

Bill No. 4542, an Ordinance Amending Sections 205.020, 205.380 and 205.390 of Article II, Chapter 205 of the Municipal Code of Ordinances of the City of Wentzville, Missouri, Regarding Animal Regulations

WHEREAS, Chapter 205 of the Municipal Code of Ordinances of the City of Wentzville, Missouri (the "City"), addresses animal regulations within the City; and

WHEREAS, due to changes in the manner in which St. Charles County provides animal control services, it is necessary to amend portions of Chapter 205 of the Code of Ordinances, including amendments to Sections 205.020 - Definitions, 205.380 - procedures for dangerous animal declaration and bite incidents, and Section 205.390 - control and euthanization of dangerous animals; and

WHEREAS, the Board of Aldermen of the City desires to amend Sections 205.020, 205.380 and 205.390 of the Code of Ordinances to update its animal regulations in a manner consistent with the animal control services provided by St. Charles County all for the health, safety and welfare of the City's residents and their pets.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI, AS FOLLOWS:

Section 1: Section 205.020 of the Wentzville Municipal Code shall be repealed in its entirety and the following shall be adopted as Section 205.020 of the Wentzville Municipal Code:

Sec. 205.020. Definitions.

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

Adequate care means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health, in a specific species of animal.

Adequate control means reasonable restraint sufficient to prevent an animal from running at large, or from injuring itself, or from any person, or any other animal, or from damaging any property. Adequate control may include having an animal in a fenced yard, including an electronic/invisible fence, such that the animal cannot run free, having an animal on a sufficiently strong leash, or having the animal inside a house or other building. Adequate control does not include merely having an animal trained to respond to verbal or similar commands.

Adequate shelter means structurally sound, properly ventilated and weatherproofed housing that is large enough to let the animal housed in it stand up, turn around, and lie down; is equipped with bedding that will not absorb water or freeze; and will not exacerbate existing weather conditions by, for example, absorbing heat on hot sunny days.

Adult cat means any domestic member of the *Felis catus* family over the age of six months.

Adult dog means any domestic member of the *Canis familiaris* family over the age of six months.

Affected with rabies means infected with the rabies virus as determined by standard laboratory testing.

Animal means any living vertebrate except human.

Animal control officer means the officer designated as such under this chapter.

At large means off the premises of the owner, or of anyone having care, custody, or control and not under the adequate control of the owner or of anyone having care custody or control. At large shall not include any dog or puppy lawfully off-leashes in a designated off-leash animal park.

Bite means breaking of the skin caused by an animal. Scratches are included. Animals attacking in the defense of their owner being physically attacked shall not be included.

Boarding kennel means a place or establishment other than a pound where animals not owned by the proprietor are sheltered, fed and watered for a fee.

Breeding kennel means a place or establishment maintaining five or more female cats or dogs as breeding stock.

Cat means any male or female member of the domestic feline family.

City animal shelter means that facility which has been contracted to carry out the services described in this chapter.

Community cat means a cat that is unowned, free roaming, stray, lost or an abandoned former pet living in the wild that may or may not be feral or socialized.

Compendium means the current compendium of animal rabies control issued by the National Association of State Public Health Veterinarians, Inc.

Competent person means any person, regardless of age, who has custody of the animal in question or is capable of controlling and governing the animal in question to whose commands the animal is obedient.

Controlling party means any persons owning, controlling, harboring, possessing, or having the management or care, in whole or in part, of any dog, cat or other domestic animal at the time of the suspected offense.

Dangerous animal means any animal with the following characteristics:

- (1) Any animal which has inflicted a severe or fatal injury on a human or another domestic animal, whether upon public or private property, provided that the Chief of Police or his/her designee has a signed physician's statement documenting the injury and its treatment, and qualifying the injury as a severe or fatal injury.
- (2) Any animal declared by the Chief of Police or his/her designee to be dangerous pursuant to section 205.380(c) and (d) of this Code or section 205.142(c) and (d) of the county code of ordinances.
- (3) Any animal declared by an animal control officer of the City to be dangerous pursuant to section 205.380 of this Code.

Dealer means any person, group of persons or corporation engaged in selling or donating dogs, cats or other small animals to other dealers, or to kennels, pet shops or research facilities.

Director means the director of the county division of humane services or any person or agent employed or designated by the director.

Division means the county division of humane services.

Domesticated animal means any animal, including, but not limited to, a cat, dog, kitten or puppy, that has been tamed and kept by humans primarily for labor, food or for human companionship. The term "domesticated animal" does not include fish or any of the following caged animals: birds, reptiles, amphibians, small mammals weighing less than six pounds, or exotic/dangerous animals.

Exotic/dangerous animal means any animal not indigenous to the United States or not normally kept as a pet, including, but not limited to, non-human primates, alligators, large carnivores, deadly, or poisonous animals, wolves, coyotes or any animal bred with a wolf or coyote.

Exposed to rabies means any animal, whether licensed and vaccinated for rabies or not, which has been bitten by or has been fighting with, or has consorted with an animal known to have rabies or showing symptoms of rabies.

Failure to control means failure on the part of an owner, competent person or controlling party to exercise adequate control over or properly govern the behavior of an animal to the point that the animal bites, attacks or injures a person or other domestic animal or exhibits an unprovoked threat of attacking or biting a person, domestic animal or farm animal. This can occur anywhere in the city, including the owner's curtilage, unless the animal is protecting the owner.

Farm animal means an animal normally raised on a farm or ranch and used or intended for use in farm or ranch production or as food or fiber.

Fence means only a physical fence that meets all current laws pertaining to fences contained in the zoning code for the city and serves as and is maintained to provide adequate confinement.

Fence, electronic, means any electronic, radio wave, underground or invisible fencing that, when used in conjunction with a collar properly affixed to the animal, sends a warning to the animal that it is approaching the boundaries of the area within which it is contained. At no time shall an electronic fence be utilized as a stand-alone animal control method for an area in the front or side of a residence although such fences may be utilized in a back yard under certain circumstances delineated in this chapter. Any time an electronic fence is utilized, the owner or controlling party shall be responsible to ensure that:

- (1) A sign is displayed informing that the animal is being contained by an electronic fence with such sign being in compliance with the requirements of this chapter and being clearly visible from all approachable avenues to the property; and
- (2) The animal sought to be contained shall have its collar properly secured in place and calibrated, and the electronic fence shall be activated and in proper working condition.

Feral cat means a domestic cat born in the wild or that has reverted back to a wild state and is not tame or socialized.

Feral cat program means any program adopted by the city, by county ordinance or approved by the director of the division of humane services.

Grooming shop or parlor means any establishment or place where animals are bathed or groomed for a fee.

Harbor means to feed or shelter or confine an animal.

Impound means to apprehend, catch, trap, net or, if necessary, kill any animal by the division of humane services of the county, an animal control officer of the city or their respective agents.

Impounding facilities means any premises designated by the county for caring for animals impounded by the division of humane services of the county, a city animal control officer or their respective agents.

Kennel means any person, group of persons or corporation engaged in buying, selling, breeding, or boarding dogs, cats or other small animals.

Kitten means any domestic member of the *Felis catus* family under the age of six months.

Owner means any person with custody of an animal who purchased, was gifted or otherwise legally acquired such animal.

Pen means a secure enclosure primarily used for dogs with four sides, a top, and a lockable gate/door that is large enough to allow animals free movement while inside, protection from the elements and will prevent an animal from escaping or entering.

Pet shop means any commercial establishment where dogs, cats or other small animals are bought, sold, or exchanged.

Public nuisance means any animal that habitually barks, howls, whines, or makes other sounds that disturb a reasonable person's peace, or causes a foul or obnoxious odor to be emitted from the premises.

Puppy means any domestic member of the *Canis familiaris* family under the age of six months.

Registration-vaccination means the procedure of vaccinating against the rabies virus and issuing a numbered tag and an identically numbered certificate of vaccination. The terms "registration" and "vaccination" shall be interchangeable.

Secure fence means any fence or pen kept in good repair, constructed of wood, metal or plastic and built to prevent an animal from going over, under or through; and prevents the animal from putting his head or mouth through any opening.

Severe or fatal attack means any attack by a dog which causes a severe or fatal injury, or death to a domestic animal.

Tag means any object which bears the number of a certificate of vaccination rabies, and which has been issued by the authority of the division of humane services of the county.

Veterinarian means any individual who is validly and currently licensed to practice veterinary medicine in the state as determined by the state veterinary medical board in accordance with the requirements and provisions of RSMo 340.200 to 340.330.

Wild animal means any indigenous species of animal that is not normally domesticated in the United States and would normally live in the wild, irrespective of its actual state of domesticity, docility or tameness.

Section 2: Section 205.380 of the Wentzville Municipal Code shall be repealed in its entirety

and the following shall be adopted as Section 205.380 of the Wentzville Municipal Code:

Sec. 205.380. Procedure for dangerous animal declaration and bite incidents.

- (a) Whenever the Chief of Police or his/her designee learns that an animal has bitten a human being or another domestic animal, the Chief of Police or his/her designee shall record the incident and determine whether the City has records of prior incidents in which the animal in question has bitten human beings or domestic animals. The Chief of Police or his/her designee may consider information that the animal in question has bitten human beings or domestic animals in other cities or counties when that information is received, in writing, from the individuals responsible for animal control in that city or county.
- (b) If the Chief of Police or his/her designee finds no records of such prior incidents, and the Chief of Police or his/her designee determines that the bite was a provoked attack in which a human being or domestic animal has been injured and required medical care from a physician or veterinarian or was an unprovoked attack in which a human being or domestic animal was not injured and did not require medical care, the Chief of Police or his/her designee shall give the animal's owner an educational packet prepared by the City or the division stating the procedures in bite cases and recommendations for animal care and for handling animals that have bitten. If the Chief of Police or his/her designee determines that the bite was an unprovoked attack in which a human being or domestic animal has been injured and required medical care from a physician or veterinarian, the Chief of Police or his/her designee may, after considering all mitigating factors, declare the animal a dangerous animal, and may utilize the procedures set out in section 205.390. The Chief of Police or his/her designee's determination that the animal is a dangerous animal, may be based on information that the animal in question has been declared a dangerous animal in another city or county when that information is received, in writing, from the individuals responsible for animal control in that city or county and when the criteria for determining the animal a dangerous animal in that city or county are substantially similar to the criteria set forth herein.
- (c) Regardless of whether the attack is provoked or unprovoked, where a bite occurred on the property of the owner of the animal under review, the Chief of Police or his/her designee may consider, as a mitigating factor in the decision whether to declare an animal to be dangerous, that the victim of the bite is an animal which intruded onto those premises. Where the victim of a bite which occurs on the premises of the owner is a human, the Chief of Police or his/her designee may only consider a provoked bite as a mitigating factor in his decision whether to declare an animal to be dangerous.
- (d) If the Chief of Police or his/her designee finds any record of one such prior incident, including any one such prior incident in another city or county, the Chief of Police or his/her designee shall:
 - (1) Determine whether to declare the animal in question a dangerous animal, after considering any or all of the following factors:
 - a. Whether the animal has killed a domestic animal, livestock or poultry without provocation while off the owner's property;
 - b. Whether the animal's owner owns or harbors the animal primarily or in part for animal fighting, or has trained the animal for animal fighting;
 - c. Whether the animal has bitten a human being or domestic animal without

provocation and off the premises of the animal's owner regardless of whether medical care was required;

- d. Whether the animal, while on the owner's premises, has bitten without provocation a human being other than the animal's owner or a member of that owner's family normally residing where the animal is harbored;
 - e. Whether the animal, when unprovoked, has chased or approached a human being off the premises of the animal's owner and in a menacing fashion or apparent attitudes of attack, regardless of whether the human being is injured by the animal;
 - f. Whether the animal has a known propensity, tendency or disposition to make unprovoked attacks, to cause injury, or to otherwise threaten the safety of human beings or domestic animals;
 - g. Whether the animal can be effectively trained or retrained to change its temperament or behavior;
 - h. Whether the owner maintains the animal to promote its aggressive tendencies or responses;
 - i. Any other relevant evidence concerning the maintenance of the animal; and
 - j. Any other relevant evidence regarding the ability of the owner to protect the public safety in the future if the animal is permitted to remain in the county.
- (2) Impound any animal determined to be a dangerous animal at a designated kennel as provided in section 205.360(a); and
- (3) The Chief of Police or his/her designee may spay or neuter any animal determined to be dangerous while that animal is impounded.
- (e) If the Chief of Police or his/her designee receives a report that an animal, when unprovoked, has chased or approached a human being or domestic animal while at large and off the premises of the animal's owner and confronted that person in a menacing fashion or apparent attitude of attack, regardless of whether the human being or domestic animal is injured by the animal, the Chief of Police or his/her designee shall give the animal's owner an educational packet prepared by the City or the division concerning dangerous animals. The Chief of Police or his/her designee shall record the incident in the department's records and that incident may be taken into account in determining whether the animal is a dangerous animal should there be any subsequent bite of a human or domestic animal. The Chief of Police or his/her designee may consider information that an animal has, when unprovoked, chased or menaced a human being in another city or county, when that information is received, in writing, from the individuals responsible for animal control in that city or county, in determining whether to provide educational information to the animal's owner. The Chief of Police or his/her designee may record such information from another city or county into the department's records and may consider such information in determining whether the animal is a dangerous animal should there be any subsequent bite of a human being or domestic animal.
- (f) If the Chief of Police or his/her designee finds records of two or more prior incidents in which an animal has bitten a human being or a domestic animal, including incidents occurring in another city or county, where that information is received, in writing, from the

individuals responsible for animal control in that city or county, the Chief of Police or his/her designee shall:

- (1) Declare the animal a dangerous animal;
- (2) Notify the animal's owner of such classification, in writing, within five (5) days. The notice shall identify the requirements and conditions for maintaining a dangerous animal. If the owner cannot be located, the animal may be immediately impounded, and notice shall be posted at the owner's last known address;
- (3) Impound the animal at a designated kennel as provided in section 205.140(4); and
- (4) Immediately notify the Administrator of the Municipal Court who shall, coordinate with the Municipal Judge to conduct an appeal hearing if requested by the owner of the dangerous animal and render a decision on any such appeal within five (5) days after notice of an appeal, regarding whether to uphold or reverse the Chief of Police's decision regarding removal or humane euthanization pursuant to section 205.390.

Section 3: Section 205.290 of the Wentzville Municipal Code shall be repealed in its entirety and the following shall be adopted as Section 205.390 of the Wentzville Municipal Code:

Sec. 205.390. Control and euthanization of dangerous animals.

- (a) Control. If the Chief of Police or his/her designee or an animal control officer declares that an animal has bitten a human being or a domestic animal is dangerous, the Chief of Police or his/her designee or an animal control office may recommend control measures for the animal as follows:
 - (1) If the Chief of Police or his/her designee or an animal control officer finds that the animal made a severe or fatal attack upon a human being or domestic animal, the Chief of Police or his/her designee or an animal control officer shall determine that the animal be humanely euthanized as set out in subsection (c) of this section.
 - (2) If the Chief of Police or his/her designee or an animal control officer finds that the animal had been provoked to make a severe or fatal attack upon a human being or domestic animal, the Chief of Police or his/her designee or an animal control officer shall either determine that the animal shall be humanely destroyed or return the animal to its owner subject to the owner's written agreement to control the animal as provided in subsection (b) of this section. The agreement may include a provision that if the animal attacks again, it shall be humanely euthanized as set out in subsection (c) of this section.
 - (3) The Chief of Police or his/her designee and the animal control officer has discretion to determine disposal of all other animals declared to be dangerous either by causing them to be humanely euthanized after giving notice and an opportunity to be heard to the animal's owner as provided in subsection (c) of this section or returned to its owner subject to the restrictions as provided in subsection (b) of this section.
- (b) Agreement. Before the Chief of Police or his/her designee or the animal control officer returns a dangerous animal to its owner, the Chief of Police or his/her designee or the animal control officer shall secure that owner's written agreement to control the animal as provided herein.

- (1) Any dangerous animal shall wear at all times a bright collar with the words "dangerous animal" embroidered or stamped on the collar so the animal can readily be identified as a dangerous animal.
- (2) The owner of the dangerous animal shall notify the City immediately if the animal is loose or missing or has attacked another animal or human being.
- (3) The owner of the dangerous animal shall notify the City within 24 hours if the animal has died or has been sold or given away to a new owner. The owner transferring custody to a new owner shall comply with the notice provisions of section 205.370(c). If the animal has been sold or given away, the owner shall provide the City with the name, address and telephone number of the new owner. The new owner, if the animal is kept within the city, must comply with the requirements in this chapter for keeping a dangerous animal.
- (4) While on its owner's property, a dangerous animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the animal from escaping. Such a pen or structure must have a minimum dimension of five feet by ten feet, must have strong, secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than 12 inches. The enclosure must also provide adequate shelter, as defined by this chapter. The enclosure, when occupied by a dangerous animal, shall not be occupied by any other animal, unless the dangerous animal is a female with young less than three months of age, in which case the young may occupy the same enclosure as the mother.
- (5) No dangerous animal may be kept in any area of the owner's property that would allow the animal to exit easily (e.g., behind screen doors or windows), nor may any dangerous animal be chained without a physical barrier to prevent contact with other animals or people or the escape of the animal.
- (6) A sign indicating the presence of a dangerous animal shall be present at, and large enough to read from, any public thoroughfare from which the property is entered and the owner of the animal shall post a notice conspicuously visible to the public at each entrance to the premises and on each side of the animal's enclosure, if any, reading in letters not less than two inches high "dangerous animal-beware." A sign with a picture of a growling animal shall also be displayed at all places where the notice of dangerous animal is posted. The sign available from the City shall be deemed to meet this requirement. Any alternate sign shall be approved in advance, in writing, by the Chief of Police or his/her designee and a copy of the approved sign shall be maintained in the division's file on the animal.
- (7) A dangerous animal may be off the owner's premises only if it is securely muzzled with a humane muzzle and on a strong leash no more than four feet long and under the control of the owner.
- (8) The owner of a dangerous animal shall present to the City proof that the owner has procured primary liability insurance or a surety bond to include bodily injury and property damage in the amount of at least \$300,000.00. Such insurance or surety bond shall be for an initial period of 12 months and must be continuously renewed without a break in coverage for as long as the dangerous animal lives or is kept in the county. The insurance or bond shall be payable to any person injured by the

dangerous animal. This policy or bond shall contain a provision requiring the county to be notified by the issuing company at least ten working days prior to any cancellation, termination or expiration of the policy.

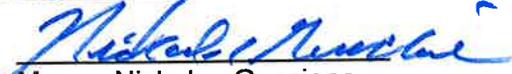
- (9) All owners of dangerous animals must, within ten days of such declaration, provide the Chief of Police or his/her designee with two sets of color photographs of the dangerous animal, one of each side and showing the color and approximate size of the animal. The owners shall, in addition to any information required by section 205.370, provide the following information: The animal's name or names and the name, address and phone number of the animal's veterinarian.
 - (10) All owners of dangerous animals must, within ten days of such declaration, have the animal spayed or neutered and must provide evidence of such spaying or neutering from a duly licensed veterinarian.
 - (11) Any animal not controlled as provided in this subsection (b) shall be subject to immediate seizure and impoundment for a minimum of ten (10) days or for the time necessary for the owner to comply with this subsection, whichever is larger.
- (c) Euthanization. If the Chief of Police or his/her designee or an animal control officer declares that an animal that has bitten a human being or a domestic animal is dangerous, the Chief of Police or his/her designee or an animal control officer may recommend disposal of the animal as follows:
- (1) The Chief of Police or his/her designee shall give owners of animals declared to be dangerous notice of the Chief of Police or his/her designee's declaration and intended disposition of the animal, as provided herein.
 - a. Immediately upon determining that an animal is dangerous, and at least ten (10) days prior to any humane euthanasia of any such animal, the Chief of Police or his/her designee shall notify the animal's owner of the declaration and any scheduled euthanasia. If the owner is unable to be contacted, the declaration and any scheduled euthanasia shall be posted at the owner's last known address. The notice shall state the owner's right to request a hearing before the Municipal Judge to appeal any determination made by the Chief of Police or his/her designee by submitting a written request for hearing to the Chief of Police or his/her designee within five (5) days of receiving the notice.
 - b. Upon timely receipt of the written request submitted pursuant to subsection (c)(1)(a) of this section, the Municipal Judge shall conduct a hearing as expediently as possible and determine whether to uphold or reverse the decision of the Chief of Police or his/her designee to declare an animal to be a dangerous animal based upon a preponderance of the evidence and testimony presented at the time of the hearing. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses. The Municipal Judge's determination and decision is final for all purposes, and there shall be no further administrative relief available.
 1. The Municipal Judge may evaluate the following characteristics to declare an animal as a dangerous animal for purposes of this Chapter:
 - (a) Any animal that has inflicted a severe or fatal injury on a human on

- public or private property.
- (b) Any animal which has attacked or bitten a domestic animal, without provocation, on public or private property other than the property of the owner that resulted in injury to the other animal to a degree which it required the attention of a veterinarian or animal clinic.
 - (c) Any animal that, while off the owner's property, has killed a domestic animal, livestock, or poultry without provocation.
 - (d) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.
 - (e) Any animal that has been deemed dangerous by the Chief of Police or his/her designee or any other government entity.
- (2) Within five (5) days of the hearing, the Municipal Judge shall issue a decision and notify the owner, in writing, of the decision.
 - (3) The Chief of Police or his/her designee or the Municipal Judge may declare an animal to be dangerous because of its prior acts even after its owner has removed it from the City. Such an animal may not be returned to the City.
 - (4) Should the Chief of Police or his/her designee or an animal control officer receive from any court of competent jurisdiction a stay of an order of euthanasia on an animal, the animal shall remain impounded in the county animal facility until the court has issued its final order.

Section 4: It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of his ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the Board of Aldermen without incorporation in the ordinance of any such unconstitutional or invalid portion of this ordinance.

Section 5: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

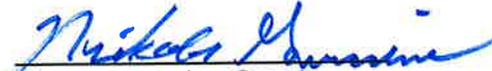
READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THIS 26 DAY OF October, 2022.


Mayor, Nickolas Guccione

Attest:

City Clerk, Kathryn Bowman

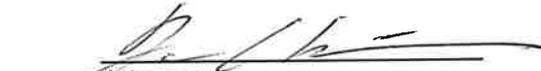
APPROVED BY THE MAYOR OF THE CITY OF WENTZVILLE, MISSOURI THIS 24 DAY
OF October, 2022.


Mayor, Nickolas Guccione

Attest:


City Clerk, Kathryn Bowman

Approved as to Form:


Attorney

