

## **ORDINANCE NO. 7999**

### **AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF LEAVENWORTH, KANSAS, CHAPTER 18, ANIMALS, ARTICLE IV CRUELTY, SECTION 18-121 CRUELTY TO AND NEGLECT OF ANIMALS OR FOWL AND ADDING SECTION 18-125 RESCUE FROM VEHICLES BY PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS**

Whereas, an ordinance of the City of Leavenworth, Kansas, Amending Chapter 18 Animals, Article IV Cruelty; Section 18-121 Cruelty to and Neglect of Animals or fowl, and adding Section 18-125 Rescue From Vehicles of the Code of Ordinances; repealing any and all other ordinances and parts of ordinances in conflict therewith.

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

**Section 1.** That the Code of Ordinances for the City of Leavenworth, Kansas, Chapter 18, Animals be amended as follows:

#### **ARTICLE IV. CRUELTY**

**That Section 18-121 shall be deleted and amended to read as follows:**

#### **Sec. 18-121. Cruelty to and neglect of animals or fowl.**

(a) Cruelty to animals or fowl is:

- (1) Intentionally killing, injuring, maiming, torturing or mutilating any animal or fowl.
- (2) Abandoning or leaving any animal or fowl in any place without making provisions for its proper care.
- (3) Having physical custody of any animal or fowl and failing to provide adequate care. Adequate care is defined as normal and prudent attention to the needs of the animal, given its size, age, and breed, including that care which is normally necessary to maintain good health of the animal or fowl. Furth and specifically:
  - (a) Adequate Food – the owner of any animal or fowl must ensure they are properly fed to maintain the general health of the animal.
  - (b) Adequate Water – the owner of any animal or fowl must ensure they are given a sufficient amount of potable water and as often as necessary, to maintain the general health of the animal.
  - (c) Other Considerations – allowing an animal or fowl to remain outdoors in extreme weather conditions without adequate shelter. The shelter must be large enough to contain the animal and provide sufficient protection from the elements such as wind, snow, or rain.
- (4) For any person by any means to make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with a harmful or poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin which is a threat to the public.
- (5) For any person to carry any animal or cause any animal to be carried in or upon any vehicle in a dangerous or careless manner. The animal must be secured in any vehicle so as not to harass, bite or endanger any passersby.

- (6) For any person to leave any pet animal or livestock unattended while tethered to any utility pole, parking meter, building, structure, fence, sign, tree, shrub, bench or other object on public property or on private property without the permission of the person or agency in charge thereof, nor shall a pet animal be tethered in such a manner as to permit it within ten feet of a public sidewalk or street.
- (7) For any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition, except as provided in this section. A municipal court judge may order a person convicted under this section to turn the animal involved over to the animal control division. All such animals taken to the animal control division may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- (8) For any person to cause, instigate, stage, train or torment any animal for, or permit any fight between any animal and other animal or human.
- (9) For any person to attend or solicit attendance at or be umpire, judge or other official at a fight staged between any animals.
- (b) The provisions of this section shall not apply to:
  - (1) Normal or accepted veterinary practices.
  - (2) Bona fide experiments carried on by commonly recognized research facilities.
  - (3) Killing, attempting to kill, trapping, catching, or taking of any animal or fowl in accordance with the provisions of K.S.A. ch. 32 or 47.
  - (4) Rodeo practices accepted by the Rodeo Cowboys' Association.
  - (5) The humane killing of an animal or fowl which is 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 incorporated humane society, or by the operator of an animal shelter or pound, or by a local or state health officer, or by a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound.
  - (6) With respect to farm animals or fowl, normal or accepted practices of animal husbandry.
  - (7) An animal control officer trained by a licensed veterinarian 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.
- (c) Cruelty to animals is a class B misdemeanor.

**Section 18-125 Shall be added to read as follows:**

**Sec. 18-125 Rescue from vehicles.**

(a) Whenever any animal is found confined in a motor vehicle in a public place under weather conditions that endanger its life as determined by an Animal Control Officer (ACO) or a Police Officer, they are hereby authorized to enter such vehicle and remove them. If time and circumstances allow, he ACO or Police Officer shall make a reasonable effort to locate the animal owner to facilitate its removal from the conditions. If unable to locate the owner, the animal may be impounded and held at the Leavenworth

Animal Control Facility until the owner is located. A prominent written notice shall be left on or in the vehicle notifying the owner. If the ACO or Police Officer is required to make forcible entry to remove the animal, the vehicle must be secured and/or towed. In no event shall the City of Leavenworth be liable to the animal's owner for damage to the animal, nor liable to the vehicles owner for tow fees, storage fees, or damage to the vehicle when acting pursuant to this ordinance.

**Section 2.** That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3.** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Governing Body hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 4.** That nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 5.** That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and adoption.

Passed by the Leavenworth City Commission on this 28th day of June, 2016.

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Larry Dedeker, Mayor

ATTEST:

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Carla K. Williamson, CMC, City Clerk

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