility. From each registration fee collected by a local licensed veterinarian, \$2.00 will be retained by the veterinarian as a service fee.

(4) *Being at large prohibited.* It is unlawful for any person to allow or permit any potbellied pig which is owned, kept, or harbored by him to run or be at-large in or upon the private premises of others or upon the streets, highways, and other public places of the city.

(5) *Property damage prohibited; remedies.* It is unlawful for the owner of a potbellied pig to allow or permit his potbellied pig to damage property of others or cause bodily injury. If the owner is adjudged guilty of a violation of this section, the court may, in addition to the penalty provided for the violation of this Code, order such disposition or destruction of the offending potbellied pig as may seem reasonable and proper.

(6) *Excessive noise prohibited.* It is unlawful for any person who owns, keeps, or harbors, maintains, or permits on any parcel of land or premises under his control any potbellied pig which by loud, continued or frequent oinking, squealing, or grunting shall annoy or disturb the peace and comfort of the inhabitants of any resident or neighborhood or interfere with any person in the reasonable and comfortable enjoyment of life or property. This section shall not apply to the animal control or veterinarians.

8-703 SANITARY REGULATIONS FOR KEEPING LIVESTOCK AND DOMESTIC FOWL

(a) It is unlawful for any person to provide a shelter, barn, stable or building to keep livestock or domestic fowl in the city unless the barn, stable, building or structure is so constructed or equipped with sewage disposal facilities approved by the animal control officer or city-county health department, together with flyproof windows and such other sanitary requirements as may be ordered by the city-county health department or animal control officer.

(b) All pens, yards, barns and other places in which any livestock or domestic fowl are kept in the city limits shall be kept and maintained in a clean and sanitary condition and free from all filth and manure and shall be open and subject to inspection by the police and sanitary officers of the city-county health department and shall be subject to such orders as the police and sanitary officers of the city-county health department may give relative to keeping the same clean and sanitary and the removal of all filth and manure therefrom.

8-704 KEEPING LIVESTOCK NEAR RESIDENTIAL AND COMMERCIAL BUILDINGS RESTRICTED.

It is unlawful for any person to keep cows, calves, horses, mules, donkeys, goats, kids, sheep or other livestock or farm animals in the city in a building or lot within 200 feet of any residential or commercial building other than that of the owner of such animals. The ratio of the animals to area shall not be greater than one animal per two acres of pasture or field area.

8-705 GRAZING RESTRICTED.

It is unlawful for any person to graze or cause to be grazed any cows, calves, horses, mules, donkeys, goats, kids, sheep or other such animals on any private property, street or parking areas inside the limits of the city. Stock may graze upon private property with the written consent of the owner of such property; however, the ratio of the animals to area shall not be greater than one animal per two acres of pasture or field area. No grazing shall be permitted within 200 feet of any residential or commercial building other than that of the owner of the animal.

8-706 SALES AREAS OR STOCKYARDS PROHIBITED IN FIRE ZONE NO. 1.

No person shall keep or maintain within Fire Zone No. 1 any sales area or stockyard where horses, mules, asses, jennies, sheep, swine, cattle or other animals shall be confined for sale or other purposes.

8-707 HORSEBACK RIDING.

(a) It is unlawful for any person to engage in horseback riding on public or private property within the city except as provided in this section.

(b) It is unlawful for any person to engage in horseback riding on private property within the city without the express consent of the owner of such property.

(c) It is unlawful for any person to engage in horseback riding in public parks or other public grounds unless expressly authorized by the police chief.

(d) It is unlawful for any person to engage in horseback riding in that portion of the public right-of-way adjacent and parallel to public streets commonly referred to as parkings, being that portion of the right-of-way not open to vehicular traffic.

(e) The city manager or police chief may authorize horseback riding for special events upon the completion of an application with the city clerk's office.

8-708 IMPOUNDMENT AND DISPOSITION OF LIVESTOCK

(a) *Applicability of procedure.* The procedure provided in this section shall apply only to livestock and domestic fowl.

(b) *Duty of animal control officer to impound and provide appropriate care.* It is the duty of the animal control officer to take up any livestock or domestic fowl

found running at large upon any of the streets, avenues, alleys, sidewalks, street parking areas, parks or other public grounds in the city. The animal control supervisor is the keeper of the shelter, pen, building or enclosure used for the housing of impounded livestock and domestic fowl and shall provide suitable and necessary food and shelter for impounded animals.

(c) *Sale of unredeemed animals; notice of sale.* An animal taken up and impounded under this article may be sold at public sale by the animal control supervisor at any time after the expiration of five days from the time of impoundment. The animal control supervisor shall give at least five days' previous notice of the time and place of such sale in the official city paper.

(d) *Clerk to attend sales, keep records.* The city clerk, or someone authorized to act in the city clerk's stead, shall attend all sales of animals under this section and keep a record of such sale with a description of the animal, the date of sale, the price paid, and identity of the purchaser. It shall be the duty of the animal control officer to notify the city clerk of the time and place of sale of any animals.

(e) *Deposit of net sale proceeds into city treasury.* The proceeds arising from sales of animals under this section, after deducting the costs of impoundment and care shall be paid to the city clerk.

(f) *Redemption by owner; fees.* The owner of impounded livestock or domestic fowl may redeem the animal prior to sale by making application to the animal control officer and paying the greater of:

(1) The actual cost of impoundment, care and feeding, including veterinary care; or

(2) An impoundment fee and a daily upkeep fee in the amount provided in the city fee schedule.

(g) *Payment of net sale proceeds to owner after sale.* If the owner's application for redemption is made after sale of the animal and the owner presents satisfactory proof of ownership, the owner may receive the net sale proceeds upon the following terms and conditions:

(1) If application is made by the owner before payment of the sale proceeds into the city treasury, the sale proceeds, after deducting the costs of taking up and impounding the animal, shall be paid to the owner. The owner shall sign a receipt for such proceeds which shall be delivered to the city clerk.

(2) If application is made by the owner after deposit of the sale proceeds into the city treasury, the animal control supervisor shall certify the facts to the city commission, including the costs of taking up and impounding the animal and the total sale proceeds. The city commission may then direct that the net proceeds, after deduction of impoundment costs, be paid to such claimant in the manner provided by law.

PENALTIES

Unless otherwise stated herein, a violation of this Article shall be a municipal violation for which a mandatory court appearance may be required. Upon conviction in the Municipal Court, a defendant may be fined up to \$1,000.00, plus applicable court costs and fees, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days, or both such fine and imprisonment. In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and keeping of the animal; order repayment of impoundment fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony fees necessitated by the enforcement of this ordinance.

ARTICLE 8. SHELTER, IMPOUNDMENT AND DISPOSITION

8-801 ANIMAL SHELTER RECORDS AND REPORTS.

The animal control supervisor shall keep accurate account of all animals received at the animal shelter and released to the owner or purchaser, showing the date and from whom received, the description of the animal, and the name and address of the person releasing or purchasing. The supervisor shall keep an accurate account and description of all animals destroyed, and an accurate and complete account of all moneys received during the months under the provisions of this chapter, together with a statement of the number of animals received, the number destroyed, the number released or adopted, and the number on hand at the end of the month.

8-802 REGISTRATION OF PERSONS DELIVERING ANIMALS TO SHELTER; ADOPTION PROGRAM FEES.

(a) The animal control supervisor shall not receive an animal into the animal shelter from any person unless the person shall submit proof of identification and give his full name and place of residence, which shall be registered and a proper record thereof kept by the animal control supervisor.

(b) It is unlawful for any person delivering to or receiving any animal from the animal shelter to give any false information concerning such animal. Any animal given to the pound by its owner, harbinger or keeper for disposition may immediately be adopted or destroyed in a humane manner.

(c) The animal shelter will accept animal owner relinquishments of their own animal and abandoned animals. The animal surrendered or abandoned will be accompanied with vaccination papers and any other medical history documentation to the extent available. (See also 8-302)

(d) The owner will complete a background form to facilitate direct entry of the animal into the adoption program and pay the fee therefor in the amount provided in the city fee schedule.

8-803 ADOPTION OF UNCLAIMED ANIMALS FROM SHELTER; SPAYING OR NEUTERING REQUIRED.

(a) An animal may be adopted by any person that agrees in writing to furnish proper care to the animal in accordance with this chapter and pays all required fees, including any medical care costs, incurred during impoundment. Adoption fees are as set out in the city fee schedule and may be waived by the police chief or city manager. It is unlawful for any person to fail to fulfill the terms of the written agreement required by this section.

(b) Pursuant to K.S.A. 47-1731, no dog or cat may be transferred to the permanent custody of a prospective owner by the animal shelter unless:

(1) The animal has been surgically spayed or neutered before the physical transfer of the animal occurs; or

(2) The prospective owner signs an agreement to have the dog or cat spayed or neutered and shall be given a voucher covering the cost of spay or neutering with a city contracted veterinarian. The prospective owner shall spay or neuter the dog or cat within the time specified in the agreement and provide proof of such completed requirement; provided, however, that nothing in this section shall be construed to require sterilization of a dog or cat which is being held by the animal shelter and which may be claimed by its rightful owner within the holding period established in K.S.A. 47-1710.

8-804

TRANSFER TO ANOTHER ANIMAL CONTROL AGENCY OR APPROVED ANIMAL PROGRAM.

(a) An animal eligible for adoption may be transferred to an animal control agency or approved animal program under the following criteria:

(1) The animal control agency or animal program must be licensed by the governmental body in which they operate.

(2) The animal control agency or animal program must be approved by the city police chief for transfer of such animals.

(3) The animal control agency or animal program must guarantee that the transferred animal will be spayed or neutered according to state statute and city ordinance.

(4) The animal control agency or animal program must guarantee to provide any necessary veterinary care for transferred animals and agrees city animal control and the city will not be responsible for any such care that the animal may need from the time of transfer forward.

(5) The animal control agency or animal program agrees that any transferred animal becomes their property and is not eligible for return to the city animal control facility.

(b) The city may cancel any transfer arrangement developed under this section for any reason, at any time.

(c) The animal control agency or animal program requesting transfers under this section will receive no priority access to any animal available for adoption or transfer, beyond the ability to test available animals for suitability for any special animal program and they may accept or reject them based upon these tests.

(d) There will be no fees associated with transfers to animal control agencies or animal programs approved under this section, however the animal control

agency or program will be responsible for and shall pay at or before the time of transfer any medical costs incurred by the city during impoundment.

8-805 DISPOSITION OF IMPOUNDED ANIMALS.

(a) If the owner, harborer, or keeper of any animal impounded by the city shall fail to demonstrate an apparent intent to recover or resume custody of such animal within four business days from the time the city takes possession of the animal, the city shall notify the owner, harborer or keeper in writing that, if the owner, harborer, or keeper does not make arrangements to recover or resume custody of the animal within three business days, the animal will be placed for adoption or destroyed as an abandoned animal. (See also K.S.A. 47-1710)

(b) The three business days shall be counted beginning at the conclusion of the initial four-business-day period. If the owner, harborer or keeper fails to make such arrangements within such time, the animal shall be placed for adoption or destroyed in accordance with this chapter and the owner, harborer or keeper will be responsible for providing impoundment and care costs incurred during the impoundment period.

(c) Notice in writing shall be delivered by U.S. Mail postage prepaid at the address listed with animal control or public record. In the event the notice by mail is not returned it shall be presumed delivered.

(d) This section shall not apply when specific requirements for impoundment and disposition of particular classes of animals are provided elsewhere in this chapter.

(e) In no event shall the impoundment facility release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this chapter.

8-806 WRONGFULLY ATTEMPTING TO CAUSE ANIMAL IMPOUNDMENT.

(a) It is unlawful for any person to turn loose or cause to be turned loose from any pen or enclosure any animal for the purpose of causing such animal to be impounded.

(b) It is unlawful for any person to take or drive any animal from any enclosed lot or track of ground or from or out of any stable or other building, to any pound in the city, with the intent that such animal shall be impounded, or to drive or entice any animal from beyond the limits of the city into any such pound, or to aid or abet the same.

8-807 INTERFERENCE WITH IMPOUNDMENT OR IMPOUNDED ANIMALS.

(a) It is unlawful for any person to obstruct, hinder or prevent the impounding of any animal running at large, contrary to the provisions of this chapter.

(b) It is unlawful for any person to break open, destroy or injure the city pound, or any door, gate, fence, or enclosure thereof, or to take or attempt to take any animal impounded by the city, or assist, advise or counsel another person to do the aforementioned acts, without city approval and without first paying all fees and costs of impoundment.

8-808

PENALTY.

Unless otherwise stated herein, a violation of this Article shall be a municipal violation for which a mandatory court appearance may be required. Upon conviction in the Municipal Court, a defendant may be fined up to \$1,000.00, plus applicable court costs and fees, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days, or both such fine and imprisonment. In addition, the court shall also have authority to impose the following requirements: order the animal impounded; order the animal into quarantine or a continuation of a quarantine; order the quarantine to be served at a specific location, such as licensed veterinary office, animal shelter, or home of the owner; order registration and vaccination of the animal and other animals in the home; place limitations of other animals in the home; order sterilization of the animal; order microchipping of the animal; order requirements regarding muzzling and keeping of the animal; order repayment of impoundment fees and other expenses related to the care of the animal or animals; order removal of the animal from city limits; order the surrender of the animal; order revocation of registration; order revocation of the ability to own or register an animal in the city limits; designate the animal as dangerous; order euthanasia of the animal; and order such other requirements as deemed necessary by the court to ensure the health and safety of the community.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and testimony fees necessitated by the enforcement of this ordinance.

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

8-901 ENFORCEMENT OFFICIALS.

Except where otherwise provided, it shall be the duty of the animal control supervisor, with the assistance of staff and police, to administer and enforce the provisions of this chapter. It shall be the duty of the police to assist the animal control supervisor and the staff of the animal control supervisor with their enforcement efforts, and the police shall have full authority to enforce the provisions of this chapter.

8-902 AUTHORITY OF ANIMAL CONTROL OFFICERS; ENTRY ONTO PRIVATE PROPERTY.

(a) *Invitation by owner.* The animal control officer or police officer shall be permitted to enter on private property to capture an animal when the animal control officer is invited onto the property by the property owner or person having charge of such animal.

(b) *General power of enforcement officers.* In addition, when necessary to make an inspection, to enforce any of the provisions of this chapter, or when there is reasonable cause to believe that there exists in any building or upon any premises any condition or violation which creates an unsafe, dangerous or hazardous condition, the animal control supervisor, police officer, or appropriate code enforcement officer or the authorized representative of such officer may enter such building or premises at all reasonable times to inspect such building or premises so as to perform any duty imposed by this chapter, provided that:

(1) If the building or premises is occupied, the officer shall first present proper credentials and request entry. If the building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(2) If entry is refused, the animal control supervisor, police officer, or appropriate code enforcement officer or the authorized representative of such officer shall have recourse to every remedy provided by law to secure entry.

(c) *Inspection warrants.* When the animal control supervisor, police officer, or appropriate code enforcement officer or the authorized representative of such officer shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having the charge, care or control of any building or premises shall fail or neglect, after proper request is made as provided in this section, to promptly permit entry therein to the animal control supervisor, police officer, or appropriate code enforcement officer or their authorized representative for the purpose of inspection and examination pursuant to this chapter.

(d) *Implied consent to enter upon private property for enforcement.* In the interests of animal control enforcement, animal rescue, and open violation enforcement, any person keeping or harboring any animal in this city by so doing does authorize the animal control supervisor or appropriate code enforcement officer or their representatives, or police officers, to enter without warrant upon private property, except inside any residential structure, which such person owns or controls and where such animal is to be found, in plain sight, for the purpose of enforcement of this chapter, and to seize such animal from the private property to abate an ordinance violation.

(e) *Neglected, abused or suffering.* By the authority of the city to so provide and by the authorization stated in this section, any animal that is deemed by the animal control supervisor to be neglected or abused in violation of this chapter, and suffering, may be seized from the property of its owner or keeper to abate the suffering of that animal, and it may be confined at the animal shelter for disposition under the terms of this chapter.

8-903 PROCEDURE FOR PROSECUTION OF VIOLATIONS.

(a) For purposes of this Chapter the term “City of Leavenworth Officer or Employee” shall mean: a law enforcement officer, clerk of the municipal court or duly appointed representative, or animal control officer. No provision of this Chapter shall be construed to empower the clerk of the municipal court or duly appointed representative, or animal control officer with the powers of arrest, search, detention, or other powers of law enforcement officers, except as provided by law.

8-904 COMPLAINT; SERVICE; NOTICE TO APPEAR OR WARRANT; FAILURE TO ISSUE.

(a) A copy of the complaint shall be served, together with a notice to appear by a “City of Leavenworth Officer or Employee” upon the accused person, and forthwith, the complaint shall be filed with the municipal court, except that a complaint may be filed initially with the municipal court, and if so filed, a copy of the complaint shall forthwith be delivered to the city attorney. If a warrant is to issue, it shall only be served by a law enforcement officer in the same manner as prescribed herein.

(b) If a city attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the city attorney to institute proceedings against any person. Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein.

8-905 NOTICE TO APPEAR; CONTENTS; FORM.

A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such

notice to appear is given, unless the accused person shall demand an earlier hearing. A notice to appear may be signed by a municipal judge, the clerk of the municipal court, the city attorney, or a "City of Leavenworth Officer or Employee." A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear, to wit:

IN THE MUNICIPAL COURT OF _____, KANSAS
The City of _____, Kansas
vs.

_____,
(Accused person)

_____,
(Address)

NOTICE TO APPEAR
The City of _____, Kansas, To The Above Named Accused Person.
You are hereby summoned to appear before the Municipal Court of _____, Kansas, on the ____ day of _____, 20__, at _____ o'clock, __.m., to answer a complaint charging you with

If you fail to appear a warrant will be issued for your arrest.
Dated _____, 20__.

Signature of Official

Title of Official

I agree to appear in said Court at said time and place.

Signature of Accused Person

RETURN
The undersigned hereby certifies that on the ____ day of _____, 20__, the notice to appear was served, mailed or delivered.

Law Enforcement Officer,
City of Leavenworth Officer or Employee

8-906 UNIFORM COMPLAINT AND NOTICE TO APPEAR.

(a) A complaint and notice to appear, as described in Section 8-904 and 8-905, maybe issued by a uniform complaint and notice to appear that substantially incorporates the required information in each section.

(b) A Uniform Complaint and Notice to Appear shall be served upon the accused person by delivering a copy to the accused personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person.

(c) The Uniform Complaint and Notice to Appear may be served by a "City of Leavenworth Officer or Employee" within the state and, if mailed, shall be mailed by such "City of Leavenworth Officer or Employee." Upon service by mail, the "City of Leavenworth Officer or Employee" shall execute a verification to be filed in Municipal Court with the copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the _____ day of _____, 20____, a copy of the Uniform Complaint and Notice to Appear was mailed to _____ (the accused), at _____ (address of the accused).

Signature of Leavenworth City Officer or Employee

(See Charter Ordinance No. 61)

Section 2. Chapter 8 of the Leavenworth Code of Ordinances in existence as of and prior to the adoption of this ordinance, is hereby repealed.

Section 3. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED and APPROVED by the Governing Body of the City of Leavenworth on the 13th day of February, 2024.

/s/ Griff Martin_____
Griff Martin, Mayor

(SEAL)

ATTEST:

/s/ Sarah Bodensteiner_____
Sarah Bodensteiner, CMC, City Clerk