

ORDINANCE NO. 2593NS

AN ORDINANCE REPEALING AND AMENDING PORTIONS OF CHAPTER 5, ANIMALS, OF THE SHAWNEE MUNICIPAL CODE, BY: DELETING THE REQUIREMENT IN SECTION 5-3(e) THAT THE COURT SHALL ORDER THE EUTHANASIA OF A “VICIOUS ANIMAL” AND REPLACING THE EUTHANASIA REQUIREMENT TO A CASE-BY-CASE DISCRETIONARY CHOICE BY THE COURT; AMENDING SECTION 5-146 BY EXTENDING INDIVIDUAL RABIES CERTIFICATES THROUGH THE EFFECTIVE LIFESPAN OF THE PARTICULAR RABIES DOSE; AND REPLACING SPECIFIC DOLLAR-FEE AMOUNTS THROUGHOUT THE ENTIRE CHAPTER WITH A REFERENCE TO THE CITY FEE SCHEDULE; AND PROVIDING FOR CODIFICATION, REPEALER, AND SEVERABILITY; AND PROVIDING FOR ITS IMMEDIATE EFFECT AND ENFORCEABILITY UPON PASSAGE AND PUBLICATION THROUGH THE EMERGENCY CLAUSE.

WHEREAS, the Code of Ordinances of the City of Shawnee must be amended from time to time to comply with the laws of the State of Oklahoma and the Charter of the City of Shawnee; and

WHEREAS, the Mayor and City Commission have determined that other amendments must be made for the more efficient and practical operations for the City of Shawnee:

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA THAT CHAPTER 5 OF THE SHAWNEE MUNICIPAL CODE BE AMENDED ONLY AS TO THE SECTIONS AND SUBSECTIONS SET FORTH BELOW; AND ALL OTHER REMAINING AND PRE-EXISTING LANGUAGE THROUGHOUT CHAPTER 5 IS LEFT UNALTERED AND OTHERWISE ADOPTED:

Section 1:

Section 5-2, “Cruelty”, subsection (i) is amended, and fully replaced with the following language:

Any animal control officer finding an animal maltreated or abused may remove the animal or give the owner or person causing maltreatment 72 hours to remedy the violation. If, in the opinion of the animal control officer, the life or welfare of the animal is in immediate danger, he may take charge of the animal and place the animal in the care of a veterinarian at the owner's expense or place such animal in the animal shelter. The animal shall be maintained there until such time as the problem can be rectified and all fines, court costs and charges for animal care are paid in full. The decision as to whether the animal shall be released back to the person causing maltreatment will then be made by the presiding judge upon recommendations of the animal control officer.

NOTE: The sole alteration in the amended Section 5-2(i) is the substitution of word “shall” in favor of the word “may”.

Section 2:

Section 5-3, “Vicious animals,” subsection (a) is amended, and fully replaced with the following language:

(a) No persons shall own or harbor any vicious animal within the city, unless the same is kept upon private premises of such person and securely locked within a sufficient enclosure to prevent any possible means of escape. For a secure enclosure to be sufficient, it must be constructed with four sides, a top, a bottom and a locked gate of sufficient materials, not including soil, to prevent any possible means of escape. Any vicious animal running at large on the streets or alleys, or other public ways, of the city may be immediately removed and impounded, or terminated when deemed necessary by the animal control officer to

protect public safety when the situation warrants, regardless of whether or not such animal has a collar and tag or muzzle. Any leash, tether, chain, rope or other device used to control a vicious animal when an animal is taken off personal property shall not relieve the owner of responsibility of maintaining control of the animal. Other officers of the law may likewise, when deemed necessary to protect the public safety, remove, impound or terminate a vicious animal when the situation warrants.

Section 3:

Section 5-3, “Vicious animals”, subsection (d) is amended, and fully replaced with the following language:

(d) It shall be the duty of the animal control officer to investigate any proper claim that an animal is vicious within the meaning of this chapter. Should the investigating official determine that a vicious animal poses an immediate threat to the public health or safety, he may immediately seize and impound the animal, or otherwise seek an order from the court that the animal be impounded. The animal control officer may also refer the matter to the city prosecutor for approval of a verified complaint requesting a finding by the court that the impounded animal is vicious and aid in the proceedings instituted in the municipal criminal court against any person for harboring a vicious animal.

NOTE: The sole alteration in the amended Section 5-3(d) is the substitution of word “shall” in favor of the word “may”.

Section 4:

Section 5-3, “Vicious animals,” subsection (e) is amended, and fully replaced with the following language:

(e) If the court shall fail to find, upon a preponderance of the evidence presented in an evidentiary hearing, that the animal seized and impounded is a vicious animal, then the court may order the animal control officer to return the animal to its owner. If such animal is found by the court to be a vicious animal, the court may order the animal control officer to euthanize the animal.

NOTE: The sole alterations in the amended Section 5-3(e) are the substitutions of word “shall” in favor of the word “may”.

Section 5:

Section 5-5, “Keeping porcine, goats, sheep, or hoofed animals other than bovines or equines,” subsection (2) is repealed, replaced and otherwise amended, to read as follows:

(2) No goat, sheep or hoofed animal other than a bovine or equine shall be kept or maintained in other zoning districts of the city, unless a permit is first procured from the animal control officer in the amount provided by the city fee schedule.

Section 6:

Section 5-5, subsection (3), is repealed, replaced and otherwise amended, only as to the first sentence, to read as follows:

(3) No porcine shall be kept or maintained in other zoning districts of the city unless a permit is first procured from the animal control officer in the fee amount provided by the city fee schedule. [. . .]

Section 7:

Section 5-18, "Use of traps," is repealed, replaced and otherwise amended, to read as follows:

It shall be unlawful for any person to use or set a trap capable of trapping animals unless authorized by the Chief of Police, or designee. Persons using traps not issued by the animal shelter may be fined \$100.00, plus court costs for each offense.

Section 8:

Section 5-20, "Animal a nuisance," subsection (a) is amended, and fully replaced with the following language:

(c) It shall be the duty of the animal control officer to investigate any proper claim that an animal is a nuisance within the meaning of this chapter. Should the investigating official determine that a nuisance exists and it is necessary to abate the nuisance or should the official have reason to believe a threat to public health or safety exists, he shall refer the matter to the city prosecutor for approval of a verified complaint and an order from the court that the animal be impounded. Following the filing of such verified complaint and an evidentiary hearing, if the court finds upon a preponderance of the evidence that a nuisance existed, the court may order the animal euthanized as in the case of a vicious animal. In lieu of ordering the animal euthanized, the court shall, at the request of the animal owner, require that the owner abate and prevent such nuisance and give a good and sufficient bond within three days in an amount not greater than \$500.00, satisfactory for a period not exceeding one year. In this event, the court may order the return of such animal to the owner. However, during the pendency of such bond, upon a finding by the court that the nuisance has reoccurred, the court may order the animal be impounded, euthanized and the owner's bond be forfeited. If the court shall find no nuisance existed, the court shall order the animal be surrendered to the owner.

NOTE: The sole alteration in the amended Section 5-20(a) is the substitution of word "shall" in favor of the word "may".

Section 9:

Section 5-49, "Domesticated animals or house pets," subsection (c) is amended, and fully replaced with the following language:

All domesticated animals that are seized and impounded as provided in this section shall be kept in the city animal shelter for not less than 48 hours from the time they are impounded. If, at the expiration of such time, they are not called for, the animal control officer may dispose of such animals by euthanasia and dispose of the bodies according to law; provided, however, any domesticated animal may be adopted out at the end of the impoundment period in lieu of disposal. For each animal that is adopted out, a fee as provided by the city fee schedule for the adoption, plus the impoundment fee shall be paid to the city.

Section 10:

Section 5-50, "Charges," is repealed, replaced and otherwise amended to read as follows:

The city shall receive a fee for each animal the city seizes and impounds and an additional fee, per day, for the care and keeping of such animal that is impounded. The city shall also receive a fee for any animal that the animal control officer was required to tranquilize by the use of a tranquilizer dart when the animal was being seized and impounded by the city. Fees may be waived in whole or in part by the Chief of Police or his designee for hardship or special cases, including, but not limited to, animal owner death, owner incarceration, or owner hospitalization, to rectify adoption disputes, and for similar situations where the best interest of all

parties are served by such waiver. Such fees and charges will be provided by the city fee schedule and shall be paid at the animal shelter before any such animal is released to the owner.

Section 11:

Section 5-52, "Disposal of diseased or injured animals," is repealed, replaced, and otherwise amended to read as follows:

To prevent unnecessary suffering by any animal impounded by animal control and to protect the health and welfare of the remainder of the animal population held by animal control, any animal impounded and placed into the city's animal shelter that is determined by the animal control officer, to be suffering from a serious life-threatening injury or suspected of a contagious or infectious disease such as, but not limited to, mange, distemper, etc., may be euthanized or medically released to an approved animal rescue organization as soon as possible after immediate attempts to locate the owner of said animal by animal control are unsuccessful.

NOTE: The sole alteration to Section 5-52 is the addition of the language: ". . . or medically released to an approved animal rescue organization."

Section 12:

Section 5-83, "[Dog] Running at large," is repealed, replaced, and otherwise amended to read as follows:

Every dog shall be confined within the owner's property by either a substantial fence of sufficient strength and height to prevent the dog from escaping therefrom or by being secured on the premises by a metal chain or leash sufficient in strength to prevent the dog from escaping from the owner's property and so arranged that the dog will remain upon the property when the leash or chain is stretched to full length. A dog may be off such premises if it is under the control of a competent person and restrained by a substantial leash. Any dog running at large within the city may be impounded.

Section 13:

Section 5-88, "Confiscation of a dangerous dog," is repealed, replaced, and otherwise amended to read as follows:

Any dangerous dog may be immediately confiscated by a police officer or animal control officer if:

- (1) The dog is not validly registered according to this chapter;
- (2) The owner does not secure the liability insurance coverage or surety bond required by this chapter;
- (3) The dog is not maintained in the proper enclosure; or
- (4) The dog is outside of the dwelling of the owner or outside the proper enclosure and not under physical restraint of the responsible person.

Any dangerous dog confiscated pursuant to this section and not reclaimed by its owner under the requirements of this chapter within 48 hours from the date of notice of confiscation shall be deemed abandoned and, at the discretion of the Chief of Police, euthanized pursuant to procedures provided by law in the City of Shawnee.

Section 14:

Section 5-111, "Required generally; user fee," is repealed, replaced and otherwise amended, only as to the first sentence of subsection (b), to read as follows:

(b) Every person owning or harboring any dog within the city over the age of four months shall pay an annual license user fee provided by the city fee schedule for each unaltered male or female dog; and, a fee for each altered male or female dog having been neutered or sprayed. [. . .]

Section 15:

Section 5-119, “Issuance of duplicate tags,” is repealed, replaced and otherwise amended, only as to the second sentence of the section, to read as follows:

[. . .] Upon the filing of such affidavit and payment of a fee provided by the city fee schedule, the animal control officer shall issue another tag.

Section 16:

Section 5-146, “Vaccination required,” subsection (b), solely, is repealed, replaced and otherwise amended, to read as follows:

(b) The certificate shall be in force from the date of vaccination, through the effective lifespan of the vaccination dose administered to the dog as set forth in the certificate.

Section 17:

Section 5-147, “Registration for vaccination certificate,” is repealed, replaced and otherwise amended, to read as follows;

The owner of every dog vaccinated pursuant to this division shall present the certificate therefor to the animal control officer, who shall register the vaccination certificate by noting in the dog register the date of vaccination and the veterinarian who administered the vaccine. No license shall be issued to keep or harbor a dog within the city until such certificate has been presented to the animal control officer, and the period covered by such license shall date from the date of immunization as shown on the certificate and shall be for the period of the certificate from the date of such immunization.

Section 18:

Section 5-148, “Observation of dog that bites person,” subsection (a), solely, is repealed, replaced and otherwise amended to read as follows:

(a) Any dog that bites a person within the city limits shall be reported to animal control. The owner of the dog shall place the dog in the care of a veterinarian. Exceptions to this rule include the following circumstances:

(1) Dogs involved in a first party ownership may be allowed to be placed in a home quarantine for a ten (10) day period immediately following the bite.

(2) Dogs meeting the criteria of currently vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a 10 day period from the bite. In some instances, a certification of animal health obtained after examination by a licensed veterinarian on the tenth day may be required.

(3) Animals in service to the blind or hearing-impaired, and search and rescue dogs or other animals used for police enforcement duties shall be exempt from the quarantine when a bite exposure occurs and proper record of immunization against rabies is presented. A certification of animal health obtained after examination by a licensed veterinarian at the end of 10 days may be required by the Department.

Section 19:

Section 5-176, "Authority of officers," is repealed, replaced and otherwise amended to read as follows:

- (a) The animal control officer, while on duty, may seize and impound, subject to this article, all dogs found running at large upon any public highway, street, alley, court, square, park, sidewalk or any other public property within the city limits, whether in the immediate presence of the owner or custodian or otherwise, as provided in this Code.
- (b) The animal control officer, while on duty, may seize and impound, subject to this article, all dogs found running at large upon any unfenced lot, tract or parcel of land within the city limits, whether in the immediate presence of the owner or custodian or otherwise, and such animal control officer is authorized to enter upon any unfenced lot, tract or parcel of land for the purpose of seizing and impounding any dog running at large thereon, as provided in this Code.
- (c) The animal control officer is empowered and authorized to enforce all aspects of this Code. Further, he is authorized and empowered to issue citations to any person in violation of this Code. He can cause the arrest of any person who resists the animal control officer's attempts at resolving animal-caused violations.

NOTE: The sole alteration in the amended Section 5-176 is the substitutions of words "shall" in favor of the word "may" in subsections (a) and (b).

Section 20:

Section 5-178, "Redemption; release," subsections (1) and (2) are repealed, replaced and otherwise amended to read as follows:

- (1) If the dog so impounded has a valid city dog tag and vaccination tag, such dog may be returned to the owner upon his paying to the animal control officer an impounding fee provided by the city fee schedule, and a fee for each day the dog has been impounded. The animal control officer shall give a receipt to such claimant in duplicate for such payment and release the dog to the owner.
- (2) If the dog impounded does not have a valid city tag or vaccination tag, the dog may be released to the owner upon his paying to the animal control officer an impounding fee provided by the city fee schedule, for each day the dog has been impounded and obtaining from the animal control officer a dog tag, as provided for in this article. The fees, as provided for in this subsection, shall be paid to the animal control officer and, upon presentation of evidence that such dog has been vaccinated for rabies, the animal control officer may authorize the release of the dog. A dog that is not currently vaccinated for rabies shall not be released or returned to its owner until the dog has been vaccinated as set forth in this article.

Section 21:

Section 5-179, "Disposal of unclaimed dogs," is repealed, replaced and otherwise amended to read as follows:

All dogs seized and impounded, as provided in this chapter, that are not identified with a city license tag, shall be kept in the city animal shelter for a period of two working days, or not less than 48 hours from the time they are so impounded. However, a dog having on it a city license tag shall be held four working days, or not less than 96 hours from the time it is so impounded. If, at the expiration of such time, the dog is not called for and the fees paid as provided by this division, the animal control officer may dispose of such dog by euthanasia and dispose of the body according to law. However, any unlicensed dog impounded for more than two working days, or not less than 48 hours, or any licensed dog impounded

for more than four working days, or not less than 96 hours, may be adopted out or released to a rescue organization at the end of the impoundment period in lieu of disposal.

Section 22:

Section 5-208, "License fee; permit terms and conditions," is repealed, replaced and otherwise amended, only as to the first sentence of subsection (a), to read as follows:

- (a) Any person desiring to operate a dog kennel shall pay an annual license fee provided by the city fee schedule for such privilege. [. . .]

Section 23:

Section 5-211, "Vaccination required," is repealed, replaced and otherwise amended to read as follows:

It shall be the responsibility of any holder of a kennel license to provide proof that all dogs, four months and older, under the holder's control have had the required rabies vaccinations by a licensed veterinarian.

Section 24:

Section 5-243, "Rabies vaccination [Cats]," is repealed, replaced and otherwise amended to read as follows:

Every person residing in the city and owning or having in possession any cat over four months old shall be required to have the cat inoculated for rabies. Every veterinarian who vaccinates any cat shall collect his fee for the vaccination from the owner or keeper of the cat and shall issue a certificate of vaccination to such owner or keeper. He shall state in the certificate the name of the owner or keeper, the date of vaccination.

Any person or entity owning, harboring, or keeping a cat which in the preceding ten (10) days has bitten any person, shall upon receipt of written notice by the local animal control authority or Department designee, place such animal in quarantine under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten. The impoundment and observation of the cat or shall be conducted at the veterinarian's facility, or a recognized animal control facility. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten (10) day observation period prior to discharge from the veterinarian's supervision and the date of vaccination.

Exceptions to this rule include the following circumstances:

(1) Cats involved in a first party ownership may be allowed to be placed in a home quarantine for a ten (10) day period immediately following the bite.

(2) Cats meeting the criteria of currently vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a 10 day period from the bite. In some instances, a certification of animal health obtained after examination by a licensed veterinarian on the tenth day may be required by the Department or local animal control authority.

Section 25:

Section 5-276, "Required generally; fee," is repealed, replaced and otherwise amended, only as to the first sentence of the section, to read as follows:

Every person owning or harboring any cat within the city over the age of four months shall pay: an annual license user fee provided by the city fee schedule for

each unaltered male or female cat, and a fee, for each altered male or female cat having been neutered or sprayed.

Section 26:

Section 5-281, “Duplicate tags,” is repealed, replaced and otherwise amended, only as to the second sentence of the section, to read as follows:

[. . .] Upon the filing of such affidavit and payment of a fee provided by the city fee schedule, the animal control officer shall issue another tag.

Section 27:

Section 5-306, “[Cat] Running at large or creating nuisance,” is repealed, replaced and otherwise amended to read as follows:

Any cat running at large or creating a nuisance, in violation of this article, is declared to be a public nuisance and may be impounded by the animal control officer, as provided in this division.

NOTE: The sole alteration in the amended Section 5-306 is the substitution of word “shall” in favor of the word “may”.

Section 28:

Section 5-307, “Redemption,” subsections (1) and (2) are repealed, replaced and otherwise amended to read as follows:

(1) If the cat so impounded has a valid city cat tag and vaccination tag, such cat may be returned to the owner upon his paying to the animal control officer an impounding fee provided by the city fee schedule, and an additional fee for each day the cat has been impounded.

(2) If the cat impounded does not have a valid city tag or vaccination tag, the cat may be released to the owner upon his paying to the animal control officer an impounding fee provided by the city fee schedule, and an additional fee for each day the cat has been impounded and obtaining from the animal control officer a cat tag, as provided for in this article. The fees, as provided for in this subsection, shall be paid to the animal control officer and, upon presentation of evidence that such cat has been vaccinated for rabies, the animal control officer may authorize the release of the cat. A cat that is not currently vaccinated for rabies shall not be released or returned to its owner until the cat has been vaccinated as set forth in this subsection.

Section 29:

Section 5-308, “Term; disposition,” is repealed, replaced and otherwise amended, to read as follows:

All cats seized and impounded, as provided in this article, that are not identified with a city license tag, shall be kept in the city animal shelter for a period of two working days or not less than 48 hours from the time they are so impounded. However, a cat having on a city license tag shall be held four working days or not less than 96 hours from the time it is so impounded. If, at the expiration of such time, the cat is not called for and the fees paid as provided by this division, the animal control officer may dispose of such cat by euthanasia and dispose of the body according to law. However, any unlicensed cat impounded for more than two working days or not less than 48 hours, or any licensed cat impounded for more than four working days or not less than 96 hours, may be adopted out or released to a rescue organization at the end of the impoundment period in lieu of disposal.

Section 30:

Section 5-338, “License fee; terms and conditions,” subsection (a), solely, is repealed, replaced and otherwise amended, to read as follows:

- (a) Any person desiring to operate a cat kennel shall pay an annual license fee provided by the city fee schedule for such privilege. All such cats over four months of age shall be vaccinated in the same manner as other cats. A city license shall also be required for each cat kept at an established licensed kennel.

Section 31:

Section 5-341, “Rabies vaccination required [Cats],” is repealed, replaced, and otherwise amended, to read as follows:

It shall be the responsibility of any holder of a cat kennel license to provide proof that each cat, four months and older, under the holder's control shall have the required rabies vaccination by a licensed veterinarian.

Section 32:

Section 5-372, “Sterilization or agreement and deposit required for adoption” is repealed, replaced, and otherwise amended to read as follows:

No dog or cat may be released for adoption from the city animal shelter unless the dog or cat has been surgically spayed or neutered or unless the adopting party signs an agreement to have the dog or cat sterilized and deposits funds with the city to ensure that the adopted dog or cat will be spayed or neutered. Rescue organizations may be exempt from deposits.

Section 33: SEVERABILITY. The provisions of this ordinance are severable and, if any sentence, provision, or other part of this Ordinance shall be held invalid, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this ordinance.

Section 34: CODIFICATION. This Ordinance shall be codified in the Shawnee Municipal Code, and the codifier is authorized to set out the ordinance as appropriate.

Section 35: REPEALER. All sections, subsections, clauses, and sentences of existing law in conflict with this ordinance are repealed.

Section 36: EMERGENCY. Because it is necessary for the protection of the public’s health, safety, and welfare, an emergency is declared to exist. This ordinance shall be effective immediately upon its passage and publication.

PASSED AND APPROVED this 19th day of December, 2016.

RICHARD FINLEY, MAYOR

ATTEST:

(SEAL)

PHYLLIS LOFTIS, CMC, CITY CLERK

Emergency separately approved this 19th day of December, 2016

RICHARD FINLEY, MAYOR

ATTEST:

(SEAL)

PHYLLIS LOFTIS, CMC, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS 19th day of December, 2016.

JOSEPH M. VORNDRAN
CITY ATTORNEY