

ORDINANCE NO. 8023

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF LEAVENWORTH, KANSAS, CHAPTER 18, ANIMALS, ARTICLE II, DOGS AND CATS, SECTIONS 18-41 THROUGH 18-42 AND SECTIONS 18-80 THROUGH 18-83 REGARDING COMMERCIAL AND RESIDENTIAL KENNELS PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS

WHEREAS, an ordinance of the City of Leavenworth, Kansas, Amending Chapter 18 Animals, Article II, Dogs and Cats, The following sections regarding Kennels; Sec. 18-41, 18-42, 18-80, 18-81, 18-82 and adding 18-83, 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, Sections 18-41, 18-42, 18-50, 18-51, 18-52 and 18-53 be amended as follows:

ARTICLE II. DOGS AND CATS

That Section 18-41 shall be deleted and amended to read as follows:

Sec. 18-41. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cats means any member of the zoological class, felis domesticus.

Dogs means all animals of the canine species.

Owner or *keeper* means any person who shall allow any dog or cat to habitually remain or to be lodged or fed within such person's house, store, yard, enclosure or place.

Commercial Kennel means a **commercial** operation that (i) provides food, shelter and care for four dogs or four cats over 120 days of age, or any combination of such animals exceeding six in number, but in no case more than four dogs for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) regularly engages in the breeding of animals for sale.

Residential Kennel means and includes any yard, structure, enclosure or other place within the city where five (5) to twelve (12) dogs or cats over the age of 120 days are kept, except those **residences** authorized to retain more dogs under the provisions of section 18-42.

That Section 18-42 shall be deleted and amended to read as follows:

Sec. 18-42. - Maximum number permitted per residence.

- (a) It shall be unlawful for any person in charge of a residence in the city now containing more than four dogs or four cats over 120 days of age, or any combination of such animals exceeding six in number, but in no case more than four dogs, to acquire any additional dogs or cats unless the residence has a current Residential Kennel Permit, in which case the number of animals shall not exceed 12 over the age of 120 days.
- (b) Where animals in excess of the limits established and not exempt under subsection (a) of this section are kept in a residence, the person in charge may not keep any animals capable of reproduction unless those animals are totally isolated from other animals of the same kind and opposite sex which are capable of reproduction.
- (c) Any person keeping or allowing to be kept in a residence more than the number of dogs or cats authorized under this section shall never acquire any additional dogs or cats until the number they hold has fallen below the specified number in subsection (a) of this section.

- (d) Where animals in excess of the limit established and not exempt under subsection (a) of this section are left in a residence, the person in charge of the residence must license such animals. Any animal not licensed may be removed to the animal shelter for disposition under section 18-7, except that the person in charge of the residence may designate up to six animals, but in no case more than four dogs, to be licensed and retained.

That Section 18-50 shall be deleted and amended to read as follows:

Sec. 18-50. - Kennels.

- (a) Definition. As used in this section, "kennel" means Residential Kennel and includes any yard, structure, enclosure or other place within the city where five (5) to twelve (12) dogs or cats over the age of 120 days are kept, except those residences authorized to retain more dogs under the provisions of section 18-42.
- (b) Any person operating a residential kennel shall keep and maintain the animals and the structure, pens or yards in which the animals are kept in such a manner as to prevent a nuisance or health hazard to humans and to avoid injury to such animals. All cages and holding areas must be properly sanitized so as to keep the animals enclosed therein free of disease. All such caged animals shall be provided with an adequate daily supply of wholesome food and water. All disease-infested animals shall be isolated from healthy animals and treated to prevent the spread of disease or euthanized, and if the owner or keeper fails or refuses to provide for such, the supervisor of animal control may remove such animals to the municipal animal shelter for disposition as provided by this chapter.
- (c) It shall be unlawful for a person to keep, operate or maintain a residential kennel, without first obtaining a permit to do so, and paying a fee as set out in appendix F. Application for such permit shall be filed with the city clerk's office on forms furnished by the city clerk. Such application shall state the name of the person desiring to keep or maintain a kennel, the location of the premises where such kennel is to be kept and maintained, and any other information that the animal control supervisor may desire. Such application shall be signed by the applicant and shall bear the date that the application is made.
- (d) A residential kennel permit issued or reissued under this section shall be contingent upon satisfactorily passing an inspection by the animal control supervisor and payment of the license fee under this section, and shall be renewed annually. Such permit shall not be transferable from one person to another or from one premises to another.
- (e) Any permit issued under this section may be cancelled by the city if the holder thereof fails to comply with any notice given him pursuant to subsection (f) of this section. No person who had a permit cancelled shall be permitted to make application for another permit within one month from the date of the cancellation of a previous permit.
- (f) The animal control supervisor shall inspect the premises covered by a permit issued under this section and, if the animal control supervisor finds from such inspection that the premises are not being maintained in a clean and sanitary manner and free from accumulations of filth, dirt, debris or garbage, the animal control supervisor shall notify the owner or keeper of the dog kennel, in writing, to correct the situation within 24 hours after the notice is served on such owner or keeper.
- (g) It is a nuisance and unlawful for any person to permit or maintain any dog kennel that is not, at all times, clean and sanitary, free from dirt, debris or garbage, and free from offensive odors. All dog kennels shall be cleaned daily.
- (h) Excreta from pens, if stored on the premises of a dog kennel, shall be stored in an approved container with a fly- and odor-tight lid.
- (i) All dog kennels shall be located so that adequate drainage is maintained. Leaky water faucets or water pans under which water dampness may occur will not be permitted.
- (j) All kennels must comply with the zoning ordinances of the city.
- (k) All kennels shall comply with the following requirements prior to approval of a kennel permit:

- (1) One animal per 2,000 square feet of lot size not to exceed 12 animals. Lot size shall be rounded to the nearest 1,000 square feet for determination purposes.
- (2) All housing and kennel runs for the animals shall be set back a minimum of 25 feet from the nearest property line or occupied dwelling.
- (3) Applications for kennel permits or renewal of kennel permits will cause neighbors within a 200-foot radius of the kennel property to be contacted for opinions regarding the issuance of the permit. Opinions received and record of past complaints along with the response to the complaints will be considered in making the decision to issue or deny the kennel permit.
- (4) Prior to a permit being issued for a kennel to house more than six dogs and/or cats, the kennel must have a hard surface in both living and run areas. The surface must collect the water, urine, fecal matter and waste food through a central draw connected to an enclosed tank or to a septic tank if one is in existence.

That Section 18-51 shall be deleted and amended to read as follows:

Sec. 18-51. –Kennel license applicant approval or disapproval.

- (a) Approval or disapproval of a residential kennel permit, initial applicant or renewal, shall be by the chief of police who shall notify the applicant in writing.
- (b) Permits that are approved shall specify the number of dogs and/or cats allowed on the premises.
- (c) The applicant by accepting the permit consents to allow an animal control officer to inspect the premises of the kennel and surrounding lot area to ensure compliance with the permit restriction.
- (d) Disapproval by the chief of police of an application may be appealed to the city manager for review and decision. A disapproval by the city manager may be appealed to the governing body of the city by filing a written notice of appeal with the city clerk to be heard at the next regular meeting of the city commission.

That Section 18-52 shall be deleted and amended to read as follows:

Sec. 18-52. - Existing permits.

Any residential kennels now operating with a duly authorized permit may be continued so long as the permits are renewed annually and the kennel remains otherwise lawful.

That Section 18-53 shall be added to read as follows:

Sec. 18-53 – Commercial Kennels.

Any Commercial Animal Establishment or Kennel shall obtain a License from the Kansas Department of Agriculture – Division of Animal Health.

Secs. 18-54—18-60. - Reserved.

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 20th day of December, 2016.

Larry Dedek, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

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